

(2) Moneys derived from pupil transportation vehicles shall be deposited in the district's transportation vehicle fund;

(3) Moneys derived from other personal property shall be deposited in the district's general fund.

Passed the Senate April 11, 1989.

Passed the House April 5, 1989.

Approved by the Governor April 20, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 20, 1989.

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

"I am returning herewith, without my approval as to section 1, Senate Bill No. 6012, entitled:

"AN ACT Relating to the leasing of surplus school property."

Section 1 of this bill would remove the restriction requiring school districts to include provisions which permit the recapture of the leased or rented surplus property of the district should such property be needed for school purposes in the future." The stated intent of this bill is to clarify the law so school districts can enter into long-term leases of surplus property to be used for condominiums or office buildings.

The restriction in existing law is good public policy. It should not be repealed. We should not be encouraging school districts to be in the real estate business when there are current demands for school district buildings and funding of school projects.

Each year the Legislature struggles with providing enough capital funding to school districts to keep up with demands for new construction. It seems inconsistent to allow districts to lock up buildings and property in long-term leases, when there is apparently no intent nor ability to ever reclaim these for school purposes. If there is no foreseeable school use, the district should surplus and sell the properties so the funds are available for other district uses.

The existing statute provides enough flexibility so school districts can rent or lease property when it is not needed immediately. However, the existing law wisely prohibits long-term commitments which bind future school boards and limit their ability to meet the changing needs of the community.

With the exception of section 1, Senate Bill No. 6012 is approved."

CHAPTER 87

[Second Substitute Senate Bill No. 5011]

ALLOCATION OF ASSETS BETWEEN INSTITUTIONALIZED AND COMMUNITY SPOUSE

AN ACT Relating to the prevention of impoverishment of spouses of institutionalized persons; amending RCW 11.94.050, 74.09.510, and 74.09.700; adding new sections to chapter 74.09 RCW; creating a new section; repealing RCW 74.09.532, 74.09.534, 74.09.536, and 74.09.538; providing effective dates; and declaring an emergency.

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

Sec. 1. Section 29, chapter 30, Laws of 1985 and RCW 11.94.050 are each amended to read as follows:

(1) Although a designated attorney in fact or agent has all powers of absolute ownership of the principal, or the document has language to indicate that the attorney in fact or agent shall have all the powers the principal

would have if alive and competent, the attorney in fact or agent shall not have the power, unless specifically provided otherwise in the document: To make, amend, alter, or revoke any of the principal's wills, codicils, life insurance beneficiary designations, employee benefit plan beneficiary designations, trust agreements, community property agreements; to make any gifts of property owned by the principal; to make transfers of property to any trust (whether or not created by the principal) unless the trust benefits the principal alone and does not have dispositive provisions which are different from those which would have governed the property had it not been transferred into the trust, or to disclaim property.

(2) Nothing in subsection (1) of this section prohibits an attorney in fact or agent from making any transfer of resources not prohibited under ~~((RCW 74.09.532))~~ chapter 74.09 RCW when the transfer is for the purpose of qualifying the principal for medical assistance or the limited casualty program for the medically needy.

Sec. 2. Section 4, chapter 30, Laws of 1967 ex. sess. as last amended by section 2, chapter 5, Laws of 1985 and RCW 74.09.510 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department of social and health services, ~~((including the prohibition under RCW 74.09.532 through 74.09.536 against the knowing and wilful assignment of property or cash for the purpose of qualifying for such assistance,))~~ as defined in the social security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for cash assistance except for their institutional status; (2) individuals who are under twenty-one years of age, who would be eligible for aid to families with dependent children, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) an intermediate care facility or an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric facilities; (3) the aged, blind, and disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized; (4) individuals who would be eligible for but choose not to receive cash assistance; (5) pregnant women who would be eligible for aid to families with dependent children if the child had been born and was living with the mother during the month of the payment, and the pregnancy has been medically verified; (6) individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act; and (7) other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act.

Sec. 3. Section 22, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 4, chapter 5, Laws of 1985 and RCW 74.09.700 are each amended to read as follows:

(1) To the extent of available funds, medical care may be provided under the limited casualty program to persons not otherwise eligible for medical assistance or medical care services who are medically needy as defined in the social security Title XIX state plan and medical indigents in accordance with medical eligibility requirements established by the department. This includes residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are aged, blind, or disabled as defined in Title XVI of the federal social security act and whose income exceeds three hundred percent of the federal supplement security income benefit level.

(2) Determination of the amount, scope, and duration of medical coverage under the limited casualty program shall be the responsibility of the department, subject to the following:

(a) Only inpatient hospital services; outpatient hospital and rural health clinic services; physicians' and clinic services; prescribed drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing home services, intermediate care facility services, and intermediate care facility services for the mentally retarded; home health services; other laboratory and x-ray services; rehabilitative services; medically necessary transportation; and other services for which funds are specifically provided in the omnibus appropriations act shall be covered;

(b) Persons who are medically indigent and are not eligible for a federal aid program shall satisfy a deductible of not less than one hundred dollars nor more than five hundred dollars in any twelve-month period;

(c) Medical care services provided to the medically indigent and received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished: PROVIDED, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment.

(3) The department shall establish standards of assistance and resource and income exemptions. All nonexempt income and resources of limited casualty program recipients shall be applied against the cost of their medical care services. ~~((In addition, the department shall include a prohibition against the knowing and wilful assignment of property or cash for the purpose of qualifying for assistance under RCW 74.09.532 through 74.09.536:))~~

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

MEDICAL ASSISTANCE FOR INSTITUTIONALIZED PERSONS—TREATMENT OF INCOME BETWEEN SPOUSES. (1) An agreement between spouses transferring or assigning rights to future income from one spouse to the other shall be invalid for purposes of determining eligibility for medical assistance or the limited casualty program for the medically needy, but this subsection does not affect agreements between spouses transferring or assigning resources, and income produced by transferred or assigned resources shall continue to be recognized as the separate income of the transferee.

(2) In determining eligibility for medical assistance or the limited casualty program for the medically needy for a married person in need of institutional care, or care under home and community-based waivers as defined in Title XIX of the social security act, if the community income received in the name of the nonapplicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess shall be considered unavailable to the applicant.

(3) The department shall adopt rules consistent with the provisions of section 1924 of the social security act entitled "Treatment of Income and Resources for Certain Institutionalized Spouses," in determining the allocation of income between an institutionalized and community spouse.

(4) The department shall establish the monthly maintenance needs allowance for the community spouse up to the maximum amount allowed by state appropriation or within available funds and permitted in section 1924 of the social security act. The total monthly needs allowance shall not exceed one thousand five hundred dollars, subject to adjustment provided in section 1924 of the social security act.

NEW SECTION. Sec. 5. A new section is added to chapter 74.09 RCW to read as follows:

MEDICAL ASSISTANCE FOR INSTITUTIONALIZED PERSONS—TREATMENT OF RESOURCES. (1) The department shall promulgate rules consistent with the treatment of resources provisions of section 1924 of the social security act entitled "Treatment of Income and Resources for Certain Institutionalized Spouses," in determining the allocation of resources between the institutionalized and community spouse.

(2) In the interest of supporting the community spouse the department shall allow the maximum resource allowance amount permissible under the social security act for the community spouse.

***NEW SECTION.** Sec. 6. A new section is added to chapter 74.09 RCW to read as follows:

The department shall, on December 15 of each even-numbered year, submit to the fiscal committees of the senate and the house of representatives a report covering the utilization and state and federal expenditures resulting from implementation of sections 4, 5, and 7 of this act. This report shall include the number of families affected by the provisions of these sections, the

average amount of the income and resources transferred and the state and federal funds provided for the care of the institutionalized spouse.

*Sec. 6 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 7. A new section is added to chapter 74.09 RCW to read as follows:

MEDICAL ASSISTANCE FOR INSTITUTIONALIZED PERSONS—PERIOD OF INELIGIBILITY FOR TRANSFER OF RESOURCES. (1) The department shall establish standards consistent with section 1917 of the social security act in determining the period of ineligibility for medical assistance due to the transfer of resources.

(2) The department may waive a period of ineligibility if the department determines that denial of eligibility would work an undue hardship.

NEW SECTION. Sec. 8. A new section is added to chapter 74.09 RCW to read as follows:

MEDICAL ASSISTANCE—DUE PROCESS PROCEDURES. The department shall in compliance with section 1924 of the social security act adopt procedures which provide due process for institutionalized or community spouses who request a fair hearing as to the valuation of resources, the amount of the community spouse resource allowance, or the monthly maintenance needs allowance.

NEW SECTION. Sec. 9. (1) Sections 7 and 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

(2) Sections 1 through 5 of this act shall take effect October 1, 1989.

NEW SECTION. Sec. 10. Section captions, as found in sections 4 through 8 of this act, constitute no part of the law.

NEW SECTION. Sec. 11. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 3, Laws of 1981 2nd ex. sess. and RCW 74.09-.532;

(2) Section 2, chapter 3, Laws of 1981 2nd ex. sess. and RCW 74.09-.534;

(3) Section 3, chapter 3, Laws of 1981 2nd ex. sess. and RCW 74.09-.536; and

(4) Section 4, chapter 3, Laws of 1981 2nd ex. sess., section 41, chapter 75, Laws of 1987 and RCW 74.09.538.

Passed the Senate April 10, 1989.

Passed the House April 6, 1989.

Approved by the Governor April 20, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 20, 1989.

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

"I am returning herewith, without my approval as to section 6, Second Substitute Senate Bill No. 5011, entitled:

"AN ACT Relating to providing for allocation of assets of an institutionalized spouse."

Section 6 requires the submission of a biennial report on the number of persons impacted by the laws relating to transfer of assets between spouses. This section imposes new duties for which no funds have been appropriated, and would require the Department of Social and Health Services to reformat information already available to the legislative fiscal committees.

With the exception of section 6, Second Substitute Senate Bill No. 5011 is approved."

CHAPTER 88

[Senate Bill No. 5353]

DISABLED LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS— CONTINUED SERVICE CREDIT

AN ACT Relating to continued service credit for disabled law enforcement officers and fire fighters; amending RCW 41.26.470 and 41.26.520; and adding a new section to chapter 41.26 RCW.

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

Sec. 1. Section 8, chapter 294, Laws of 1977 ex. sess. as last amended by section 2, chapter 12, Laws of 1982 and RCW 41.26.470 are each amended to read as follows:

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-eight.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing.