

****NEW SECTION. Sec. 23. Section 10 of 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 July 1, 1987.***

*Sec. 23 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 24. Sections 13 through 20 of this act shall take effect on January 1, 1988.

NEW SECTION. Sec. 25. 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 23, 1987.

Passed the Senate April 17, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

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

"I am returning herewith, without my approval as to sections 6 and 23, House Bill No. 1228 entitled:

"AN ACT Relating to criminal penalties for, criminal sentences for, education regarding, and treatment for alcohol and substance abuse;"

Section 6 amends RCW 26.28.080 by striking language relating to providing alcohol to minors. The same amendment was effected in slightly different form by chapter 204, laws of 1987.

Section 23 provides an effective date of July 1, 1988, for section 10 which authorizes the distribution of certain beer retailer license fees. Section 10(4) provides funds to the superintendent of public instruction for an alcohol prevention program. However, the fee increase providing these funds does not take effect until July 19. Without a veto of section 23, the general fund will lose approximately \$150,000 which it can ill afford.

With the exception of sections 6 and 23, House Bill No. 1228 is approved."

CHAPTER 459

[Substitute Senate Bill No. 5880]

TUITION RECOVERY FUND—PRIVATE VOCATIONAL SCHOOLS

AN ACT Relating to private vocational schools; amending RCW 28C.10.050 and 28C.10.060; adding new sections to chapter 28C.10 RCW; repealing RCW 28C.10.080; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28C.10 RCW to read as follows:

(1) The agency shall establish, maintain, and administer a tuition recovery fund. All funds collected for the tuition recovery fund are payable to

the state for the benefit and protection of any student or enrollee of a private vocational school licensed under this chapter, or, in the case of a minor, his or her parents or guardian, for purposes including but not limited to the settlement of claims procedures under subsection (9) of this section and RCW 28C.10.120. The fund shall be liable for settlement of claims and costs of administration but shall not be liable to pay out or recover penalties assessed under RCW 28C.10.130 or 28C.10.140. No liability accrues to the state of Washington from claims made against the fund.

(2) To be and remain licensed under this chapter each entity shall, in addition to other requirements under this chapter, make cash deposits into a tuition recovery fund as a means to assure payment of claims brought under this chapter. The fund shall be initially capitalized at two hundred thousand dollars and shall achieve an operating balance of at least one million dollars within five years after the effective date of this section as required under subsection (5) of this section.

(3) The amount of liability that can be satisfied by this fund on behalf of each individual entity licensed under this chapter shall be established by the agency, based on an incremental scale that recognizes the average amount of unearned prepaid tuition in possession of the entity. However, the minimum amount of liability for any entity shall not be less than five thousand dollars and the maximum amount shall not exceed two hundred thousand dollars. Such limitation on each entity's liability remains unchanged by single or cumulative disbursements made on behalf of the entity. The upper limit of liability is reestablished following the settlement of any claim.

(4) Within sixty days after any entity deposits its initial contribution into the fund, the agency shall release whatever surety such entity had previously filed. Thereupon, the tuition recovery fund shall be liable for a period of one year following the date such surety is released with respect to prior claims against the surety. However, the liability of the fund is limited to the amount of and subject to the defenses of that released surety as though it had remained on file with the agency. The fund's liability with respect to each entity that makes an initial deposit into the fund commences on that date and ceases one year from the date it is no longer licensed under this chapter.

(5) The agency shall adopt by rule a matrix for calculating the deposits into the fund required of each entity. Proration shall be determined by factoring the entity's share of liability in proportion to the aggregated liability of all participants under the fund by grouping such prorations under the incremental scale created in subsection (3) of this section. Expressed as a percentage of the total liability, that figure determines the amount to be contributed when factored into a fund containing one million dollars. The total amount of its prorated share, minus the amount paid for initial capitalization, shall be payable in ten equal increments over a five-year period,

commencing with the sixth month after the effective date of this section. Additionally, the agency shall require deposits for initial capitalization, under which the amount each entity deposits is proportionate to its share of two hundred thousand dollars, employing the matrix developed under this subsection. The amount thus established shall be deposited by each licensee of record, within thirty days after the effective date of this section and a like amount shall be deposited by each subsequent applicant for licensing before the issuance of such license.

(6) No vested right or interests in deposited funds is created or implied for the depositor, either at any time during the operation of the fund or at any such future time that the fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. The agency shall maintain the fund, collect deposits when due by serving appropriate notices to affected entities, and make disbursements to settle claims. When the deposits total five million dollars and the history of disbursements so warrants, the agency may at its own option reduce the schedule of deposits whether as to time, amount, or both. When such level is achieved, the agency may also entertain proposals from among the licensees with regard to disbursing surplus funds for such purposes as vocational scholarships.

(7) The agency shall make determinations based on annual financial data supplied by the entity whether the increment assigned to that entity on the incremental scale established under subsection (5) of this section has changed. If an increase or decrease has occurred, a corresponding change in its incremental position and contribution schedule shall be made before the date of its next scheduled deposit into the fund.

(8) If fifty-one percent or more of the ownership interest in an entity is conveyed through sale or other means into different ownership, the contribution schedule of the prior owner is canceled. All contributions made to the date of transfer accrue to the fund. The new owner commences contributions under provisions applying to a new applicant.

(9) To settle complaints adjudicated under RCW 28C.10.120 and claims resulting from closure of an entity, the agency may make disbursements from the fund. In addition to the processes described under RCW 28C.10.120 for handling complaints, the following additional procedures are established to deal with school closures:

(a) The agency shall attempt to notify all potential claimants. The absence of records and other circumstances may make it impossible or unreasonable for the agency to ascertain the names and whereabouts of each potential claimant but the agency shall make reasonable inquiries to secure that information from all likely sources. The agency shall then proceed to settle the claims on the basis of information in its possession. The agency is not responsible or liable for claims or for handling claims that may subsequently appear or be discovered.

(b) Thirty days after identified potential claimants have been notified, if a claimant refuses or neglects to file a claim verification as requested in such notice, the agency shall be relieved of further duty or action on behalf of the claimant under this chapter.

(c) After verification and review, the agency may disburse funds from the tuition recovery fund to settle or compromise the claims. However, the liability of the fund for claims against the closed entity shall not exceed that total amount of the contribution schedule assigned to that entity under subsection (5) of this section.

(d) The agency shall seek to recover such disbursed funds from the assets of the defaulted entity, including but not limited to asserting claims as a creditor in bankruptcy proceedings.

(10) When funds are disbursed to settle claims against a current licensee, the agency shall make demand upon the licensee for recovery. The agency shall adopt schedules of times and amounts acceptable for effecting recoveries. An entity's failure to perform subjects its license to suspension or revocation under RCW 28C.10.050 in addition to any other available remedies.

(11) A minimum operating balance of two hundred thousand dollars shall be maintained in the fund. If disbursements reduce the balance below two hundred thousand dollars, each participating entity shall be assessed a prorata share of the deficiency created, based upon the incremental scale created under subsection (5) of this section. The agency shall promptly adopt schedules of times and amounts acceptable for affecting payments of assessments.

NEW SECTION. Sec. 2. A new section is added to chapter 28C.10 RCW to read as follows:

The tuition recovery fund is hereby established in the custody of the state treasurer. The agency shall deposit in the fund all moneys received under section 1 of this act. Moneys in the fund may be spent only for the purposes under section 1 of this act. Disbursements from the fund shall be on authorization of the agency. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. All earnings of investments of such balances shall be credited to the tuition recovery fund.

Sec. 3. Section 5, chapter 299, Laws of 1986 and RCW 28C.10.050 are each amended to read as follows:

(1) The agency shall adopt by rule minimum standards for private vocational schools. The minimum standards shall include, but not be limited to, requirements for each school to:

(a) Disclose to the agency information about its ownership and financial position and to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.17 RCW.

(b) Follow a uniform state-wide cancellation and refund policy as specified by the agency.

(c) Disclose through use of a school catalog, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what information is required.

(d) Use an enrollment contract or agreement that includes: (i) The cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries may be made to the agency, and (iii) other necessary information as determined by the agency.

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed.

(f) Comply with the requirements of section 1 of this 1987 act.

(2) The agency shall deny, revoke, or suspend the license of any school that does not meet or maintain the minimum standards.

Sec. 4. Section 6, chapter 299, Laws of 1986 and RCW 28C.10.060 are each amended to read as follows:

Any entity desiring to operate a private vocational school shall apply for a license to the agency on a form provided by the agency. The agency shall issue a license if the school:

(1) Files a completed application with information satisfactory to the agency. Misrepresentation by an applicant shall be grounds for the agency, at its discretion, to deny or revoke a license.

(2) ~~((Files the surety bond or other security required under this chapter))~~ Complies with the requirements for the tuition recovery fund under section 1 of this 1987 act.

(3) Pays the required fees.

(4) Meets the minimum standards adopted by the agency under RCW 28C.10.050.

Licenses shall be valid for one year from the date of issue unless revoked or suspended. If a school fails to file a completed renewal application at least thirty days before the expiration date of its current license the school shall be subject to payment of a late filing fee fixed by the agency.

NEW SECTION. Sec. 5. Section 8, chapter 299, Laws of 1986 and RCW 28C.10.080 are each repealed.

NEW SECTION. Sec. 6. The sum of twenty-six thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the commission for vocational education to carry out the purposes of this act. After expenditure of the amounts appropriated in this section, the agency's costs of administering the tuition recovery fund shall be paid from the fund.

NEW SECTION. Sec. 7. 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.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 18, 1987.

Filed in Office of Secretary of State May 18, 1987.

CHAPTER 460

[Substitute House Bill No. 48]

PARENTING—CHILD CUSTODY AND CHILD SUPPORT

AN ACT Relating to parenting; amending RCW 26.09.010, 26.09.040, 26.09.050, 26.09.070, 26.09.110, 26.09.160, 26.09.210, 26.09.220, 26.09.240, 26.09.260, 26.09.280, 26.09.255, 9A.40.060, 9A.40.070, 9A.40.080, 26.50.060, and 26.26.130; adding new sections to chapter 26.09 RCW; adding a new chapter in Title 26 RCW; creating new sections; repealing RCW 26.09.180, 26.09.190, 26.09.200, 26.09.230, and 26.09.250; prescribing penalties; and providing an effective date.

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

Sec. 1. Section 1, chapter 157, Laws of 1973 1st ex. sess. as amended by section 1, chapter 32, Laws of 1975 and RCW 26.09.010 are each amended to read as follows:

CIVIL PRACTICE TO GOVERN—DESIGNATION OF PROCEEDINGS—DECREES. (1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage, legal separation or a declaration concerning the validity of a marriage shall be entitled "In re the marriage of and" Such proceeding may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital status of the parties or ~~((custody or))~~ support obligations for a minor child, a separate ~~((custody or))~~ support proceeding shall be entitled "In re the ~~((custody-))~~support~~((-))~~ of"

(4) The initial pleading in all proceedings for dissolution of marriage under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.