

government and its existing public institutions, and shall take effect immediately.

Passed the House March 9, 1982.

Passed the Senate March 8, 1982.

Approved by the Governor April 3, 1982 with the exception of subsections (1) and (3) of Section 4, which are vetoed.

Filed in Office of Secretary of State April 3, 1982.

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

"I am returning herewith without my approval as to subsections (1) and (3) of Section 4 of Substitute House Bill No. 891 entitled:

"AN ACT Relating to medicare supplemental health insurance".

I have signed into law the main body of the bill. However, subsections (1) and (3) of Section 4 would repeal two current statutes which I feel should remain law. These are RCW 48.66.030 and RCW 48.66.140, both of which contain important consumer protections."

CHAPTER 201

[Engrossed Substitute Senate Bill No. 4418]

SOCIAL AND HEALTH SERVICES—FINANCIAL RESPONSIBILITY

AN ACT Relating to financial responsibility for all services and licensing activities of the department of social and health services; amending section 5, chapter 253, Laws of 1957 as amended by section 1, chapter 247, Laws of 1971 ex. sess. and RCW 18.20.050; amending section 4, chapter 168, Laws of 1951 and RCW 18.46.030; amending section 5, chapter 168, Laws of 1951 and RCW 18.46.040; amending section 183, chapter 35, Laws of 1945 and RCW 50.40.020; amending section 1, chapter 30, Laws of 1974 ex. sess. as last amended by section 11, chapter 171, Laws of 1979 ex. sess. and RCW 51.32.040; amending section 10, chapter 267, Laws of 1955 and RCW 70.41.100; amending section 3, chapter 239, Laws of 1971 ex. sess. and RCW 70.62.220; amending section 4, chapter 239, Laws of 1971 ex. sess. and RCW 70.62.230; amending section 11, chapter 267, Laws of 1955 as amended by section 3, chapter 247, Laws of 1971 ex. sess. and RCW 70.41.110; amending section 10, chapter 99, Laws of 1977 ex. sess. and RCW 70.119.100; amending section 71.12.470, chapter 25, Laws of 1959 and RCW 71.12.470; amending section 71.12.490, chapter 25, Laws of 1959 as amended by section 4, chapter 247, Laws of 1971 ex. sess. and RCW 71.12.490; amending section 74.04.300, chapter 26, Laws of 1959 as last amended by section 2, chapter 84, Laws of 1980 and RCW 74.04.300; amending section 1, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.530; amending section 1, chapter 163, Laws of 1981 and RCW 74.04.700; amending section 5, chapter 322, Laws of 1959 as last amended by section 1, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20.040; amending section 9, chapter 164, Laws of 1971 ex. sess. as last amended by section 10, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.090; adding a new section to chapter 10.82 RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 50.40 RCW; adding a new section to chapter 74.09 RCW; creating a new section; repealing section 1, chapter 91, Laws of 1965 ex. sess., section 307, chapter 141, Laws of 1979 and RCW 74.04.305; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 10.82 RCW a new section to read as follows:

(1) When a superior court has, as a condition of the sentence for a person convicted of the unlawful receipt of public assistance, ordered restitution to the state of that overpayment or a portion thereof, the payments shall be made to the clerk of the appropriate county.

(2) The county clerk shall transmit those funds to the department of social and health services within forty-five days after receipt.

(3) The department of social and health services shall not be precluded from deducting the overpayments from subsequent assistance payments to the convicted person as provided in RCW 74.04.300 if the court has not ordered restitution under subsection (1) of this section.

NEW SECTION. Sec. 2. There is added to chapter 43.20A RCW a new section to read as follows:

(1) The term "license" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.

(2) The secretary shall charge fees to the licensee for obtaining a license. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(3) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(4) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

NEW SECTION. Sec. 3. There is added to chapter 50.40 RCW a new section to read as follows:

(1) An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under subsection (7) of this section. If the individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the state or local child support enforcement agency enforcing those obligations that the individual has been determined to be eligible for unemployment compensation.

(2) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations as defined under subsection (7) of this section:

(a) The amount specified by the individual to the commissioner to be deducted and withheld under this subsection, if neither (b) nor (c) of this subsection is applicable:

(b) The amount (if any) determined pursuant to an agreement submitted to the commissioner under section 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency, unless (c) of this subsection is applicable; or

(c) Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of the Social Security Act, properly served upon the commissioner.

(3) Any amount deducted and withheld under subsection (2) of this section shall be paid by the commissioner to the appropriate state or local child support enforcement agency.

(4) Any amount deducted and withheld under subsection (2) of this section shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by that individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(5) For the purposes of this section, "unemployment compensation" means any compensation payable under this chapter including amounts payable by the commissioner under an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(6) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(7) "Child support obligations" as used in this section means only those obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the secretary of health and human services under part D of Title IV of the Social Security Act.

(8) "State or local child support enforcement agency" as used in this section means any agency of this state or a political subdivision thereof operating pursuant to a plan described in subsection (7) of this section.

Sec. 4. Section 5, chapter 253, Laws of 1957 as amended by section 1, chapter 247, Laws of 1971 ex. sess. and RCW 18.20.050 are each amended to read as follows:

Upon receipt of an application for license, if the applicant and the boarding home facilities meet the requirements established under this chapter, the department or the department and the authorized health department jointly, shall issue a license. If there is a failure to comply with the

provisions of this chapter or the standards, rules, and regulations promulgated pursuant thereto, the department, or the department and authorized health department, may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the boarding home for a period to be determined by the department, or the department and authorized health department, but not to exceed twelve months, which provisional license shall not be subject to renewal. At the time of the ~~((issuance))~~ application for or renewal of a license or provisional license the licensee shall pay a license fee ~~((of ten dollars plus one dollar per bed capacity per year, but in no event shall the total exceed fifty dollars))~~ as established by the department under section 2 of this 1982 act. When the license or provisional license is issued jointly by the department and authorized health department, the license fee shall be paid to the authorized health department. All licenses issued under the provisions of this chapter shall expire on a date to be set by the ~~((board))~~ department, but no license issued pursuant to this chapter shall exceed twelve months in duration: PROVIDED, That when the annual license renewal date of a previously licensed boarding home is set by the ~~((board))~~ department on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. All applications for renewal of license shall be made not later than thirty days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 5. Section 4, chapter 168, Laws of 1951 and RCW 18.46.030 are each amended to read as follows:

An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with rules and regulations as are lawfully prescribed hereunder. Each application for license or renewal of license shall be accompanied by a license fee ~~((of fifteen dollars plus one dollar per bed capacity per year, but in no event shall the total exceed one hundred dollars))~~ as established by the department under section 2 of this 1982 act: PROVIDED, That no fee shall be required of charitable or nonprofit or government-operated institutions.

Sec. 6. Section 5, chapter 168, Laws of 1951 and RCW 18.46.040 are each amended to read as follows:

Upon receipt of an application for a license and the license fee, ~~((where required,))~~ the licensing agency shall issue a license if the applicant and the maternity home facilities meet the requirements established under this

chapter. A license, unless suspended or revoked, shall be renewable annually. (~~All licenses issued under the provisions of this chapter shall expire on the first day of July next succeeding the date of issue.~~) Applications for renewal shall be on forms provided by the department and shall be filed in the department not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a license fee (~~of twenty-five dollars~~) as established by the department under section 2 of this 1982 act. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 7. Section 183, chapter 35, Laws of 1945 and RCW 50.40.020 are each amended to read as follows:

Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this title shall be void. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts, except as provided in section 3 of this 1982 act. Benefits received by any individual, so long as they are not commingled with other funds of the recipient, shall be exempt from any remedy whatsoever for collection of all debts except debts incurred for necessities furnished such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void.

Sec. 8. Section 1, chapter 30, Laws of 1974 ex. sess. as last amended by section 11, chapter 171, Laws of 1979 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 74.04.530 or 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. 9. Section 10, chapter 267, Laws of 1955 and RCW 70.41.100 are each amended to read as follows:

An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires which may include affirmative evidence of ability to comply with the standards, rules, and regulations as are lawfully prescribed hereunder. An application for renewal of license shall be made to the department upon forms provided by it and submitted thirty days prior to the date of expiration of the license. Each application for a license or renewal thereof by a hospital as defined by this chapter shall be accompanied by ~~((an annual))~~ a fee ~~((based on the number of beds in said hospital, excluding bassinets for the newborn, as follows: Less than fifty beds, twenty dollars; fifty beds or more, but less than one hundred twenty-five, thirty-five dollars; one hundred twenty five beds or more, fifty dollars. PROVIDED, That no fee shall be required of government operated institutions))~~ as established by the department under section 2 of this 1982 act.

Sec. 10. Section 3, chapter 239, Laws of 1971 ex. sess. and RCW 70-.62.220 are each amended to read as follows:

The person operating a transient accommodation as defined in this chapter shall secure each year an annual operating license and shall pay a fee therefor ~~((in the sum of fifteen dollars))~~ as established by the department under section 2 of this 1982 act. The annual licensure period shall run from January 1st through December 31st of each year. The license fee shall be paid to the department prior to the time the license is issued and such license shall be conspicuously displayed in the lobby or office of the facility for which it is issued.

Sec. 11. Section 4, chapter 239, Laws of 1971 ex. sess. and RCW 70-.62.230 are each amended to read as follows:

In addition to the annual license fee, the person operating a transient accommodation shall pay an annual inspection fee ~~((if an))~~ for any inspection ((is)) made during the course of the year ~~((in accordance with the following schedule:~~

3 to 24 lodging units	\$15.00
25 to 49 lodging units	25.00
50 to 74 lodging units	35.00
75 to 99 lodging units	50.00
100 to 199 lodging units	75.00
200 and up lodging units	100.00

~~Only one such inspection fee shall be charged during any calendar year regardless of the number of inspections which may be made))~~ Fees for inspection shall be as established by the department under section 2 of this 1982 act.

Sec. 12. Section 11, chapter 267, Laws of 1955 as amended by section 3, chapter 247, Laws of 1971 ex. sess. and RCW 70.41.110 are each amended to read as follows:

Upon receipt of an application for license and the license fee, the department shall issue a license or a provisional license if the applicant and the hospital facilities meet the requirements of this chapter and the standards, rules and regulations established by the board. All licenses issued under the provisions of this chapter shall expire on a date to be set by the ~~((board, but no license issued pursuant to this chapter shall exceed twelve months in duration. PROVIDED, That when the annual license renewal date of a previously licensed hospital is set by the board on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license))~~ department: PROVIDED, That no license issued pursuant to this chapter shall exceed thirty-six months in duration. Each license shall be issued only for the premises and

persons named in the application, and no license shall be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

If there be a failure to comply with the provisions of this chapter or the standards, rules and regulations promulgated pursuant thereto, the department may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the hospital for a period to be determined by the department (~~(, but shall not exceed twelve months, unless approved by the board)~~).

Sec. 13. Section 10, chapter 99, Laws of 1977 ex. sess. and RCW 70.119.100 are each amended to read as follows:

The issuance and renewal of a certificate shall be subject to the following conditions:

(1) Except as provided in RCW 70.119.090, a certificate shall be issued if the operator has satisfactorily passed a written examination, has paid the department an application fee (~~(of ten dollars)~~) as established by the department under section 2 of this 1982 act, and has met the requirements specified in the rules and regulations as authorized by this chapter.

(2) The terms for all certificates shall be for one year from the date of issuance. Every certificate shall be renewed annually upon the payment of a (~~(five dollar renewal)~~) fee as established by the department under section 2 of this 1982 act and satisfactory evidence presented to the secretary that the operator demonstrates continued professional growth in the field.

(3) The secretary shall notify operators who fail to renew their certificates before the end of the certificate year that their certificates are temporarily valid for two months following the end of the certificate year. Certificates not renewed during the two month period shall be invalid and the secretary shall so notify the holders of such certificates.

(4) An operator who has failed to renew a certificate pursuant to the provisions of this section, may reapply for certification and the secretary may require the operator to meet the requirements established for new applicants.

Sec. 14. Section 71.12.470, chapter 25, Laws of 1959 and RCW 71.12.470 are each amended to read as follows:

Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee. The amount of the license fee (~~(for each fiscal year is fixed by the following schedule:~~

~~(1) For establishments licensed to receive not more than six patients, the fee is five dollars;~~

~~(2) For establishments licensed to receive more than six but not more than twenty-five patients, the fee is twenty-five dollars;~~

~~(3) For establishments licensed to receive more than twenty-five but not more than fifty patients, the fee is fifty dollars;~~

~~(4) For establishments licensed to receive more than fifty patients, the fee is seventy-five dollars))~~ shall be established by the department under section 2 of this 1982 act.

~~((In the case of the issuance of a license on or after the first day of January next succeeding the beginning of the fiscal year, the license fee for the remainder of the fiscal year is one-half the sum fixed for the entire fiscal year. The department shall require a license fee in situations where licensed establishments increase their number of patients during any fiscal year, based on a pro rata charge under the schedule set forth herein. No additional fee will be required in the event of an application for transfer of a license to another person to operate the same establishment. No additional license fee shall be required for the transfer of the license issued in the name of one person to operate an establishment at a certain location where an application is received to transfer that license to the same person to operate an establishment at a different location.))~~

Sec. 15. Section 71.12.490, chapter 25, Laws of 1959 as amended by section 4, chapter 247, Laws of 1971 ex. sess. and RCW 71.12.490 are each amended to read as follows:

All licenses issued under the provisions of this chapter shall expire on a date to be set by ~~((the state board of health, but no license issued pursuant to this chapter shall exceed twelve months in duration: PROVIDED, That when the annual license renewal date of a previously licensed private establishment is set by the board on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license))~~ department of social and health services: PROVIDED, That no license issued pursuant to this chapter shall exceed thirty-six months in duration. Application for renewal of the license, accompanied by the necessary fee as established by the department of social and health services under section 2 of this 1982 act, shall be filed with ~~((the))~~ that department ~~((of social and health services annually)),~~ not less than ~~((ten))~~ thirty days prior to its expiration and if application is not so filed, the license shall be automatically canceled.

Sec. 16. Section 74.04.300, chapter 26, Laws of 1959 as last amended by section 2, chapter 84, Laws of 1980 and RCW 74.04.300 are each amended to read as follows:

If a recipient receives public assistance and/or food stamps for which he is not eligible, or receives public assistance and/or food stamps in an

amount greater than that for which he is eligible, the portion of the payment to which he is not entitled shall be a debt due the state (~~(PROVIDED, That if any part of any assistance payment is obtained by a person as a result of a wilfully false statement, or representation, or impersonation, or other fraudulent device, or wilful failure to reveal resources or income, one hundred twenty-five percent of the amount of assistance to which he was not entitled shall be a debt due the state and shall become a lien against the real and personal property of such person from the time of filing by the department with the county auditor of the county in which the person resides or owns property, and such lien claim shall have preference to the claims of all unsecured creditors))~~ and shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county where the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors. It shall be the duty of recipients of public assistance and/or food stamps to notify the department within twenty days of the receipt or possession of all income or resources not previously declared to the department (~~(, and any failure to so report shall be prima facie evidence of fraud: PROVIDED FURTHER, That there shall be no liability placed upon recipients for receipt of overpayments of public assistance which result from error on the part of the department and no fault on the part of the recipient in obtaining or retaining the assistance if the recovery thereof would be inequitable as determined by the secretary or his designee or))~~. The department shall advise applicants for assistance that failure to report as required, failure to reveal resources or income, and false statements will result in recovery by the state of any overpayment and may result in criminal prosecution. When the department determines that the cost of collection is likely to exceed((s) the amount recoverable from ((a nonfraudulent)) any overpayment or the debt is uncollectible, the secretary may waive collection.

Debts due the state pursuant to the provisions of this section, may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, order to withhold and deliver, or may be recovered by a civil action instituted by the attorney general.

Sec. 17. Section 1, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.530 are each amended to read as follows:

Notwithstanding any provisions in Title 51 RCW to the contrary, by accepting public assistance from the department of social and health services, the recipient thereof shall be deemed to have subrogated said department to the recipient's right to recover net time loss compensation due to such recipient and his or her dependents pursuant to the provisions of Title 51 RCW of up to eighty percent of the extent of such assistance or compensation, whichever is less, furnished to the recipient and his or her dependents for or during the period for which time loss compensation is payable: ~~PROVIDED, That ((where public assistance has been furnished to one or~~

~~more persons to whom such a recipient owes a duty of support, whether such duty has been expressed by an order of court or otherwise, the department's right to recover any time loss compensation shall be limited to that part of such compensation allocated to such persons by RCW 51.32.090: PROVIDED, FURTHER, That))~~ the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred by the injured workman or his dependents. The department of social and health services may assert and enforce a lien and notice to withhold and deliver as hereinafter provided to secure reimbursement of any public assistance paid for or during the period and for the purposes expressed in this section: PROVIDED, FURTHER, That no claim for payment under chapter 73.34 RCW shall be subject to garnishment, attachment, levy, or execution.

Sec. 18. Section 1, chapter 163, Laws of 1981 and RCW 74.04.700 are each amended to read as follows:

(1) Any person who owes a debt to the state for an overpayment of public assistance (~~((obtained as a result of a wilfully false statement, or representation, or impersonation, or other fraudulent device, or wilful failure to reveal resources or income))~~) and/or food stamps shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance and/or food stamps; a statement that the property will be 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 overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance and/or food stamps or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering (~~((fraudulent))~~) overpayments by deduction from subsequent assistance payments, not exceeding (~~((ten percent of each subsequent assistance payment))~~) deductions as authorized under federal law with regard to financial assistance programs: PROVIDED, That subject to federal legal requirement, deductions shall not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the department or error on the part of the recipient without wilful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) Any debtor who alleges defenses to the debt or disputes the stated amount of the debt has the right to request in writing a hearing pursuant to RCW 74.08.070. If no such request is made, the debt will be subject to

collection action as authorized under this chapter. If a timely request is made, the execution of collection action on the debt shall be stayed pending the decision of the hearing or termination of the debtor from public assistance and/or food stamps, whichever occurs later. The right to an appeal shall be governed by RCW 74.08.070, 74.08.080, and the Administrative Procedure Act, chapter 34.04 RCW.

NEW SECTION. Sec. 19. There is added to chapter 74.09 RCW a new section to read as follows:

The department is authorized to establish copayment, deductible, or co-insurance requirements for recipients of any medical programs defined in RCW 74.09.010 but shall not establish: copayment, deductible or co-insurance requirements for legend drugs as defined in RCW 69.41.210, unless required by federal law.

Sec. 20. Section 5, chapter 322, Laws of 1959 as last amended by section 1, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20.040 are each amended to read as follows:

(1) ~~Whenever the department of social and health services receives an application for public assistance on behalf of a child ((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 non-support statutes)) chapter 74.20A RCW, 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)) establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.~~

The department shall collect data from cases of support under RCW 74.20.270 where there is no court-ordered support obligation. Such data shall include: Income characteristics of those obligated to pay support, obligation established, and resulting payments. The department shall report its findings to the appropriate legislative committees by January 1, 1983. The department shall reconsider its administrative standards under RCW 74.20.270 in light of relevant data and shall, to the extent feasible without substantial impact on aid to families with dependent children, bring those standards into conformity with payment standards based on actual experience.

(2) 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 the parent or other persons owing a duty to pay moneys.

Applications accepted under this section may be conditioned upon the payment of a fee as required through regulation issued by the secretary. Action may be taken under the provisions of chapter 74.20 RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations. The secretary may establish by regulation, such reasonable standards as 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 person for whom a support obligation exists.

(3) 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 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.

(4) The secretary may impose a fee on the individual who owes a child support or spousal support obligation with respect to all such child and spousal support obligations for which collection is made on behalf of persons who are not recipients of public assistance.

Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(5) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed.

Sec. 21. Section 9, chapter 164, Laws of 1971 ex. sess. as last amended by section 10, chapter 171, Laws of 1979 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 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 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 required by law to be withheld.

NEW SECTION. Sec. 22. Section 1, chapter 91, Laws of 1965 ex. sess., section 307, chapter 141, Laws of 1979 and RCW 74.04.305 are each repealed.

NEW SECTION. Sec. 23. This 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.

NEW SECTION. Sec. 24. A joint select committee on financial responsibility for residential and nonresidential services shall be created. Such committee shall study the equity and fairness among the various services provided to clients and families of similar needs and the fees charged to clients and families of similar needs. The committee shall determine whether there is justification for differences in responsibilities of parents for residential services provided to children, and further determine whether fees for residential services are in excess of or less than what parents of similar income would likely expend for a child at home.

The study shall further examine methods for instituting a common, uniform and consistent approach to charging fees for residential and nonresidential services provided by the department which includes but is not limited to the following considerations:

- (1) The ability of parents to pay for services;
- (2) Financial considerations for encouraging parental contact with institutionalized children; and

(3) Appropriate offsets to any liabilities to be imposed on parents.

In addition, the study committee shall take the following into consideration when developing its recommendations:

(1) Methods to maximize support from third party payors, including the military where appropriate;

(2) The need to minimize disruption to the current service level because of diminished general state revenues;

(3) The financial responsibility programs utilized by other states for similar services; and

(4) The need to ensure that the financial obligations of the parent do not discourage the participation in necessary residential and nonresidential services.

The speaker of the house of representatives and the president of the senate shall appoint the joint select committee composed of six members of the house of representatives and six members of the senate, three members of the majority caucus and three members of the minority caucus each. A report of the findings of this study shall be submitted to the speaker of the house of representatives and the president of the senate no later than January 1, 1983, along with recommendations for legislative action.

Passed the Senate March 11, 1982.

Passed the House March 9, 1982.

Approved by the Governor April 3, 1982.

Filed in Office of Secretary of State April 3, 1982.

CHAPTER 202

[Engrossed Substitute Senate Bill No. 4775]

CONVICTION RECORDS—RELEASE TO EMPLOYERS

AN ACT Relating to personal records and identification; and adding a new section to chapter 43.43 RCW.

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

NEW SECTION. Section 1. There is added to chapter 43.43 RCW a new section to read as follows:

(1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a transcript of the conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written request of any employer for the purpose of:

(a) Securing a bond required for any employment;

(b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or