

provisions of RCW 9.08.070 and section 3 of this act are cumulative and nonexclusive and shall not affect any other remedy.

**NEW SECTION.** Sec. 6. This act is 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 immediately.

Passed the Senate April 22, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

## CHAPTER 360

[Substitute House Bill No. 1635]

### SUPPORT ENFORCEMENT—REVISED PROVISIONS

AN ACT Relating to support enforcement; amending RCW 4.16.020, 4.56.210, 6.17.020, 74.20A.220, 74.20A.100, 26.23.030, 74.20.101, 74.20A.040, 74.20A.060, 74.20A.080, 74.20.040, 74.20.330, 26.23.050, 26.23.110, 26.23.120, 26.26.130, 4.56.110, 6.27.360, 6.15.020, 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.24.240, 41.40.380, 41.44.240, 74.20A.120, 26.23.100, 26.23.060, 74.20A.270, 26.26.160, 26.09.060, 26.09.100, 26.23.040, and 26.19.030; reenacting and amending RCW 26.09.120, 74.20A.030, and 43.43.310; adding new sections to chapter 26.23 RCW; repealing RCW 74.20A.190 and 26.26.131; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 2, page 363, Laws of 1854 as last amended by section 1, chapter 76, Laws of 1984 and RCW 4.16.020 are each amended to read as follows:

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) For an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States.

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child support that has accrued under an order entered after the effective date of this act by any of the above-named courts or that has accrued under an administrative order as defined in RCW 74.20A.020(6), which is issued after the effective date of this act.

Sec. 2. Section 7, chapter 60, Laws of 1929 as amended by section 1, chapter 236, Laws of 1979 ex. sess. and RCW 4.56.210 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, after the expiration of ten years from the date of the entry of any judgment heretofore or hereafter rendered in this state, it shall cease to be a lien or charge against the estate or person of the judgment debtor(~~(, and)~~). No suit, action or other proceeding shall ever be had on any judgment rendered in this state by which the lien (~~(or duration of such judgment, claim or demand;)~~) shall be extended or continued in force for any greater or longer period than ten years (~~(from the date of the entry of the original judgment)~~).

(2) An underlying judgment or judgment lien entered after the effective date of this act for accrued child support shall continue in force for ten years after the eighteenth birthday of the youngest child named in the order for whom support is ordered. All judgments entered after the effective date of this act shall contain the birth date of the youngest child for whom support is ordered.

Sec. 3. Section 2, chapter 25, Laws of 1929 as last amended by section 402, chapter 442, Laws of 1987 and RCW 6.17.020 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the party in whose favor a judgment of a court of record of this state or a district court of this state has been or may be rendered, or the assignee, may have an execution issued for the collection or enforcement of the judgment at any time within ten years from entry of the judgment.

(2) After the effective date of this act, a party who obtains a judgment or order of a court of record of any state, or an administrative order entered as defined in RCW 74.20A.020(6) for accrued child support, may have an execution issued upon that judgment or order at any time within ten years of the eighteenth birthday of the youngest child named in the order for whom support is ordered.

Sec. 4. Section 22, chapter 164, Laws of 1971 ex. sess. as last amended by section 16, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.220 are each amended to read as follows:

Any support debt due the department from a responsible parent which the secretary deems uncollectible may be transferred from accounts receivable to a suspense account and cease to be accounted as an asset(~~(-PROVIDED, That)~~). At any time after six years from the date a support debt was incurred, the secretary may charge off as uncollectible any support debt upon which the secretary finds there is no available, practical, or lawful means by which said debt may be collected.

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

the persons for whom the support obligation was incurred. The department shall adopt rules as to the considerations to be made in the granting or denial of partial or total charge-off and offers of compromise of disputed claims of debt for support arrears. The rights of the payee under an order for support shall not be prejudiced if the department accepts an offer of compromise, or grants a partial or total charge-off under this section.

The responsible parent owing a support debt may execute a written extension or waiver of any statute(~~(, including but not limited to RCW 4.56.210;)~~) which may bar or impair the collection of the debt and the extension or waiver shall be effective according to its terms.

Sec. 5. Section 10, chapter 164, Laws of 1971 ex. sess. as last amended by section 7, chapter 276, Laws of 1985 and RCW 74.20A.100 are each amended to read as follows:

~~((Should))~~ (1) Any person, firm, corporation, association, political subdivision or department of the state shall be 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 earnings, or the amount that should have been withheld, whichever amount is less, together with costs, interest, and reasonable attorney fees if that person or entity:

(a) Fails to ((make)) answer ((to)) an order to withhold and deliver within the time prescribed herein; ((or))

(b) Fails or refuses to deliver property pursuant to said order; ((or))

(c) After actual notice of filing of a support lien, pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien to or for the benefit of the debtor or any other person; ((or))

(d) Fails or refuses to surrender ((upon demand)) property distrained under RCW 74.20A.130 upon demand; or

(e) Fails or refuses to honor an assignment of ((wages)) earnings presented by the secretary((, said person, firm, corporation, association, political subdivision or department of the state shall be 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)).

~~((If a judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section;))~~ (2) The secretary is authorized to issue a notice of debt pursuant to RCW 74.20A-.040 and to take appropriate action to collect the debt under this chapter if:

(a) A judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section; or

(b) Liability has been established under RCW 74.20A.270.

Sec. 6. Section 3, chapter 435, Laws of 1987 as amended by section 18, chapter 275, Laws of 1988 and RCW 26.23.030 are each amended to read as follows:

(1) There is created a Washington state support registry within the office of support enforcement as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

((1)) (a) Account for and disburse all support payments received by the registry;

((2)) (b) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due; the date and amount of payments; and the names, social security numbers, and addresses of the parties;

((3)) (c) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry;

((4)) (2) The office of support enforcement may assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.

(3) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered.

~~((The child support registry shall distribute all moneys received in compliance with 42 U.S.C. Sec. 657. Support received by the office of support enforcement shall be distributed promptly but not later than eight days from the date of receipt unless circumstances exist which make such distribution impossible. Such circumstances include when: (a) The location of the custodial parent is unknown; (b) the child support debt is in litigation; or (c) the responsible parent or custodial parent cannot be identified. When, following termination of public assistance, the office of support enforcement collects support, all moneys collected up to the maximum of the support due for the period following termination from public assistance shall, to the extent permitted by federal law, be paid to the custodial parent before any distribution to the office of support enforcement under 42 U.S.C. Sec. 657. This section shall not apply to support collected through intercepting federal tax refunds under 42 U.S.C. Sec. 664. When a responsible parent has more than one support obligation, or a support debt is owed to more than one~~

~~party, moneys received will be distributed between the parties proportionally, based upon the amount of the support obligation and/or support debt owed:~~

~~If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and up to ten percent of amounts collected as current support:))~~

Sec. 7. Section 16, chapter 173, Laws of 1969 ex. sess. as last amended by section 30, chapter 435, Laws of 1987 and RCW 74.20.101 are each amended to read as follows:

~~((Whenever, as a result of any action, support money is paid by the person or persons responsible for support, such payment)) (1) A responsible parent shall ((be paid)) make all support payments through the office of support enforcement or the Washington state support registry if:~~

~~(a) The parent's support order contains a provision directing the ((responsible)) parent to make support payments through the office of support enforcement or the Washington state support registry ((or upon)); or~~

~~(b) If the parent has received written notice ((by)) from the office of support enforcement ((to the responsible parent or to the clerk of the court, if appropriate;)) under RCW 26.23.110, 74.20A.040, or 74.20A.055 that all future support payments must be made through the office of support enforcement or the Washington state support registry.~~

~~((After service on)) (2) A responsible parent ((of a notice under this section or RCW 74.20A.040 or 74.20A.055, payment of moneys for the support of the responsible parent's children)) who has been ordered or notified to make support payments to the office of support enforcement or the Washington state support registry shall not receive credit for payments which are not paid to the office of support enforcement or the Washington state support registry ((shall not be credited against or set-off against any obligation to provide support which has been assigned to the department; whether the obligation has been determined by court order, or pursuant to RCW 74.20A.055, or is unliquidated)) unless:~~

~~(a) The department determines that the granting of credit would not prejudice the rights of the residential parent or other person or agency entitled to receive the support payments and circumstances of an equitable nature exist; or~~

~~(b) A court, after a hearing at which all interested parties were given an opportunity to be heard, on equitable principles, orders that credit be given.~~

~~(3) The rights of the payee under an order for support shall not be prejudiced if the department grants credit under subsection (2)(a) of this~~

section. If the department determines that credit should be granted pursuant to subsection (2) of this section, the department shall mail notice of its decision to the last known address of the payee, together with information about the procedure to contest the determination.

Sec. 8. Section 4, chapter 164, Laws of 1971 ex. sess. as last amended by section 2, chapter 276, Laws of 1985 and RCW 74.20A.040 are each amended to read as follows:

(1) The secretary may issue a notice of a support debt accrued and/or accruing based upon RCW 74.20A.030, assignment of a support debt or a request for support enforcement services under RCW 74.20.040 (2) or (3), to enforce and collect a support debt created by a superior court order or administrative order. The payee under the order shall be informed when a notice of support debt is issued under this section.

((Said)) (2) The notice may be served upon the debtor in the manner prescribed for the service of a summons in a civil action or be mailed to the debtor at his last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

((Said)) (3) The notice of debt shall include:

(a) A statement of the support debt accrued and/or accruing, computable on the amount required to be paid under any superior court order to which the department is subrogated or is authorized to enforce and collect under RCW 74.20A.030, has an assigned interest, or has been authorized to enforce pursuant to RCW 74.20.040 (2) or (3);

(b) A statement that the property of the debtor is subject to collection action;

(c) A statement that the property is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and

(d) A statement that the net proceeds will be applied to the satisfaction of the support debt.

(4) Action to collect a support debt by lien and foreclosure, or distraint, seizure and sale, or order to withhold and deliver shall be lawful after twenty days from the date of service upon the debtor or twenty days from the receipt or refusal by the debtor of said notice of debt.

(5) The secretary shall not be required to issue or serve such notice of support debt prior to taking collection action under this chapter when a responsible parent's support order:

(a) Contains language directing the parent to make support payments to the Washington state support registry; and

(b) Includes a statement that income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided in RCW 26.23.050(1).

Sec. 9. Section 5, chapter 164, Laws of 1971 ex. sess. as last amended by section 5, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.060 are each amended to read as follows:

(1) The secretary may assert a lien upon the real or personal property of a responsible parent:

(a) When a support payment is past due, if the parent's support order was entered in accordance with RCW 26.23.050(1);

(b) Twenty-one days after ~~((receipt or refusal))~~ service of a notice of support debt under ~~((provisions of))~~ RCW 74.20A.040~~((, or))~~;

(c) Twenty-one days after service of a notice and finding of financial responsibility~~((, or as otherwise appropriate))~~ under RCW 74.20A.055~~((, or as))~~;

(d) Twenty-one days after service of a notice and finding of parental responsibility;

(e) Twenty-one days after service of a notice of support owed under RCW 26.23.110; or

(f) When appropriate under RCW 74.20A.270 ~~((a lien may be asserted by the secretary upon the real or personal property of the debtor)).~~

(2) The claim of the department for a support debt, not paid when due, shall be a lien against all property of the debtor with priority of a secured creditor. This lien shall be separate and apart from, and in addition to, any other lien created by, or provided for, in this title. The lien shall attach to all real and personal property of the debtor on the date of filing of such statement with the county auditor of the county in which such property is located~~((A lien against earnings shall attach and be effective subject to service requirements of RCW 74.20A.070 upon filing with the county auditor of the county in which the employer does business or maintains an office or agent for the purpose of doing business)).~~

(3) Whenever a support lien has been filed and there is in the possession of any person, firm, corporation, association, political subdivision or department of the state having notice of said lien any property which may be subject to the support lien, such property shall not be paid over, released, sold, transferred, encumbered or conveyed, except as provided for by the exemptions contained in RCW 74.20A.090 and 74.20A.130, unless:

(a) A written release or waiver signed by the secretary has been delivered to said person, firm, corporation, association, political subdivision or department of the state; or ~~((unless))~~

(b) A determination has been made in a fair hearing pursuant to RCW 74.20A.055 or by a superior court ordering release of said support lien on the basis that no debt exists or that the debt has been satisfied.

Sec. 10. Section 8, chapter 164, Laws of 1971 ex. sess. as last amended by section 6, chapter 276, Laws of 1985 and RCW 74.20A.080 are each amended to read as follows:

~~((Twenty-one days after service of a notice of debt as provided for in RCW 74.20A.040, or twenty-one days after service of the notice and finding of financial responsibility or as otherwise appropriate under RCW 74.20A.055, or as appropriate under RCW 74.20A.270;)) (1) The secretary~~

~~((is hereby authorized to))~~ 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 said debtor. Such order to withhold and deliver may be issued:

(a) When a support payment is past due, if a responsible parent's support order:

(i) Contains language directing the parent to make support payments to the Washington state support registry; and

(ii) Includes a statement that other income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided for in RCW 26.23.050(1);

(b) Twenty-one days after service of a notice of support debt under RCW 74.20A.040;

(c) Twenty-one days after service of a notice and finding of parental responsibility;

(d) Twenty-one days after service of a notice of support owed under RCW 26.23.110;

(e) Twenty-one days after service of a notice and finding of financial responsibility under RCW 74.20A.055; or

(f) When appropriate under RCW 74.20A.270.

(2) The order to withhold and deliver shall:

(a) State the amount of the support debt accrued~~((, and shall));~~

(b) State in summary the terms of RCW 74.20A.090 and 74.20A.100~~((The order to withhold and deliver shall));~~

(c) Be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested.

(3) Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made is hereby required to:

(a) Answer said order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein~~((The secretary may require));~~ and

(b) Provide further and additional answers ~~((to be completed by the person, firm, corporation, association, political subdivision or department of the state. In the event there is in the possession of))~~ when requested by the secretary.

(4) Any such person, firm, corporation, association, political subdivision, or department of the state in possession of any property which may be



subject to the claim of the department of social and health services(~~(, such property))~~) shall ~~((be withheld))~~;

(a)(i) Immediately withhold such property upon receipt of the order to withhold and deliver; and ((shall, after the twenty day period, upon demand, be))

(ii) Deliver(~~(ed forthwith))~~ the property to the secretary(~~(-The secretary shall hold said property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be))~~ as soon as the twenty-day answer period expires;

(iii) Continue to withhold earnings payable to the debtor at each succeeding disbursement interval as provided for in RCW 74.20A.090, and deliver amounts withheld from earnings to the obligee within ten days of the date earnings are payable to the debtor;

(iv) Inform the secretary of the date the amounts were withheld as requested under this section; or

(b) Furnish(~~(ed))~~ to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.

(5) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary.

(6) Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver. (~~(Delivery to the secretary shall serve as full acquittance and))~~

(7) The state warrants and represents that:

(a) 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))~~); and

(b) It shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter. (~~(The foregoing is subject to the))~~

(8) The secretary may hold the money or property delivered under this section in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability.

(9) Exemptions contained in RCW 74.20A.090 apply to orders to withhold and deliver issued under this section.

(10) The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to

withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

(11) An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment or garnishment(~~(, except for another wage assignment or garnishment for support moneys)~~).

(12) The office of support enforcement shall notify any person, firm, corporation, association, or political subdivision or department of the state required to withhold and deliver the earnings of a debtor under this action that they may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.

Sec. 11. Section 12, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 5, chapter 363, Laws of 1987 and by section 15, chapter 435, Laws of 1987 and RCW 26.09.120 are each reenacted and amended to read as follows:

(1) The court shall order support (~~(and maintenance)~~) payments, including spousal maintenance if child support is ordered, to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate payment plan approved by the court as provided in RCW 26.23.050.

(2) Maintenance payments, when ordered in an action where there is no dependent child, may be ordered to be paid to the person entitled to receive the payments, or the clerk of the court as trustee for remittance to the persons entitled to receive the payments.

(3) If support or maintenance payments are made to the clerk of court, the clerk:

(a) Shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order(:-);

~~((3))~~ (b) May by local court rule accept only certified funds or cash as payment(:- In all cases, the clerk); and

(c) Shall accept only certified funds or cash for five years in all cases after one check has been returned for nonsufficient funds or account closure.

(4) The parties affected by the order shall inform the registry through which the payments are ordered to be paid of any change of address or of other conditions that may affect the administration of the order.

Sec. 12. Section 5, chapter 322, Laws of 1959 as last amended by section 1, chapter 276, Laws of 1985 and RCW 74.20.040 are each amended to read as follows:

(1) Whenever the department of social and health services receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Requests accepted under this subsection may be conditioned upon the payment of a fee as required through regulation issued by the secretary. Action may be taken under the provisions of chapter 74.20 RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations. The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services under this subsection.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations against the parent or other person owing a duty to pay support moneys. ~~((Requests from such agencies must be accompanied by a request for support enforcement services executed by the state agency submitting the application and the person to whom the support moneys were owed authorizing the secretary to initiate appropriate action to establish, enforce, and collect the support obligation on their behalf.))~~ The ~~((application))~~ request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency.

(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state.

~~((4))~~ (5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

(6) The secretary may charge and collect a fee from the person obligated to pay support to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The fee charged shall be in addition to the support obligation. In no event may any moneys collected by the department of social and health services from the person obligated to pay support be retained as satisfaction of fees charged until all current support obligations have been satisfied. The secretary shall by regulation establish reasonable fees for support enforcement services and said schedule of fees shall be made available to any person obligated to pay support. The secretary may, on showing of necessity, waive or defer any such fee.

~~((5))~~ (7) Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

~~((6))~~ (8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed.

Sec. 13. Section 22, chapter 171, Laws of 1979 ex. sess. as last amended by section 19, chapter 275, Laws of 1988 and RCW 74.20.330 are each amended to read as follows:

(1) Whenever public assistance is paid under this title, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.

(2) Payment of public assistance under this title shall:

(a) Operate~~((s))~~ as an assignment by operation of law~~((:))~~; and

~~((2))~~ Upon the recipient's request, the department shall continue to establish the support obligation and to enforce and collect the support debt

~~after the family ceases to receive public assistance, and thereafter if a non-assistance request for support enforcement services has been made under RCW 74.20.040 (2) and (3). The department shall distribute all amounts collected in accordance with 42 U.S.C. Sec. 657 and RCW 26.23.030.))~~

(b) Constitute an authorization to the department to provide the assistance recipient with support enforcement services.

Sec. 14. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 913, chapter 176, Laws of 1988 and by section 20, chapter 275, Laws of 1988 and RCW 74.20A.030 are each reenacted and amended to read as follows:

(1) The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 74.20A.055. Distribution of any support moneys shall be made in accordance with 42 U.S.C. Sec. 657.

~~((Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.~~

~~No collection action shall be taken against parents of children eligible for admission to, or children who have been discharged from a residential habilitation center as defined by RCW 71A.10.020(7).))~~

(2) The department may initiate, continue, maintain, or execute an action to establish, enforce, and collect a support obligation, including establishing paternity and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, 26.23, or 26.26 RCW or other appropriate statutes or the common law of this state, for ((a period not to exceed three months from the month following the month in which the family or any member thereof ceases to receive public assistance and thereafter if a nonassistance request for support enforcement services has been made under RCW 74.20.040 and 26.23.030)) so long as and under such conditions as the department may establish by regulation.

(3) Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.

(4) No collection action shall be taken against parents of children eligible for admission to, or children who have been discharged from a residential habilitation center as defined by RCW 71A.10.020(7).

Sec. 15. Section 5, chapter 435, Laws of 1987 and RCW 26.23.050 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the superior court shall include in all superior court orders which establish or modify a support obligation~~((, a))~~:

(a) A provision which orders and directs that the responsible parent~~((to))~~ make all support payments to the Washington state support registry~~((, or the person entitled to receive the payments if the parties agree to an alternate payment plan and the court finds that the alternate payment plan includes reasonable assurances that payments will be made in a regular and timely manner. The superior court shall also include))~~;

(b) A statement that a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent~~((:))~~;

(i) If a support payment is~~((more than fifteen days past))~~ not paid when due~~((in))~~, and an amount equal to or greater than the support payable for one month~~((, If the court approves an alternate payment plan, the order shall include a statement that the order may be submitted to the Washington state support registry for enforcement if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month.))~~ is owed under an order entered prior to July 1, 1990; or

(ii) At any time after entry of the court order for orders entered by the court on or after July 1, 1990; and

(c) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

(2) The court may order the responsible parent to make payments directly to the person entitled to receive the payments or, for orders entered on or after July 1, 1990, direct that the issuance of a notice of payroll deduction or other income withholding actions be delayed until a support payment is past due if the court approves an alternate payment plan. The parties to the order must agree to such a plan and the plan must contain reasonable assurances that payments will be made in a regular and timely manner. If the order directs payment to the person entitled to receive the payments instead of to the Washington state support registry, the order shall include a statement that the order may be submitted to the registry if a support payment is past due. If the order directs delayed issuance of the notice of payroll deduction or other income withholding action, the order shall include a statement that such action may be taken, without further notice, at any time after a support payment is past due. The provisions of this subsection do not apply if the department is providing public assistance under Title 74 RCW.

~~((2))~~ (3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs

that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that a notice of payroll deduction may be issued, or other income withholding action taken without further notice to the responsible parent((:));

(a) If a support payment is ((more than fifteen days past)) not paid when due ((in)) and an amount equal to or greater than the support payable for one month is owed under an order entered prior to July 1, 1990; or

(b) At any time after entry of the order for administrative orders entered on or after July 1, 1990.

~~((3))~~ (4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that a notice of payroll deduction may be issued if a support payment is past due or at any time after the entry of the order, the office of support enforcement may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

~~((4))~~ (5) Every support order shall state:

(a) That payment shall be made to the Washington state support registry or in accordance with the alternate payment plan approved by the court;

(b) That a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 RCW or chapter 74.20A RCW may be taken, without further notice to the responsible parent((:));

(i) If a support payment is ((more than fifteen days past due in)) not paid when due and an amount equal to or greater than the support payable for one month is owed under an order entered prior to July 1, 1990; or

(ii) At any time after entry of an order by the court on or after July 1, 1990, unless the court approves an alternate payment plan under subsection (2) of this section;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The social security number, residence address, and name of employer of the responsible parent;

(g) The social security number and residence address of the ((custodial parent)) physical custodian except as provided in subsection (6) of this section;

(h) The names, dates of birth, and social security numbers, if any, of the dependent children; ~~((and))~~

(i) That the parties are to notify the Washington state support registry of any change in residence address((:));

~~((5))~~ (j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage

that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;

(k) That if proof of health insurance coverage is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW; and

(l) The reasons for not ordering health insurance coverage if the order fails to require such coverage.

(6) The physical custodian's address shall be omitted from an order entered under the administrative procedure act. A responsible parent whose support obligation has been determined by such administrative order may request the physical custodian's residence address by submission of a request for disclosure under RCW 26.23.120.

(7) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation which provide that support payments shall be made to the support registry. If a superior court order entered prior to January 1, 1988, directs the responsible parent to make support payments to the clerk, the clerk shall send a true and correct copy of the support order and the payment record to the registry for enforcement action when the clerk identifies that a payment is more than fifteen days past due. The office of support enforcement shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the social security act.

~~((6))~~ (8) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who are not recipients of public assistance is deemed to be a request for support enforcement services under RCW ~~((74.20A.040))~~ 74.20.040.

~~((7))~~ (9) After the responsible parent has been ordered or notified to make payments to the Washington state support registry in accordance with subsection (1), (2), or (3) of this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

Sec. 16. Section 11, chapter 435, Laws of 1987 and RCW 26.23.110 are each amended to read as follows:



(1) The department ((shall establish, by regulation, a process that may be utilized)) may serve a notice of support owed on a responsible parent when a support order:

(a) Does not state the ((obligation to pay)) current and future support obligation as a fixed dollar amount((, or if there is a dispute about the amount of the support debt owed under a support order. This process is authorized in order to)); or

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the order is needed to determine the amount of the accrued debt and/or the current and future obligation.

(2) The notice of support owed shall facilitate enforcement of the support order(;) and ((is intended to)) implement and effectuate the terms of the order, rather than ((to)) modify those terms. When the office of support enforcement issues a notice of support owed, the office shall inform the payee under the order.

(3) The ((process)) notice of support owed shall ((provide for a notice to)) be served on ((the)) a responsible parent by personal service or any form of mailing requiring a return receipt. The notice shall contain an initial finding of the amount of current and future support that should be paid and/or the amount of the support debt owed under the support order. ((A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order:))

(4) A responsible parent who objects to the amounts stated in the notice has twenty days from the date of the service of the notice to file an application for an adjudicative proceeding or initiate an action in superior court.

(5) The notice shall ((direct the responsible parent)) state that the parent may:

(a) File an application for an adjudicative proceeding in which the parent will be required to appear and show cause ((at a hearing held by the department)) why the amount ((of)) stated in the notice for current and future support ((to be paid)) and/or the ((amount of the)) accrued support debt is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

((The notice shall provide that the responsible parent has twenty days from the date of the service of the notice to request an administrative hearing or initiate an action in superior court. If the responsible parent does not request a hearing or initiate an action in superior court, the amount of current and future support and/or the amount of the support debt stated in the notice shall be subject to collection action:))

(6) If the parent does not file an application for an adjudicative proceeding or initiate an action in superior court, the amount of current and future support and/or the support debt stated in the notice shall become final and subject to collection action.

(7) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of hearing to the payee under the support order at the payee's last known address. A payee who appears for the hearing shall be allowed to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law.

(8) If the responsible parent does not initiate ((such)) an action in superior court, and serve notice of the action on the department within the twenty-day period, the responsible parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in RCW ((34.04.130)) 34.05.510 through 34.05.598.

~~((The administrative hearing shall be a contested hearing under chapter 34.04 RCW and shall be conducted in accordance with the rules and regulations adopted by the department and the office of administrative hearings. A copy of the notice of hearing shall be mailed to the person to whom support is payable under the support order.))~~

(9) An administrative order entered in accordance with this section shall state the basis, rationale, or formula upon which the amounts established in the order were based. The amount of current and future support and/or the amount of the support debt determined under this section shall be subject to collection under this chapter and other applicable state statutes.

(10) The ((regulation)) department shall also provide for:

(a) An annual review of the support order if either the office of support enforcement or the responsible parent requests such a review; and

(b) A late hearing if the responsible parent fails to file an application for an adjudicative proceeding in a timely manner under this section.

(11) If an annual review or late hearing is requested under subsection (10) of this section, the department shall mail a copy of the notice of hearing to the payee at the payee's last known address. A payee who appears for the proceeding shall be allowed to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law.

Sec. 17. Section 12, chapter 435, Laws of 1987 and RCW 26.23.120 are each amended to read as follows:

(1) Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided

which are obtained or maintained by the Washington state support registry, the office of support enforcement, or under chapter 74.20 RCW shall be private and confidential and shall only be subject to public disclosure as provided in subsection (2) of this section.

(2) The secretary of the department of social and health services shall adopt rules which specify the individuals or agencies to whom this information and these records may be disclosed, the purposes for which the information may be disclosed, and the procedures to obtain the information or records. The rules adopted under this section shall provide for disclosure of the information and records, under appropriate circumstances, which shall include, but not be limited to:

(a) When authorized or required by federal statute or regulation governing the support enforcement program;

(b) To the person the subject of the records or information, unless the information is exempt from disclosure under RCW 42.17.310;

(c) To government agencies, whether state, local, or federal, and including law enforcement agencies, prosecuting agencies, and the executive branch, if the records or information are needed for child support enforcement purposes;

(d) To the parties in a judicial or formal administrative proceeding upon a specific written finding by the presiding officer that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records;

(e) To private persons or organizations if the disclosure is necessary to permit private contracting parties to assist in the management and operation of the department;

(f) Disclosure of address and employment information to the parties to a court order for support for purposes relating to the establishment, enforcement, or modification of the order;

(g) Disclosure of information or records when necessary to the efficient administration of the support enforcement program or to the performance of functions and responsibilities of the support registry and the office of support enforcement as set forth in state and federal statutes; or

(h) Disclosure of the information or records when authorized under RCW 74.04.060.

(3) Prior to disclosing the physical custodian's address (~~((information to a party to a child custody order))~~) under subsection (1)(f) of this section, a notice shall be mailed, if appropriate under the circumstances, to the physical custodian at the physical custodian's last known address (~~((of the party whose address has been requested))~~). The notice shall advise the ~~((party))~~ physical custodian that a request for disclosure has been made and will be complied with unless the department receives a copy of a court order which enjoins the disclosure of the information or restricts or limits the requesting party's right to contact or visit the ~~((other party))~~ physical custodian or the

child, or the custodial parent requests a hearing to contest the disclosure. The administrative law judge shall determine whether the address of the custodial parent should be disclosed based on the same standard as a claim of "good cause" as defined in 42 U.S.C. Sec. 602 (a)(26)(c).

(4) Nothing in this section shall be construed as limiting or restricting the effect of RCW 42.17.260(5). Nothing in this section shall be construed to prevent the disclosure of information and records if all details identifying an individual are deleted or the individual consents to the disclosure.

(5) It shall be unlawful for any person or agency in violation of this section to solicit, publish, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists of names for commercial or political purposes or the use of any information for purposes other than those purposes specified in this section. A violation of this section shall be a gross misdemeanor as provided in chapter 9A.20 RCW.

Sec. 18. Section 14, chapter 42, Laws of 1975-'76 2nd ex. sess. as last amended by section 56, chapter 460, Laws of 1987 and RCW 26.26.130 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, ~~((the custody and guardianship of the child, visitation privileges with the child;))~~ the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just ~~((~~PROVIDED HOWEVER, That~~)).~~ The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(5) ~~((In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court shall consider all relevant facts, including, but not limited to:~~

~~(a) The needs of the child;~~

~~(b) The standard of living and circumstances of the parents;~~  
~~(c) The relative financial means of the parents;~~  
~~(d) The earning ability of the parents;~~  
~~(e) The need and capacity of the child for education, including higher education;~~  
~~(f) The age of the child;~~  
~~(g) The responsibility of the parents for the support of others; and~~  
~~(h) The value of services contributed by the custodial parent))~~ After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards adopted under RCW 26.19.040.

(6) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party.

(7) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

Sec. 19. Section 4, chapter 136, Laws of 1895 as last amended by section 1, chapter 147, Laws of 1983 and RCW 4.56.110 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3) Except as provided under subsections (1) and (2) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof: PROVIDED, That in any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

Sec. 20. Section 8, chapter 61, Laws of 1970 ex. sess. as amended by section 1035, chapter 442, Laws of 1987 and RCW 6.27.360 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a lien obtained under RCW 6.27.350 shall have priority over any subsequent garnishment lien or wage assignment except that service of a writ shall not be effective to create a continuing lien with such priority if a writ in the same case is pending at the time of the service of the new writ.

(2) A lien obtained under RCW 6.27.350 shall not have priority over a notice of payroll deduction issued under RCW 26.23.060 or a wage assignment or other garnishment for child support issued under chapters 26.18 and 74.20A RCW.

Sec. 21. Section 6, chapter 231, Laws of 1988 and RCW 6.15.020 are each amended to read as follows:

(1) Unless otherwise provided by federal law, any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her family any money exempted by this section, the same shall be exempt to the family as provided in this section. This section shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

(2) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, or seizure by or under any legal process whatever(~~(-PROVIDED, That))~~. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order (as such term is defined in section 206(d) of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1056(d) or in section 401(a)(13) of the internal revenue code of 1954, as amended).

(3) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is subject to the provisions of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Secs. 1001 through 1461 or that is described in sections 401(a),

403(a), 403(b), 408, or 409 (as in effect before January 1, 1984) of the internal revenue code of 1954, as amended, or both(~~(-PROVIDED, That))~~. The term "employee benefit plan" shall not include any employee benefit plan that is excluded from the application of the federal employee retirement income security act of 1974, as amended, pursuant to section 4(b)(1) of that act, 29 U.S.C. Sec. 1003(b)(1).

Sec. 22. Section 18, chapter 267, Laws of 1971 ex. sess. as last amended by section 17, chapter 326, Laws of 1987 and RCW 2.10.180 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, or any other process of law whatsoever.

(2) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(3) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

(4) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, ~~((t))~~ (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

Sec. 23. Section 32, chapter 52, Laws of 1982 1st ex. sess. as amended by section 18, chapter 326, Laws of 1987 and RCW 2.12.090 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for

child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, ~~((c))~~ (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

Sec. 24. Section 23, chapter 209, Laws of 1969 ex. sess. as last amended by section 22, chapter 326, Laws of 1987 and RCW 41.26.180 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department of retirement systems may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department of retirement systems may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

Sec. 25. Section 59, chapter 80, Laws of 1947 as last amended by section 23, chapter 326, Laws of 1987 and RCW 41.32.590 are each amended to read as follows:



(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are hereby exempt from any state, county, municipal or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.58.420 or (~~41.05.025~~) 41.05.065 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under the Washington state teachers' retirement system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules and regulations that may be promulgated by the director of retirement systems.

(3) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (~~(d)~~) (e) any administrative or court order expressly authorized by federal law.

Sec. 26. Section 24, chapter 261, Laws of 1945 as last amended by section 3, chapter 205, Laws of 1979 ex. sess. and RCW 41.24.240 are each amended to read as follows:

The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal

process, or to the operation of any bankruptcy or insolvency law(~~(-PROVIDED, That)~~). This section shall not be applicable to any child support collection action taken under chapter 26.18, 26.23, or 74.20A RCW. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Nothing in this chapter shall be construed to deprive any fireman, eligible to receive a pension hereunder, from receiving a pension under any other act to which he may become eligible by reason of services other than or in addition to his services as a fireman under this chapter.

Sec. 27. Section 39, chapter 274, Laws of 1947 as last amended by section 20, chapter 107, Laws of 1988 and RCW 41.40.380 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules and regulations that may be promulgated by the state health care authority and/or the department of retirement systems, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

Sec. 28. Section 24, chapter 71, Laws of 1947 as amended by section 7, chapter 205, Laws of 1979 ex. sess. and RCW 41.44.240 are each amended to read as follows:

The right of a person to a pension, annuity or a retirement allowance, to the return of contribution, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, or any other process whatsoever (~~(-PROVIDED, That)~~). This section shall not apply to child support collection actions taken under chapter 26.18, 26.23, or 74.20A RCW against benefits payable under any such plan or arrangement. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Sec. 29. Section 43.43.310, chapter 8, Laws of 1965 as last amended by section 1, chapter 63, Laws of 1987 and by section 25, chapter 326, Laws of 1987 and RCW 43.43.310 are each reenacted and amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or ~~((d))~~ (e) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation.

Sec. 30. Section 12, chapter 164, Laws of 1971 ex. sess. as amended by section 3, chapter 41, Laws of 1983 1st ex. sess. and RCW 74.20A.120 are each amended to read as follows:

~~((In the case of a bank, bank association, mutual savings bank, or savings and loan association maintaining branch offices, service of))~~ A lien

~~((or)), order to withhold and deliver, or any other notice or document authorized by this chapter or chapter 26.23 RCW may be served on the main office of a bank, savings and loan association, or credit union or on a branch office of such financial institution. Service on the main office shall ((only)) be effective ((as)) to ((the)) attach the deposits of a responsible parent in the financial institution and compensation payable for personal services due the responsible parent from the financial institution. Service on a branch office shall be effective to attach the deposits, accounts, credits, or other personal property of the ((debtor)) responsible parent, excluding compensation payable for personal services, in the possession or control of the particular branch ((upon which service is made)) served.~~

If the department initiates collection action under this chapter against a community bank account, the debtor or the debtor's spouse, upon service on the department of a timely request, shall have a right to a ~~((contested))~~ hearing under chapter ~~((34.04))~~ 34.05 RCW to establish that the funds in the account, or a portion of those funds, were the earnings of the nonobligated spouse, and are exempt from the satisfaction of the child support obligation of the debtor pursuant to RCW 26.16.200.

Sec. 31. Section 8, chapter 435, Laws of 1987 and RCW 26.23.100 are each amended to read as follows:

The responsible parent subject to a payroll deduction pursuant to this chapter, may file a motion in superior court to quash, modify, or terminate the payroll deduction. The court may grant relief only upon a showing that the payroll deduction causes extreme hardship or substantial injustice or that the ~~((responsible parent))~~ support payment was not ~~((more than fifteen days))~~ past due in an amount equal to or greater than the support payable for one month when the notice of payroll deduction was served on the employer. Satisfaction by the obligor of all past due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll deduction. If a notice of payroll deduction has been in operation for twelve consecutive months and the obliger's support obligation is current, upon motion of the obligor, the court may order the Washington state support registry to terminate the payroll deduction, unless the obligee can show good cause as to why the payroll deduction should remain in effect.

Sec. 32. Section 6, chapter 435, Laws of 1987 and RCW 26.23.060 are each amended to read as follows:

~~(1) ((If a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the office of support enforcement is authorized to))~~ The department may serve a notice of payroll deduction upon ((an)) a responsible parent's employer for child support obligations ((in compliance with RCW 26.23.050 (1), (2), or (3))) if the responsible parent fails to pay child support as due in an amount

equal to or greater than the support payable for one month. Service shall be by personal service or by any form of mail requiring a return receipt.

(2) Service of a notice of payroll deduction upon an employer requires an employer to immediately make a mandatory payroll deduction from the responsible parent/employee's unpaid disposable earnings. The employer shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent/employee's disposable earnings.

(3) A notice of payroll deduction for support shall have priority over any wage assignment or garnishment.

(4) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the employee;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction by the employer;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings; and

(d) The address to which the payments are to be mailed or delivered.

(5) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(6) An employer who receives a notice of payroll deduction shall make immediate deductions from the employee's unpaid disposable earnings and remit proper amounts to the Washington state support registry on each date the employee is due to be paid.

(7) An employer, upon whom a notice of payroll deduction is served, shall make an answer to the Washington state support registry within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer, whether the employer anticipates paying earnings and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known.

(8) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(9) The notice of payroll deduction shall remain in effect until released by the office of support enforcement or the court enters an order terminating the notice and approving an alternate payment plan under RCW 26.23.050(2).

NEW SECTION. Sec. 33. A new section is added to chapter 26.23 RCW to read as follows:

(1) The office of support enforcement, Washington state support registry, shall provide support enforcement services under the following circumstances:

- (a) Whenever public assistance under RCW 74.20.330 is paid;
- (b) Whenever a request for nonassistance support enforcement services under RCW 74.20.040(2) is received;
- (c) Whenever a request for support enforcement services under RCW 74.20.040(3) is received;
- (d) When a support order which contains language directing a responsible parent to make support payments to the Washington state support registry under RCW 26.23.050 is submitted;
- (e) When a support order is forwarded to the Washington state support registry by the clerk of a superior court under RCW 26.23.050(5);
- (f) When the obligor submits a support order or support payment to the Washington state support registry.

(2) The office of support enforcement shall continue to provide support enforcement services for so long as and under such conditions as the department shall establish by regulation or until the superior court enters an order approving an alternate payment plan as provided for in RCW 26.23.050(1).

NEW SECTION. Sec. 34. A new section is added to chapter 26.23 RCW to read as follows:

(1) The child support registry shall distribute all moneys received in compliance with 42 U.S.C. Sec. 657. Support received by the office of support enforcement shall be distributed promptly but not later than eight days from the date of receipt unless circumstances exist which make such distribution impossible. Such circumstances include when: (a) The location of the custodial parent is unknown; (b) the child support debt is in litigation; or (c) the responsible parent or custodial parent cannot be identified. When, following termination of public assistance, the office of support enforcement collects support, all moneys collected up to the maximum of the support due for the period following termination from public assistance shall, to the extent permitted by federal law, be paid to the custodial parent before any distribution to the office of support enforcement under federal law. This section shall not apply to support collected through intercepting federal tax refunds under 42 U.S.C. Sec. 664. When a responsible parent has more than one support obligation, or a support debt is owed to more than one

party, moneys received will be distributed between the parties proportionally, based upon the amount of the support obligation and/or support debt owed.

(2) Distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support.

Sec. 35. Section 18, chapter 171, Laws of 1979 ex. sess. as last amended by section 14, chapter 276, Laws of 1985 and RCW 74.20A.270 are each amended to read as follows:

The secretary may issue a notice of (~~support debt~~) noncompliance to any person, firm, corporation, association or political subdivision of the state of Washington or any officer or agent thereof who has violated chapter 26-.18 RCW, RCW 74.20A.100, or 26.23.040, who is in possession of support moneys, or who has had support moneys in his or her possession at some time in the past, which support moneys were or are claimed by the department as the property of the department by assignment, subrogation, or by operation of law or legal process under chapter 74.20A RCW, if the support moneys have not been remitted to the department as required by law.

The notice shall describe the claim of the department, stating the legal basis for the claim and shall provide sufficient detail to enable the person, firm, corporation, association or political subdivision or officer or agent thereof upon whom service is made to identify the support moneys in issue or the specific violation of RCW 74.20A.100 that has occurred. The notice may also make inquiry as to relevant facts necessary to the resolution of the issue.

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

The notice shall be answered under oath and in writing within twenty days of the date of service, which answer shall include true answers to the matters inquired of in the notice. The answer shall also either acknowledge the department's right to the moneys or request an administrative hearing to contest the allegation that chapter 26.18 RCW, RCW 74.20A.100, or 26.23.040, has been violated, or determine the rights to ownership of the support moneys in issue. The hearing shall be held pursuant to this section, chapter ~~((34.04))~~ 34.05 RCW, and the rules of the department and shall be ~~((a contested case))~~ an adjudicative proceeding as provided for in chapter ~~((34.04))~~ 34.05 RCW. The burden of proof to establish ownership of the support moneys claimed, including but not limited to moneys not yet disbursed or spent, is on the department.

If no answer is made within the twenty days, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 26.18 or 74.20A RCW, or RCW 26.23.040. Any such debtor may, at any time within one year from the date of service of the notice of support debt, petition the secretary or the secretary's designee for a hearing upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60. A copy of the petition shall also be served on the department. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on any appeal made pursuant to chapter ~~((34.04))~~ 34.05 RCW. Any moneys held and/or taken by collection action prior to the date of any such stay and any support moneys claimed by the department, including moneys to be received in the future to which the department may have a claim, shall be held in trust pending final decision and appeal, if any, to be disbursed in accordance with the final decision. The secretary or the secretary's designee shall condition the stay to provide for the trust.

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

The hearing shall be an ~~((contested case))~~ adjudicative proceeding as provided for in chapter ~~((34.04))~~ 34.05 RCW and shall be held pursuant to



this section, chapter (~~(34.04)~~) 34.05 RCW, and the rules of the department. The hearing shall be promptly scheduled within thirty days from the date of receipt of the answer by the department. The hearing shall be conducted by a duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

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

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

If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in these proceedings, the judgment shall supersede the final order in these proceedings. Any debt determined by the superior court in excess of the amount determined by the final order in these proceedings shall be the property of the department as assigned under 42 U.S.C. 602(A)(26)(a), RCW 74.20.040, 74.20A.250, 74.20.320, or 74.20.330. The department may, despite any final order in these proceedings, take action pursuant to chapters 74.20 or 74.20A RCW to obtain such a judgment or to collect moneys determined by such a judgment to be due and owing.

If public assistance moneys have been paid to a parent for the benefit of that parent's minor dependent children, debt under this chapter shall not be incurred by nor at any time be collected from that parent because of that payment of assistance. Nothing in this section prohibits or limits the department from acting pursuant to RCW 74.20.320 and this section to assess a debt against a recipient or ex-recipient for receipt of support moneys paid in satisfaction of the debt assigned under RCW 74.20.330 which have been assigned to the department but were received by a recipient or ex-recipient from another responsible parent and not remitted to the department. To collect these wrongfully retained funds from the recipient, the department may not take collection action in excess of ten percent of the grant payment standard during any month the public assistance recipient remains in that status unless required by federal law. Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under this section.

Sec. 36. Section 17, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.160 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section the court has continuing jurisdiction to prospectively modify a judgment and order for

future education and future support, and with respect to matters listed in RCW 26.26.130 (3) and (4), and RCW 26.26.150(2) upon showing a substantial change of circumstances. The procedures set forth in RCW 26.09-.175 shall be used in modification proceedings under this section.

(2) A judgment or order entered under this chapter may be modified without a showing of substantial change of circumstances upon the same grounds as RCW 26.09.170 permits support orders to be modified without a showing of a substantial change of circumstance.

Sec. 37. Section 6, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 26, chapter 263, Laws of 1984 and RCW 26.09.060 are each amended to read as follows:

(1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed;

(c) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances.

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (8) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(8) ~~((A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no~~

~~fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding)) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:~~

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry.

*\*Sec. 38. Section 10, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 9, chapter 275, Laws of 1988 and RCW 26.09.100 are each amended to read as follows:*

*(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court ((may)) shall order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay ((an amount determined pursuant to the schedule adopted under RCW 26.19.040)) child support. If child support is ordered, the court shall determine each parent's child support obligation pursuant to RCW 26.19.020. The court may require ((annual adjustments of support based upon changes in a party's income or the child's needs, or based upon changes in the child support schedule)) periodic adjustments of support.*

*(2) A parent obligated to pay child support may file a motion for an accounting of how the support is being spent by the receiving parent. The parent filing the motion must meet the following conditions prior to filing the motion:*

*(a) The parent filing the motion must be obligated to pay at least fifty percent of the basic child support obligation for both parents;*

*(b) If support is owed for one child, the parent must be obligated to pay at least three hundred dollars per month in child support; for two children, the parent must be obligated to pay at least five hundred twenty-five dollars per month in child support; for three or more children, the parent must be obligated to pay at least six hundred sixty dollars per month in child support; and*

*(c) The parent must be current in all child support payments.*

(3)(a) The motion for an accounting must be accompanied by an affidavit setting forth facts demonstrating that the parent receiving support is not spending a substantial portion of the child support for the direct or indirect benefit of the child. The motion, affidavit, and notice of hearing shall be served on the parent receiving support. The only issue at the preliminary hearing on the motion shall be whether there is reasonable cause to believe that the support is directly or indirectly benefiting the child.

(b) If the court determines at the preliminary hearing that the motion and affidavit establish reasonable cause to believe that a substantial portion of the support is not directly or indirectly benefiting the child the court may: (i) Set a show cause hearing on the motion and affidavit; or (ii) order the parents to mediate the issue with a court commissioner, family court commissioner, or other appropriate person. The court's order shall be in writing and shall set forth the facts which establish reasonable cause. The parent receiving support may be required to produce at the show cause hearing such documentation as the court determines is necessary to resolve the issue and which is reasonably available to the parent. The parent receiving support shall not be required to provide documentation for expenditures for more than six months prior to the time of the filing of the motion.

(c) If the court determines at the preliminary hearing that the motion and affidavit do not establish reasonable cause to believe that a substantial portion of the support is directly or indirectly benefiting the child, the court shall order the parent filing the motion and affidavit to pay costs and statutory attorneys' fees to the parent receiving the support.

The court may award reasonable attorneys' fees to the parent receiving support if the court determines that:

- (i) The motion was brought in bad faith, for harassment, or frivolously;
- or
- (ii) The motion was based on material statements of fact which were false.

(4) If at the show cause hearing on the motion and affidavit the parent obligated to pay support demonstrates by a preponderance of the evidence that a substantial portion of the support is not directly or indirectly benefiting the child, the court shall enter an appropriate order directing the parent receiving the support to spend the child support to benefit the child. The court may order the child support payments to be paid to a protective payee for the benefit of the child. The only issue at the hearing on the motion shall be whether the parent receiving support is spending support to directly or indirectly benefit the child.

(5) A motion and affidavit for an accounting of child support expenditures may not be filed more than once every twelve months.

\*Sec. 38 was vetoed, see message at end of chapter.

Sec. 39. Section 4, chapter 435, Laws of 1987 and RCW 26.23.040 are each amended to read as follows:

~~((1) The legislature recognizes that, in order for the support registry to operate in an effective and efficient manner and to ensure that delinquent child support payments will be enforced and collected promptly, especially when the responsible parent is employed and earning regular wages, current employment information must be available to the registry. The legislature also recognizes that the current employer reporting requirements to the department of employment security are not sufficient to facilitate the efforts of the registry to operate effectively and efficiently and collect delinquent payments promptly. Finally, the legislature recognizes that it may not be reasonable to create several different employer reporting systems because of the burdens that would be imposed on employers, especially small businesses. Therefore, the legislature directs the secretary of social and health services and the commissioner of employment security to work with business and employer groups to devise a single reporting process which will meet the needs of both departments and which will provide for prompt and timely employer reporting. The secretary and the commissioner shall prepare and submit a joint report to the judiciary and commerce and labor committees of the house of representatives and the senate by November 1, 1987. The report shall describe the progress that has been made in devising a new reporting system and shall include any recommendations for legislative action that have been agreed upon by the departments and the business and employer groups.~~

~~(2) The report shall include exemptions from the reporting requirement for employees employed for less than two months duration, whether they are full-time or part-time employees or employed on a sporadic basis, employees who earn less than three hundred dollars per month, and other appropriate exemptions. The report shall also provide for simple methods for employers to use in reporting information to the registry which shall include mailing a copy of the W-4 form, calling a toll-free telephone number maintained by the registry, or by other authorized means. The reporting process established by the report shall be designed to provide for up-to-date employment reports without imposing undue burdens on employers and small businesses.~~

~~(3) The secretary and the commissioner shall prepare and submit a report to the judiciary and commerce and labor committees of the house of representatives and the senate by January 25, 1989. This report shall describe the system or systems in effect at that time for employer reporting, identify any problems with the system or systems, include an assessment of the costs associated with the system or systems and the benefits derived from the information reported, if these costs and benefits can be quantified and identified, assess the additional work load for employers to comply with reporting requirements, propose a means by which employers may be compensated for their costs to comply with the reporting requirements, and include recommendations for legislative action if appropriate.~~

(4)) (1) Except as provided in subsection (3) of this section, all employers doing business in the state of Washington, and to whom the department of employment security has assigned the standard industrial classification sic codes listed in subsection (2) of this section, shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and

(b) The rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

(2) Employers in the standard industrial classifications that shall report to the Washington state support registry include:

(a) Construction industry sic codes: 15, building; and 16, other than building;

(b) Manufacturing industry sic code 37, transportation equipment;

(c) Wholesale trade industry sic codes: 73, business services, except sic code 7362 (temporary help supply services); and 80, health services.

(3) Employers are not required to report the hiring of any person who:

(a) Will be employed for less than one months duration;

(b) Will be employed sporadically so that the employee will be paid for less than three hundred fifty hours during a continuous six-month period; or

(c) Will have gross earnings less than three hundred dollars in every month.

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

(4) Employers may report by mailing the employee's copy of the W-4 form, or other means authorized by the registry which will result in timely reporting.

(5) Employers shall submit reports within thirty-five days of the hiring, rehiring, or return to work of the employee. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, and employment security reference number or unified business identifier number.

(6) An employer who fails to report as required under this section shall be given a written warning for the first violation and shall be subject to a civil penalty of up to two hundred dollars per month for each subsequent violation after the warning has been given. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the office of support enforcement under RCW 74.20A.270.

(7) The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a

support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the registry shall not create a record regarding the employee and the information contained in the notice shall be promptly destroyed.

(8) This section shall expire on July 1, 1993.

**NEW SECTION.** Sec. 40. A new section is added to chapter 26.23 RCW to read as follows:

The legislative budget committee shall conduct a study of the effectiveness of the reporting program contained in RCW 26.23.040. The study shall include a cost-benefit analysis using accepted accounting practices, control group comparisons of responsible parent work history and support payment history between industries and employers who report and those who do not, statistical detail by standard industrial code to describe (1) the percentage of reports made to the support registry, (2) the percentage of resulting matches with open support enforcement cases, and (3) the level of recovery of delinquent child support, a review of alternative or expedited reporting procedures utilizing new hire data from other public or private sources, control group comparisons regarding the responsible parent work history and support payment history using existing or expedited data sources compared with the employer reporting program, and recommendations as to expansion, termination, or enhancement of the reporting program.

The secretary of the department of social and health services and the commissioner of employment security shall provide necessary data and assistance to conduct the employer reporting program and the study and participate in the review of alternative reporting procedures. The department of social and health services shall reimburse the employment security department for necessary expenses subject to the approval of the office of financial management.

The committee shall prepare and submit a report to the appropriate committees of the house of representatives and senate by November 7, 1992.

Sec. 41. Section 1, chapter 440, Laws of 1987 as amended by section 4, chapter 275, Laws of 1988 and RCW 26.19.030 are each amended to read as follows:

(1) A child support schedule commission is established. The commission shall review and propose changes to the child support schedule and review and adopt changes to the worksheets and instructions.

(2) The commission shall be composed of the secretary of social and health services or the secretary's designee and ~~((ten))~~ eleven other members. Eight members shall be appointed by the governor, subject to confirmation by the senate, as follows: (a) A superior court judge; (b) a representative from the state bar association; (c) an attorney representing indigent persons in Washington; (d) two other persons who have demonstrated an interest or expertise in the study of economic data or child support issues, one of whom



shall be a non-custodial parent; and (e) three public members who represent the affected populations, two of whom shall be non-custodial parents. ~~((Two))~~ Three members shall be the administrator for the courts or his or her designee ~~((and))~~, the attorney general or his or her designee, and the chief administrative law judge or his or her designee. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; and of the state bar association in respect to the state bar association and indigent attorney representatives.

(3) The secretary of social and health services or the secretary's designee shall serve as chair of the commission.

(4) The secretary, administrator for the courts, chief administrative law judge, and attorney general shall serve on the commission while holding their respective positions. The term of the remaining members of the commission shall be three years, except that members serving on the commission as of March 24, 1988, shall serve staggered terms which shall be determined by lot, but shall not serve longer than three years from the date of appointment unless reappointed for an additional three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members shall be compensated under RCW 43.03.240.

(6) The office of the administrator for the courts and the office of support enforcement shall provide clerical and other support to the commission to enable it to perform its functions. The office of support enforcement shall be responsible for travel expenses and compensation of commission members.

(7) The commission shall invite public participation and input, particularly from persons who are affected by child support orders.

(8) This section shall expire July 1, 1990.

NEW SECTION. Sec. 42. The following acts or parts of acts are each repealed:

(1) Section 19, chapter 164, Laws of 1971 ex. sess., section 17, chapter 183, Laws of 1973 1st ex. sess., section 33, chapter 435, Laws of 1987 and RCW 74.20A.190; and

(2) Section 16, chapter 275, Laws of 1988 and RCW 26.26.131.

NEW SECTION. Sec. 43. (1) Sections 9, 10, and 16 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 39 of this act shall take effect July 1, 1990.

Passed the House April 22, 1989.

Passed the Senate April 22, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

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

"I am returning herewith, without my approval as to section 38, Engrossed Substitute House Bill No. 1635 entitled:

"AN ACT Relating to support enforcement."

This bill was submitted at the request of the Department of Social and Health Services to clarify and strengthen support enforcement procedures.

Section 38 was amended to create a process for petitioning courts to require an accounting of support payment expenditures. Although the procedural requirements of this section are intended to protect receiving parents from frivolous charges and harassment, I believe the result of these changes could encourage an increase in such behavior.

Accountings can be required under section 15 of this Act which amends RCW 26.23.050. It allows Superior Court support orders to state that a receiving parent may be required to submit an accounting of support payment expenditures. This language allows the court to order an accounting without the potential for harassment contained in section 38.

With the exception of section 38, Engrossed Substitute House Bill No. 1635 is approved."

## CHAPTER 361

[Senate Bill No. 5246]

### DEEDS OF TRUST—JUNIOR LIENS PRESERVED ABSENT NOTICE

AN ACT Relating to deeds of trust; and amending RCW 61.24.040.

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

Sec. 1. Section 4, chapter 74, Laws of 1965 as last amended by section 3, chapter 352, Laws of 1987 and RCW 61.24.040 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form described in RCW 61.24.040(1)(f) in the office of the auditor in each county in which the deed of trust is recorded;

(b) If their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be transmitted by both first class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address: