

**RCW 74.20A.270 Department claim for support moneys—Notice—
Answer—Adjudicative proceeding—Judicial review—Moneys not subject to
claim.** (1) The secretary may issue a notice of retained support or
notice to recover a support payment to any person:

(a) 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;

(b) Who has received a support payment erroneously directed to
the wrong payee, or issued by the department in error; or

(c) Who is in possession of a support payment obtained through
the internal revenue service tax refund offset process, which payment
was later reclaimed from the department by the internal revenue
service as a result of an amended tax return filed by the obligor or
the obligor's spouse.

(2) The notice shall state the legal basis for the claim and
shall provide sufficient detail to enable the person to identify the
support moneys in issue.

(3) The department shall serve the notice by certified mail,
return receipt requested, or in the manner of a summons in a civil
action.

(4) The amounts claimed in the notice shall become assessed,
determined, and subject to collection twenty days from the date of
service of the notice unless within those twenty days the person in
possession of the support moneys:

(a) Acknowledges the department's right to the moneys and
executes an agreed settlement providing for repayment of the moneys;
or

(b) Requests an adjudicative proceeding to determine the rights
to ownership of the support moneys in issue. The hearing shall be held
pursuant to this section, chapter 34.05 RCW, the Administrative
Procedure Act, and the rules of the department. The burden of proof to
establish ownership of the support moneys claimed is on the
department.

(5) After the twenty-day period, a person served with a notice
under this section 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 an adjudicative proceeding 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
the final administrative order. Any such moneys held and/or taken by
collection action after the date of any such stay shall be held by the
department pending the final order, to be disbursed in accordance with
the final order.

(6) If the debtor fails to attend or participate in the hearing
or other stage of an adjudicative proceeding, the presiding officer
shall, upon showing of valid service, enter an order declaring the
amount of support moneys, as claimed in the notice, to be assessed and
determined and subject to collection action.

(7) The department may take action to collect an obligation
established under this section using any remedy available under this

chapter or chapter 26.09, 26.18, 26.23, or 74.20 RCW for the collection of child support.

(8) 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 an adjudicative proceeding, the judgment shall supersede the final administrative order. The department may take action pursuant to chapter 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.

(9) If a person owing a debt established under this section is receiving public assistance, the department may collect the debt by offsetting up to ten percent of the grant payment received by the person. No collection action may be taken against the earnings of a person receiving cash public assistance to collect a debt assessed under this section.

(10) Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under this section. [1997 c 58 s 896. Prior: 1989 c 360 s 35; 1989 c 175 s 156; 1985 c 276 s 14; 1984 c 260 s 41; 1979 ex.s. c 171 s 18.]

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1979 ex.s. c 171: See note following RCW 74.20.300.