

1987. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety.

Passed the Senate February 2, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

CHAPTER 74

[Senate Bill No. 5541]

LIQUOR CONTROL BOARD—CONDITIONS OF ANNUAL AUDIT REVISED

AN ACT Relating to annual audit of the liquor control board; and amending RCW 66.08.024.

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

Sec. 1. Section 71, chapter 62, Laws of 1933 ex. sess. as last amended by section 2, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.08.024 are each amended to read as follows:

The state auditor shall audit the books, records, and affairs of the board annually(~~(: PROVIDED, That the total annual cost of such audit shall not exceed the sum of thirty thousand dollars. The board shall pay to the state treasurer for the credit of the state auditor, out of the liquor revolving fund, the sum of thirty thousand dollars a year, or so much thereof as is necessary, to defray the costs of such audits)~~). The board may provide for additional audits by certified public accountants. All such audits shall be public records of the state. The payment of the audits provided for in this section shall be paid as provided in RCW 66.08.026 for other administrative expenses.

Passed the Senate March 9, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

CHAPTER 75

[Senate Bill No. 5227]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REVENUE RECOVERY STATUTES CONSOLIDATED

AN ACT Relating to consolidation of statutes regarding revenue recovery for social and health services; amending RCW 10.77.250, 10.82.080, 18.20.050, 18.46.030, 18.46.040, 43.20A.055, 51.32.040, 70.41.100, 70.62.220, 70.62.230, 70.119.100, 71.02.380, 71.02.411, 71.02.412, 71.02.413, 71.02.414, 71.02.415, 71.05.100, 71.12.470, 71.12.490, 72.23.230, 72.33.180, 72.33.650, 72.33.660, 72.33.665, 72.33.670, 72.33.685, 72.33.690, 72.33.695, 72.33.700, 74.04.005, 74.04.300, 74.04.540, 74.04.550, 74.04.570, 74.04.580, 74.04.710, 74.04.720, 74.08.120, 74.08.338, and 74.09.538; adding a new chapter to Title 43 RCW; recodifying

RCW 43.20A.055, 43.20A.435, 43.20A.670, 71.02.320, 71.02.360, 71.02.370, 71.02.380, 71.02.400, 71.02.410, 71.02.411, 71.02.412, 71.02.413, 71.02.414, 71.02.415, 72.33.650, 72.33.655, 72.33.660, 72.33.665, 72.33.670, 72.33.680, 72.33.685, 72.33.690, 72.33.695, 72.33.700, 74.04.007, 74.04.306, 74.04.530, 74.04.540, 74.04.550, 74.04.560, 74.04.570, 74.04.580, 74.04.700, 74.04.710, 74.04.720, 74.04.730, and 74.04.780; and repealing RCW 71.02.310, 71.02.330, 71.02.340, 71.02.350, 71.02.390, and 71.02.417.

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

Sec. 1. Section 25, chapter 117, Laws of 1973 1st ex. sess. as amended by section 1, chapter 245, Laws of 1985 and RCW 10.77.250 are each amended to read as follows:

The department shall be responsible for all costs relating to the evaluation and treatment of persons committed to it pursuant to any provisions of this chapter, and the logistical and supportive services pertaining thereto. Reimbursement may be obtained by the department pursuant to RCW 71.02.411 as recodified by this 1987 act.

Sec. 2. Section 1, chapter 201, Laws of 1982 as amended by section 2, chapter 245, Laws of 1985 and RCW 10.82.080 are each amended 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:

(a) The department of social and health services shall deduct the overpayment from subsequent assistance payments as provided in (~~chapter 74-04~~) RCW 74.04.700 as recodified by this 1987 act, when the person is receiving public assistance; or

(b) Ordered restitution payments may be made at the direction of the court to the clerk of the appropriate county or directly to the department of social and health services when the person is not receiving public assistance.

(2) However, if payments are received by the county clerk, each payment shall be transmitted to the department of social and health services within forty-five days after receipt by the county.

Sec. 3. Section 5, chapter 253, Laws of 1957 as last amended by section 4, chapter 201, laws of 1982 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 application for or renewal of a license or provisional license the licensee shall pay a license fee as established by the department under RCW 43.20A.055 as recodified by this 1987 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 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 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. 4. Section 4, chapter 168, Laws of 1951 as amended by section 5, chapter 201, Laws of 1982 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 as established by the department under RCW 43.20A.055 as recodified by this 1987 act; PROVIDED, That no fee shall be required of charitable or nonprofit or government-operated institutions.

Sec. 5. Section 5, chapter 168, Laws of 1951 as amended by section 6, chapter 201, Laws of 1982 and RCW 18.46.040 are each amended to read as follows:

Upon receipt of an application for a license and the license fee, 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. 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 as established by the department under RCW 43.20A.055 as recodified by this 1987 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. 6. Section 2, chapter 201, Laws of 1982 and RCW 43.20A.055 are each amended 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))~~ (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))~~ (2) 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))~~ (3) 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.

Sec. 7. Section 13, chapter 2, Laws of 1983 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 as recodified by this 1987 act 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, unless the transfer is to a financial institution at the request of a worker or other beneficiary and in accordance with RCW 51.32.045 shall be made: 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. 8. Section 10, chapter 267, Laws of 1955 as amended by section 9, chapter 201, Laws of 1982 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 a fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act.

Sec. 9. Section 3, chapter 239, Laws of 1971 ex. sess. as amended by section 10, chapter 201, Laws of 1982 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 as established by the department under RCW 43.20A.055 as recodified by this 1987 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. 10. Section 4, chapter 239, Laws of 1971 ex. sess. as amended by section 11, chapter 201, Laws of 1982 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 for any inspection made during the course of the year(~~{:}~~). Fees for inspection shall be as established by the department under RCW 43.20A.055 as recodified by this 1987 act.

Sec. 11. Section 10, chapter 99, Laws of 1977 ex. sess. as last amended by section 8, chapter 292, Laws of 1983 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 as established by the department under RCW 43.20A.055 as recodified by this 1987 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 fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act and satisfactory evidence is presented to the secretary that the operator has fulfilled the continuing education requirements as prescribed by rule of the department.

(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. 12. Section 71.02.380, chapter 25, Laws of 1959 and RCW 71.02.380 are each amended to read as follows:

Patients hospitalized at state hospitals as criminally insane shall be responsible for payment of hospitalization charges (~~((unless an order is obtained pursuant to RCW 71.02.330))~~).

Sec. 13. Section 4, chapter 127, Laws of 1967 ex. sess. as amended by section 64, chapter 292, Laws of 1971 ex. sess. and RCW 71.02.411 are each amended to read as follows:

Any person admitted or committed to a state hospital for the mentally ill (~~((under the provisions of Title 71 RCW or RCW 72.23.070, or chapter 10.76 RCW))~~), and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary (~~((of the department of social and health services))~~), or his designee, in accordance with RCW 71.02.410 as recodified by this 1987 act: PROVIDED, That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the age of eighteen years, shall be secondarily liable.

Sec. 14. Section 5, chapter 127, Laws of 1967 ex. sess. as amended by section 126, chapter 141, Laws of 1979 and RCW 71.02.412 are each amended to read as follows:

The department (~~((of social and health services))~~) is authorized to investigate the financial condition of each person liable under the provisions of RCW 71.02.320 and 71.02.410 through (~~((71.02.417))~~) 71.02.415, as recodified by this 1987 act, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or charges for outpatient services, in accordance with the provisions of RCW 71.02.320 and 71.02.410 through (~~((71.02.417))~~) 71.02.415, as recodified by this 1987 act, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 71.02.410 as recodified by this 1987 act, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 71.02.320 and 71.02.410 through (~~((71.02.417))~~) 71.02.415, as recodified by this 1987 act.

Sec. 15. Section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 3, chapter 245, Laws of 1985 and RCW 71.02.413 are each amended to read as follows:

In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the charges for hospitalization, and/or charges for outpatient services, a notice and finding of responsibility shall be served on such person or the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay not to exceed the costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 71.02.410 as recodified by this 1987 act, or as otherwise limited by the provisions of RCW 71.02.320 and 71.02.410 through ~~((71.02.417))~~ 71.02.415, as recodified by this 1987 act. The responsibility for the payment to the department ~~((of social and health services))~~ shall commence thirty days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An appeal may be made to the secretary ~~((of social and health services))~~, or the secretary's designee within thirty days from the date of service of such notice and finding of responsibility, upon the giving of written notice of appeal to the secretary ~~((of social and health services))~~ by registered or certified mail, or by personal service. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeal may be presided over by an administrative law judge appointed under chapter 34.12 RCW, and the proceedings shall be recorded either manually or by a mechanical device. At the conclusion of such hearing, the administrative law judge shall make findings of fact and conclusions and recommended determination of responsibility. Thereafter, the secretary, or the secretary's designee, may either affirm, reject, or modify the findings, conclusions, and determination of responsibility made by the administrative law judge. Judicial review of the secretary's determination of responsibility in the superior court, the court of appeals, and the supreme court may be taken in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW.



Sec. 16. Section 7, chapter 127, Laws of 1967 ex. sess. as amended by section 127, chapter 141, Laws of 1979 and RCW 71.02.414 are each amended to read as follows:

Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the secretary (~~(of social and health services)~~) enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization, and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court.

Sec. 17. Section 8, chapter 127, Laws of 1967 ex. sess. and RCW 71.02.415 are each amended to read as follows:

The (~~(director)~~) secretary, or (~~(his)~~) the secretary's designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the (~~(director)~~) secretary, or (~~(his)~~) the secretary's designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility.

Sec. 18. Section 15, chapter 142, Laws of 1973 1st ex. sess. as amended by section 4, chapter 24, Laws of 1973 2nd ex. sess. and RCW 71.05.100 are each amended to read as follows:

In addition to the responsibility provided for by RCW 71.02.411 as recodified by this 1987 act, any person, or his estate, or his spouse, or the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department (~~(of social and health services)~~) shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department (~~(of social and health services)~~) shall, pursuant to chapter 34.04 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Such standards shall be applicable to all county mental health administrative boards. Financial responsibility with respect to department services and facilities shall continue to be as provided in (~~chapter~~

~~71.02~~) RCW 71.02.320, 71.02.360, 71.02.370, 71.02.380, and 71.02.410 through 71.02.415, as recodified by this 1987 act.

Sec. 19. Section 71.12.470, chapter 25, Laws of 1959 as amended by section 14, chapter 201, Laws of 1982 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 shall be established by the department under RCW 43.20A.055 as recodified by this 1987 act.

Sec. 20. Section 71.12.490, chapter 25, Laws of 1959 as last amended by section 15, chapter 201, Laws of 1982 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))~~ the 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 RCW 43.20A.055 as recodified by this 1987 act, shall be filed with that department, not less than thirty days prior to its expiration and if application is not so filed, the license shall be automatically canceled.

Sec. 21. Section 72.23.230, chapter 28, Laws of 1959 as last amended by section 4, chapter 245, Laws of 1985 and RCW 72.23.230 are each amended to read as follows:

The superintendent of a state hospital shall be the custodian without compensation of such personal property of a patient involuntarily hospitalized therein as may come into the superintendent's possession while the patient is under the jurisdiction of the hospital. As such custodian, the superintendent shall have authority to disburse moneys from the patients' funds for the following purposes only and subject to the following limitations:

(1) The superintendent may disburse any of the funds in his possession belonging to a patient for such personal needs of that patient as may be deemed necessary by the superintendent; and

(2) Whenever the funds belonging to any one patient exceed the sum of one thousand dollars or a greater sum as established by rules and regulations of the department, the superintendent may apply the excess to reimbursement for state hospitalization and/or outpatient charges of such

patient to the extent of a notice and finding of responsibility issued under RCW 71.02.413 as recodified by this 1987 act; and

(3) When a patient is paroled, the superintendent shall deliver unto the said patient all or such portion of the funds or other property belonging to the patient as the superintendent may deem necessary and proper in the interests of the patient's welfare, and the superintendent may during the parole period deliver to the patient such additional property or funds belonging to the patient as the superintendent may from time to time determine necessary and proper. When a patient is discharged from the jurisdiction of the hospital, the superintendent shall deliver to such patient all funds or other property belonging to the patient, subject to the conditions of subsection (2) of this section.

All funds held by the superintendent as custodian may be deposited in a single fund. Annual reports of receipts and expenditures shall be forwarded to the department, and shall be open to inspection by interested parties: PROVIDED, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be used by the superintendent for the general welfare of all the patients of such institution: PROVIDED, FURTHER, That when the personal accounts of patients exceed three hundred dollars, the interest accruing from such excess shall be credited to the personal accounts of such patients. All such expenditures shall be accounted for by the superintendent.

The appointment of a guardian for the estate of such patient shall terminate the superintendent's authority to pay state hospitalization charges from funds subject to the control of the guardianship upon the superintendent's receipt of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall forward to such guardian any funds subject to the control of the guardianship or other property of the patient remaining in the superintendent's possession, together with a final accounting of receipts and expenditures.

Sec. 22. Section 72.33.180, chapter 28, Laws of 1959 as last amended by section 5, chapter 245, Laws of 1985 and RCW 72.33.180 are each amended to read as follows:

The superintendent of a state school shall serve as custodian without compensation of such personal property of a resident as may be located at the school, including moneys deposited with the superintendent for the benefit of such resident. As such custodian, the superintendent shall have authority to disburse moneys from the resident's fund for the following purposes and subject to the following limitations:

(1) Subject to specific instructions by a donor of money to the superintendent for the benefit of a resident, the superintendent may disburse any of the funds belonging to a resident for such personal needs of such resident as the superintendent may deem proper and necessary.

(2) The superintendent may pay to the department as reimbursement for the costs of care, support, maintenance, treatment, hospitalization, medical care and rehabilitation of a resident from the resident's fund when such fund exceeds one thousand dollars or a greater sum as established by rules and regulations of the department, to the extent of any notice and finding of financial responsibility served upon the superintendent after such findings shall have become final: **PROVIDED**, That if such resident does not have a guardian, parent, spouse, or other person acting in a representative capacity, upon whom notice and findings of financial responsibility have been served then the superintendent shall not make payments to the department as above provided, until a guardian has been appointed by the court, and the time for the appeal of findings of financial responsibility as provided in RCW 72.33.670 as recodified by this 1987 act shall not commence to run until the appointment of such guardian and the service upon the guardian of notice and findings of financial responsibility.

(3) When a resident is granted placement, the superintendent shall deliver to said resident, or the parent, guardian, or agency legally responsible for the resident, all or such portion of the funds of which the superintendent is custodian as above defined, or other property belonging to the resident, as the superintendent may deem necessary to the resident's welfare, and the superintendent may during such placement deliver to the former resident such additional property or funds belonging to the resident as the superintendent may from time to time deem proper. When the conditions of placement have been fully satisfied and the resident is discharged, the superintendent shall deliver to such resident, or the parent, person, or agency legally responsible for the resident, all funds or other property belonging to the resident remaining in his possession as custodian.

(4) All funds held by the superintendent as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by the superintendent: **PROVIDED**, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be credited to the personal accounts of such residents. All such expenditures shall be subject to the duty of accounting provided for in this section.

(5) The appointment of a guardian for the estate of such resident shall terminate the superintendent's authority as custodian of any funds of the resident which may be subject to the control of the guardianship upon receipt by the superintendent of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall immediately forward to such guardian any funds subject to the control of the guardianship or other property of the resident remaining in the superintendent's possession together with a full and final accounting of all receipts and expenditures made therefrom.

(6) Upon receipt of a written request from the superintendent stating that a designated individual is a resident of the state school for which he

has administrative responsibility and that such resident has no legally appointed guardian of his estate, any person, bank, corporation, or agency having possession of any money, bank accounts, or choses in action owned by such resident, shall, if the amount does not exceed two hundred dollars, deliver the same to the superintendent as custodian and mail written notice thereof to such resident at the state school. The receipt of the superintendent shall constitute full and complete acquittance for such payment and the person, bank, corporation, or agency making such payment shall not be liable to the resident or his legal representatives. All funds so received by the superintendent shall be duly deposited by him as custodian in the resident's fund to the personal account of such resident.

If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the same without cost to the person, bank, corporation, or agency effecting such delivery to the superintendent, and the state shall indemnify such person, bank, corporation, or agency against any judgment rendered as a result of such proceeding.

Sec. 23. Section 1, chapter 141, Laws of 1967 as amended by section 237, chapter 141, Laws of 1979 and RCW 72.33.650 are each amended to read as follows:

The purpose of RCW 72.33.650 through 72.33.700 as recodified by this 1987 act is to place financial responsibility for cost of care, support and treatment upon those residents of state residential schools who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby.

Sec. 24. Section 3, chapter 141, Laws of 1967 as last amended by section 1, chapter 200, Laws of 1984 and RCW 72.33.660 are each amended to read as follows:

The charges for care, support and treatment as provided in RCW 72.33.655 as recodified by this 1987 act shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating each of the state residential schools for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.04 RCW. The department shall

be charged with the duty of collection of charges incurred under RCW 72.33.650 through 72.33.700 as recodified by this 1987 act, which may be enforced by civil action instituted by the attorney general within or without the state.

Sec. 25. Section 4, chapter 141, Laws of 1967 as amended by section 3, chapter 118, Laws of 1971 ex. sess. and RCW 72.33.665 are each amended to read as follows:

The department (~~(of social and health services)~~) shall investigate and determine the assets of the estates of each resident of a state residential school and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a state residential school as determined by the procedure set forth in RCW 72.33.660 as recodified by this 1987 act: PROVIDED, That the sum as set forth in RCW 72.33.180 shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of his estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants.

Sec. 26. Section 5, chapter 141, Laws of 1967 as last amended by section 6, chapter 245, Laws of 1985 and RCW 72.33.670 are each amended to read as follows:

In all cases where a determination is made that the estate of a resident of a state school is able to pay all or any portion of the charges, a notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school and the superintendent of the state school. The notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 72.33.660 as recodified by this 1987 act, and the responsibility for payment to the department shall commence thirty days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An appeal from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school, within such thirty day period upon written notice of appeal being served upon the secretary by registered or certified mail. If no appeal is taken, the notice and finding of

responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeals may be presided over by an administrative law judge appointed under chapter 34.12 RCW and the proceedings shall be recorded either manually or by a mechanical device. Any such appeal shall be a "contested case" as defined in RCW 34.04.010, and practice and procedure shall be governed by the provisions of RCW 72.33.650 through 72.33.700 as recodified by this 1987 act, the rules and regulations of the department, and the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 27. Section 8, chapter 141, Laws of 1967 as amended by section 241, chapter 141, Laws of 1979 and RCW 72.33.685 are each amended to read as follows:

The charges for care, support, maintenance and treatment of mentally or physically handicapped persons at state residential schools as provided by RCW 72.33.650 through 72.33.700 as recodified by this 1987 act shall be payable in advance on the first day of each and every month to the department (~~(of social and health services)~~).

Sec. 28. Section 9, chapter 141, Laws of 1967 as amended by section 242, chapter 141, Laws of 1979 and RCW 72.33.690 are each amended to read as follows:

The provisions of RCW 72.33.650 through 72.33.700 as recodified by this 1987 act shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 72.33.650 through 72.33.700 as recodified by this 1987 act for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 72.33.670 as recodified by this 1987 act: PROVIDED, That the estate of any resident of a state residential school shall not be liable for such reimbursement subsequent to ~~((his))~~ the placement of that resident out of the state residential school: PROVIDED FURTHER, That upon the death of any person while a resident in a state residential school his estate shall become liable to the same extent as the resident's liability on the date of death.

Sec. 29. Section 11, chapter 141, Laws of 1967 and RCW 72.33.695 are each amended to read as follows:

The liabilities created by RCW 72.33.650 through 72.33.700 as recodified by this 1987 act shall apply to the care, support and treatment occurring after July 1, 1967.

Sec. 30. Section 12, chapter 141, Laws of 1967 as amended by section 243, chapter 141, Laws of 1979 and RCW 72.33.700 are each amended to read as follows:

Notwithstanding any other provision of RCW 72.33.650 through 72.33.700 as recodified by this 1987 act, the secretary may, if in his discretion any resident of a state residential school can be discharged more rapidly therefrom and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 72.33.655 as recodified by this 1987 act.

Sec. 31. Section 1, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 2, chapter 335, Laws of 1985 and RCW 74.04.005 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6) (a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance; and

(ii) Are either:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal aid to families with dependent children program: PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance; or

(B) Incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of sixty days as



determined by the department: **PROVIDED**, That persons in approved alcoholism or drug programs may be eligible for less than a sixty-day period in accordance with their plans.

(b) Notwithstanding the provisions of subsection (6)(a)(i) and (ii) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of aid to families with dependent children whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: **PROVIDED**, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable

amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as a resource which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance may retain the following described resources in addition to exemption for a motor vehicle or home and not be ineligible for public assistance because of such resources:

(i) Household furnishings, personal effects, and other personal property having great sentimental value to the applicant or recipient;

(ii) Term and burial insurance for use of the applicant or recipient;

(iii) Life insurance having a cash surrender value not exceeding one thousand five hundred dollars; and

(iv) Cash, marketable securities, and any excess of values above one thousand five hundred dollars equity in a vehicle and above one thousand five hundred dollars in cash surrender value of life insurance, not exceeding one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more. The one thousand dollar limit in subsection (10)(d) of this section does not apply to recipients of or applicants for general assistance.

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to

independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property, but the recipient must sign an agreement to dispose of the property and repay assistance payments made to the date of disposition of the property which would not have been made had the disposal occurred at the beginning of the period for which the payments of such assistance were made. In no event shall such amount due the state exceed the net proceeds otherwise available to the recipient from the disposition, unless after nine months from the date of the agreement the property has not been sold, or if the recipient's eligibility for financial assistance ceases for any other reason. In these two instances the entire amount of assistance paid during this period will be treated as an overpayment and a debt due the state, and may be recovered pursuant to RCW 74.04.700 as recodified by this 1987 act.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance: PROVIDED, That the department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance: PROVIDED FURTHER, That in determining the amount of assistance to which an applicant or recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements: PROVIDED FURTHER, The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or

related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

Sec. 32. Section 74.04.300, chapter 26, Laws of 1959 as last amended by section 16, chapter 201, Laws of 1982 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 (~~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~~) recoverable under RCW 74.04.306 and 74.04.700 through 74.04.730, as recodified by this 1987 act, and sections 43 and 44 of this 1987 act. 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. 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 the amount recoverable from 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. 33. Section 2, chapter 102, Laws of 1973 1st ex. sess. as amended by section 8, chapter 245, Laws of 1985 and RCW 74.04.540 are each amended to read as follows:

The lien and notice to withhold and deliver in RCW 74.04.530 as recodified by this 1987 act shall be signed by the secretary or the secretary's

authorized representative and shall identify the recipient of public assistance and time loss compensation, the amount claimed by the department, and the demand to withhold and deliver the sum claimed by the department.

Sec. 34. Section 3, chapter 102, Laws of 1973 1st ex. sess. as amended by section 9, chapter 245, Laws of 1985 and RCW 74.04.550 are each amended to read as follows:

The effective date of the statement of lien and notice to withhold and deliver provided in RCW 74.04.540 as recodified by this 1987 act, shall be the day that it is received by the director of the department of labor and industries, an employee of the director's office of suitable discretion, or a self-insurer as defined in chapter 51.08 RCW: PROVIDED, That service of such statement of lien and notice to withhold and deliver may be made personally or by regular mail, postage prepaid: PROVIDED, FURTHER, That a copy of the statement of lien and notice to withhold and deliver shall be mailed to the recipient at the recipient's last known address by certified mail, return receipt requested, no later than the next business day after such statement of lien and notice to withhold and deliver has been mailed or delivered to the department of labor and industries or to a self-insurer as defined in chapter 51.08 RCW.

Sec. 35. Section 5, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.570 are each amended to read as follows:

Any person feeling himself aggrieved by the action of the department of social and health services in impounding his time loss compensation as provided in RCW 74.04.530 through 74.04.580 as recodified by this 1987 act shall have the right to an administrative hearing, which hearing may be conducted by an examiner designated by the secretary for such purpose.

Any such person who desires a hearing shall, within thirty days after the notice to withhold and deliver has been mailed to or served upon the director of the department of labor and industries and said appellant, file with the secretary a notice of appeal from said action.

The hearings conducted shall be in accordance with chapter 34.04 RCW (Administrative Procedure Act).

Sec. 36. Section 6, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.580 are each amended to read as follows:

RCW 74.04.530 through 74.04.580 as recodified by this 1987 act shall not apply to persons whose eligibility for benefits under Title 51 RCW, is based upon an injury or illness occurring prior to July 1, 1972.

Sec. 37. Section 2, chapter 163, Laws of 1981 and RCW 74.04.710 are each amended to read as follows:

After service of a notice of debt for an overpayment (~~as defined in RCW 74.04.300~~) as provided for in (~~this chapter~~) RCW 74.04.700 as recodified by this 1987 act, stating the debt accrued, the secretary may 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 the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 7.33-.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. 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 shall answer the 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. If any such person, firm, corporation, association, political subdivision, or department of the state possesses 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 the 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, 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, subject to the exemptions under RCW 7.33.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves 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 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 on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on 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. 38. Section 3, chapter 163, Laws of 1981 and RCW 74.04.720 are each amended to read as follows:

If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in RCW 74.04.710 as recodified by this 1987 act, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under RCW 74.04.710 as recodified by this 1987 act, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees.

Sec. 39. Section 74.08.120, chapter 26, Laws of 1959 as last amended by section 15, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.08.120 are each amended to read as follows:

The term "funeral" shall mean the proper preparation, transportation within the local service area defined by the department, and care of the remains of a deceased person with needed facilities and appropriate memorial services. "Burial" includes necessary costs of a lot or cremation and all services related to interment and the customary memorial marking of a grave.

The department is hereby authorized to assume responsibility for payment for the funeral and burial of deceased persons dying without assets sufficient to pay for the minimum standard funeral herein provided: PROVIDED, HOWEVER, That the secretary may furnish funeral assistance for deceased recipients if they leave assets to a surviving spouse and/or to minor children and if the assets are resources permitted to be owned by or

available to an eligible applicant or recipient under RCW 74.04.005, and the department shall thereby have a lien against said assets (~~valid for six years from the date of filing with the county auditor and such lien claim shall have preference to all other claims except prior secured creditors. If the assets remain exempt, or if no probate is commenced, the lien shall automatically terminate without further action six years after filing~~) as provided in section 45 of this 1987 act. If the deceased person is survived by a spouse or is a minor child survived by his parent or parents, the department may take into consideration the assets of such surviving spouse, parent, or parents in determining whether or not the department will assume responsibility for the funeral.

The department shall not pay more than cost for a minimum standard service rendered by each vendor. Payments to the funeral director and to the cemetery or crematorium will be made by separate vouchers. The standard of such services and the uniform amounts to be paid shall be determined by the department after giving due consideration to such advice and counsel as it shall obtain from the trade associations of the various vendors and related state departments, agencies, and commissions. Payment made for any funeral or burial service by relatives, friends, or any other third party shall be subtracted from the payment made by the department.

Sec. 40. Section 74.08.338, chapter 26, Laws of 1959 as amended by section 331, chapter 141, Laws of 1979 and RCW 74.08.338 are each amended to read as follows:

When the consideration for a deed executed and delivered by a recipient is not paid, or when the consideration does not approximate the fair cash market value of the property, such deed shall be prima facie fraudulent as to the state and the department may proceed under section 46 of this 1987 act. (~~The attorney general upon request of the secretary shall file suit to rescind such transaction except as to subsequent bona fide purchasers for value. In the event that it be established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which may have been furnished may be recovered in any proceedings from the recipient or his estate.~~)

Sec. 41. Section 4, chapter 3, Laws of 1981 2nd ex. sess. and RCW 74.09.538 are each amended to read as follows:

(1) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value after December 1, 1981, to enable an applicant or recipient to qualify for assistance under RCW 74.09.510 or 74.09.700 is guilty of a gross misdemeanor.

(2) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value is liable for a civil penalty (~~equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to an applicant or~~



~~recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney fees)) as provided in section 47 of this 1987 act.~~

NEW SECTION. Sec. 42. The definitions in this section apply throughout this chapter:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "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.

(4) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.

(5) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute.

NEW SECTION. Sec. 43. Overpayments of public assistance or food stamps under RCW 74.04.300 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 in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

Debts due the state for overpayments of public assistance or food stamps may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, or order to withhold and deliver, or may be recovered by civil action.

NEW SECTION. Sec. 44. If the department determines that the cost of collection of an overpayment of public assistance or food stamps is likely to exceed the amount recoverable or the debt is uncollectible, the secretary may waive collection.

NEW SECTION. Sec. 45. If the department furnishes funeral assistance for deceased recipients under RCW 74.08.120, the department shall have a lien against those assets left to a surviving spouse or minor children under those conditions defined in RCW 74.08.120. The lien is valid for six years from the date of filing with the county auditor and has preference over the claims of all unsecured creditors. If the assets remain exempt or if no probate is commenced, the lien automatically terminates without further action six years after filing.

NEW SECTION. Sec. 46. If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the department may

request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate.

**NEW SECTION.** Sec. 47. If cash or resources are improperly transferred or assigned under RCW 74.09.538, a person who knowingly or willingly receives the assets for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to the applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney's fees.

**NEW SECTION.** Sec. 48. The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on the effective date of this act.

**NEW SECTION.** Sec. 49. RCW 43.20A.055, 43.20A.435, 43.20A-.670, 71.02.320, 71.02.360, 71.02.370, 71.02.380, 71.02.400, 71.02.410, 71.02.411, 71.02.412, 71.02.413, 71.02.414, 71.02.415, 72.33.650, 72.33.655, 72.33.660, 72.33.665, 72.33.670, 72.33.680, 72.33.685, 72.33.690, 72.33-.695, 72.33.700, 74.04.007, 74.04.306, 74.04.530, 74.04.540, 74.04.550, 74-.04.560, 74.04.570, 74.04.580, 74.04.700, 74.04.710, 74.04.720, 74.04.730, and 74.04.780 are recodified. These sections and sections 42 through 47 of this act shall constitute a new chapter in Title 43 RCW, to be designated chapter 43.20B RCW.

**NEW SECTION.** Sec. 50. The following acts or parts of acts are each repealed:

- (1) Section 71.02.310, chapter 25, Laws of 1959 and RCW 71.02.310;
- (2) Section 71.02.330, chapter 25, Laws of 1959 and RCW 71.02.330;
- (3) Section 71.02.340, chapter 25, Laws of 1959 and RCW 71.02.340;
- (4) Section 71.02.350, chapter 25, Laws of 1959 and RCW 71.02.350;
- (5) Section 71.02.390, chapter 25, Laws of 1959, section 5, chapter 67, Laws of 1979 ex. sess. and RCW 71.02.390; and
- (6) Section 10, chapter 127, Laws of 1967 ex. sess. and RCW 71.02-.417.

**NEW SECTION.** Sec. 51. 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 Senate February 20, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

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## CHAPTER 76

[Senate Bill No. 5327]

### PERSONS OF DISABILITY—NOTARIES PUBLIC—ACKNOWLEDGEMENTS FROM PERSONS PHYSICALLY UNABLE TO SIGN NAME—EMPLOYMENT SECURITY DEPARTMENT TO REPORT TO LEGISLATURE ON THE DEPARTMENT'S SPECIAL SERVICES

AN ACT Relating to persons of disability; amending RCW 50.12.210 and 42.44.080; and adding a new section to chapter 64.08 RCW.

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

Sec. 1. Section 1, chapter 273, Laws of 1977 ex. sess. and RCW 50.12.210 are each amended to read as follows:

It is the policy of the state of Washington that persons with physical, mental, or sensory handicaps shall be given equal opportunities in employment. The legislature recognizes that handicapped persons have faced unfair discrimination in employment.

For these reasons, the state employment service division of the employment security department shall give particular and special attention service to those persons with physical, mental, or sensory handicaps which substantially limit one or more of their major life functions as defined under P.L. 93-112 and rules promulgated thereunder. Particular and special attention service shall include but not be limited to particular and special attention in counseling, referral, notification of job listings in advance of other persons, and other services of the employment service division.

Nothing in this section shall be construed so as to affect the veteran's preference or any other requirement of the United States department of labor.

The employment security department shall report to the house and senate commerce and labor committees by December 1, 1987, on its accomplishments under this section and on its future plans for implementation of this section. The department shall report to the above mentioned committees every odd-numbered year thereafter on its actions under this section.

The employment security department shall establish rules to implement this section.

NEW SECTION. Sec. 2. A new section is added to chapter 64.08 RCW to read as follows: