
HOUSE BILL 1211

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Belcher, Hine, Silver, G. Fisher, Fraser, Winsley, Padden and Phillips.

Read first time January 23, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to the assignment of retirement benefits; amending
2 RCW 41.50.500, 41.50.510, 41.50.530, 41.50.540, 41.50.550, 41.50.560,
3 41.50.580, 41.50.590, 41.50.600, 41.50.620, 41.50.630, 41.50.650,
4 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.40.380, 43.43.310,
5 26.09.138, 6.27.150, 41.40.270, 41.40.700, 41.32.520, 41.32.805,
6 41.26.510, and 43.43.280; adding new sections to chapter 41.50 RCW; and
7 making an appropriation.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 41.50.500 and 1987 c 326 s 1 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout RCW 41.50.500 through 41.50.650, sections
13 13 through 17, and 25 of this act, and 26.09.138.

14 (1) "Benefits" means periodic retirement payments or a withdrawal
15 of accumulated contributions.

1 (2) "Disposable benefits" means that part of the benefits of an
2 individual remaining after the deduction from those benefits of any
3 amount required by law to be withheld. The term "required by law to be
4 withheld" does not include any deduction elective to the member.

5 (3) "Dissolution order" means any judgment, decree, or order of
6 spousal maintenance, property division, or court-approved property
7 settlement incident to a decree of divorce, dissolution, or legal
8 separation issued by the superior court of the state of Washington or
9 a judgment, decree, or other order of spousal support issued by a court
10 of competent jurisdiction in another state or country, that has been
11 registered or otherwise made enforceable in this state.

12 (4) "Mandatory benefits assignment order" means an order issued to
13 the department of retirement systems pursuant to RCW 41.50.570 to
14 withhold and deliver benefits payable to an obligor under chapter 2.10,
15 2.12, 41.26, 41.32, 41.40, or 43.43 RCW.

16 (5) "Obligee" means an ex spouse or spouse to whom a duty of
17 spousal maintenance or property division obligation is owed.

18 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
19 maintenance or a property division obligation.

20 (7) "Periodic retirement payments" means periodic payments of
21 retirement allowances, including but not limited to service retirement
22 allowances, disability retirement allowances, and survivors'
23 allowances. The term does not include a withdrawal of accumulated
24 contributions.

25 (8) "Property division obligation" means any outstanding court-
26 ordered property division or court-approved property settlement
27 obligation incident to a decree of divorce, dissolution, or legal
28 separation.

29 (9) "Standard allowance" means a benefit payment option selected
30 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),

1 41.40.188(1)(a), or 41.40.660(1), that ceases upon the death of the
2 retiree. Standard allowance also means the benefit allowance provided
3 under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or
4 chapter 2.12 RCW. Standard allowance also means the maximum retirement
5 allowance available under RCW 41.32.530(1) following member withdrawal
6 of accumulated contributions, if any.

7 (10) "Withdrawal of accumulated contributions" means a lump sum
8 payment to a retirement system member of all or a part of the member's
9 accumulated contributions, including accrued interest, at the request
10 of the member(~~(. The term does not include)~~) including any lump sum
11 amount paid upon the death of the member.

12 **Sec. 2.** RCW 41.50.510 and 1987 c 326 s 2 are each amended to read
13 as follows:

14 (1) The remedies provided in RCW 41.50.530 through 41.50.650 and
15 26.09.138 are in addition to, and not in substitution for, any other
16 remedies provided by law to enforce a dissolution order against an
17 obligor.

18 (2) (~~Except for the remedies provided in chapters 26.18 and 74.20A~~
19 ~~RCW,~~) The remedies provided in RCW 41.50.530 through 41.50.630 shall
20 be the exclusive remedies enforceable against the department of
21 retirement systems or the retirement systems listed in RCW 41.50.030
22 (in connection with any action or as a result of a judgment, decree,
23 or order of)) to recover spousal maintenance pursuant to a dissolution,
24 divorce, or legal separation order.

25 (3) RCW 41.50.530 through 41.50.650 and 26.09.138 apply to all
26 dissolution orders incident to a decree of divorce, dissolution, or
27 legal separation whether entered before or after July 1, 1987.

1 **Sec. 3.** RCW 41.50.530 and 1987 c 326 s 4 are each amended to read
2 as follows:

3 (1) A proceeding to enforce a duty of spousal maintenance (~~(or a~~
4 ~~property division obligation by means of)~~) through a mandatory benefits
5 assignment order may be commenced by an obligee:

6 (a) By filing a petition for an original action; or

7 (b) By motion in an existing action or under an existing cause
8 number.

9 (2) Venue for the action is in the superior court of the county of
10 the state of Washington where the obligee resides or is present, where
11 the obligor resides, or where the prior dissolution order was entered.

12 (3) The court retains continuing jurisdiction under RCW 41.50.500
13 through 41.50.650 and 26.09.138 until the obligor has satisfied all
14 duties of spousal maintenance (~~(and all property settlement obligations~~
15 ~~of the obligor)~~), including arrearages, (~~(with respect)~~) to the obligee
16 (~~(have been satisfied)~~).

17 **Sec. 4.** RCW 41.50.540 and 1987 c 326 s 5 are each amended to read
18 as follows:

19 (1) Every court order or decree establishing a spousal maintenance
20 obligation (~~(or property division obligation)~~) may state that if any
21 such payment is more than fifteen days past due and the total of such
22 past due payments is equal to or greater than one hundred dollars or if
23 the obligor requests a withdrawal of accumulated contributions from the
24 department of retirement systems, the obligee may seek a mandatory
25 benefits assignment order without prior notice to the obligor. Failure
26 to include this provision does not affect the validity of the
27 dissolution order.

28 (2) If the dissolution order under which the obligor owes the duty
29 of spousal maintenance (~~(or a property division obligation)~~) is not in

1 compliance with subsection (1) of this section or if the obligee cannot
2 show that the obligor has approved or received a copy of the court
3 order or decree that complies with subsection (1) of this section, then
4 notice shall be provided to the obligor at least fifteen days before
5 the obligee seeks a mandatory benefits assignment order. The notice
6 shall state that, if a spousal maintenance ((~~or property division~~))
7 payment is more than fifteen days past due and the total of such past
8 due payments is equal to or greater than one hundred dollars or if the
9 obligor requests a withdrawal of accumulated contributions from the
10 department of retirement systems, the obligee may seek a mandatory
11 benefits assignment order without further notice to the obligor.
12 Service of the notice shall be by personal service, or by any form of
13 mail requiring a return receipt. The notice requirement under this
14 subsection is not jurisdictional.

15 **Sec. 5.** RCW 41.50.550 and 1987 c 326 s 6 are each amended to read
16 as follows:

17 (1) An obligee who wishes to be notified by the department of
18 retirement systems if the obligor seeks a withdrawal of accumulated
19 contributions shall submit such a request to the department in writing
20 on a form supplied by the department. The request shall be filed by
21 certified or registered mail and shall include the obligee's address
22 and a copy of the dissolution order requiring the spousal maintenance
23 ((~~or property division obligation~~)) owed.

24 (2) The department shall thereafter promptly send notice to the
25 obligee at the address provided in subsection (1) of this section when
26 the obligor applies for a withdrawal of accumulated contributions. The
27 department shall not process the obligor's request for a withdrawal of
28 accumulated contributions sooner than seventy-five days after sending
29 the notice to the obligee.

1 (3) The department (~~may~~) shall pay directly to an obligee who has
2 not obtained a mandatory benefits assignment order all or part of the
3 accumulated contributions (~~(withdrawn by an obligor if, and only)~~) if
4 the dissolution order filed with the department pursuant to subsection
5 (1) of this section includes a provision that states (~~(in substantially~~
6 ~~the following form)~~):

7 "At such time as (the obligor) requests a withdrawal of
8 accumulated contributions as defined in RCW 41.50.500, the department
9 of retirement systems shall pay to (the obligee)
10 dollars from such accumulated contributions or percentage of such
11 accumulated contributions (whichever is provided by the court)."

12 **Sec. 6.** RCW 41.50.560 and 1987 c 326 s 7 are each amended to read
13 as follows:

14 (1) A petition or motion seeking a mandatory benefits assignment
15 order in an action under RCW 41.50.530 may be filed by an obligee if
16 the obligor is more than fifteen days past due in spousal maintenance
17 (~~(or property division obligation)~~) payments and the total of such past
18 due payments is equal to or greater than one hundred dollars or if the
19 obligor requests a withdrawal of accumulated contributions from the
20 department of retirement systems. The petition or motion shall include
21 a sworn statement by the obligee, stating the facts authorizing the
22 issuance of the mandatory benefits assignment order, including:

23 (a) That the obligor, stating his or her name, residence, and
24 social security number, (i) is more than fifteen days past due in
25 spousal maintenance payments (~~(or property division obligation~~
26 ~~payments)~~) and that the total of such past due payments is equal to or
27 greater than one hundred dollars, or (ii) has requested a withdrawal of
28 accumulated contributions from the department of retirement systems;

1 (b) A description of the terms of the dissolution order requiring
2 payment of spousal maintenance (~~((or a property division obligation))~~)
3 and the amount, if any, past due;

4 (c) The name of the public retirement system or systems from which
5 the obligor is currently receiving periodic retirement benefits or from
6 which the obligor has requested a withdrawal of accumulated
7 contributions; and

8 (d) That notice has been provided to the obligor as required by RCW
9 41.50.540.

10 (2) If the court in which a mandatory benefits assignment order is
11 sought does not already have a copy of the dissolution order in the
12 court file, then the obligee shall attach a copy of the dissolution
13 order to the petition or motion seeking the mandatory benefits
14 assignment order.

15 **Sec. 7.** RCW 41.50.580 and 1987 c 326 s 9 are each amended to read
16 as follows:

17 (1)(a) The mandatory benefits assignment order (~~(in)~~) issued
18 pursuant to RCW 41.50.570 and directed at periodic retirement benefits
19 shall include:

20 (i) The maximum amount of current spousal maintenance (~~((or property~~
21 ~~division obligation, if any,))~~) to be withheld from the obligor's
22 periodic retirement benefits each month;

23 (ii) The total amount of the arrearage judgments previously entered
24 by the court, if any, together with interest, if any; and

25 (iii) The maximum amount to be withheld from the obligor's periodic
26 retirement payments each month to satisfy the arrearage judgments
27 specified in (a)(ii) of this subsection.

28 (b) (~~((With respect to such a mandatory benefits assignment order,))~~)
29 The total amount to be withheld from the obligor's periodic retirement

1 payments each month pursuant to a mandatory benefits assignment order
2 shall not exceed fifty percent of the disposable benefits of the
3 obligor (~~or the maximum amount allowed by 15 U.S.C. Sec. 1673,~~
4 ~~whichever is less~~). If the amounts to be paid toward the arrearage
5 are specified in the assignment order, then the maximum amount to be
6 withheld is the sum of the current maintenance ordered and the amount
7 ordered to be paid toward the arrearage, or fifty percent of the
8 disposable benefits of the obligor, whichever is less.

9 (c) (~~Except as otherwise required by federal law,~~) Fifty percent
10 of the disposable benefits of the obligor are exempt from collection
11 under the assignment order, and may be disbursed by the department to
12 the obligor. The provisions of RCW 6.27.150 do not apply to mandatory
13 benefits assignment orders under this chapter.

14 (2)(a) A mandatory benefits assignment order (~~in~~) issued pursuant
15 to RCW 41.50.570 and directed at a withdrawal of accumulated
16 contributions shall include:

17 (i) (~~The property division interest, if any, of the obligee in the~~
18 ~~obligor's accumulated contributions, established by the dissolution~~
19 ~~order, which interest shall be stated as either a dollar amount or a~~
20 ~~percentage amount in the mandatory benefits assignment order~~) The
21 maximum amount of current spousal maintenance to be withheld from the
22 obligor's accumulated contributions;

23 (ii) The total amount of the arrearage judgments for spousal
24 maintenance payments (~~or property division payments~~) entered by the
25 court, if any, together with interest, if any; and

26 (iii) The amount to be withheld from the obligor's withdrawal of
27 accumulated contributions to satisfy the (~~property division interest~~)
28 current maintenance obligation and the arrearage judgments specified in

29 (a) (i) and (ii) of this subsection;

Obligor

1
2
3 The above-named obligee claims that the above-named obligor is more
4 than fifteen days past due in spousal maintenance (~~(or property~~
5 ~~division obligation)~~) payments and that the total amount of such past
6 due payments is equal to or greater than one hundred dollars or that
7 the obligor has requested a withdrawal of accumulated contributions
8 from the department of retirement systems. The amount of the accrued
9 past due spousal maintenance (~~(or property division obligation)~~) debt
10 as of this date is dollars. If the obligor is receiving
11 periodic retirement payments from the department, the amount to be
12 withheld from the obligor's benefits to satisfy such accrued spousal
13 maintenance (~~(or property division obligation)~~) is dollars
14 per month and the amount to be withheld from the obligor's benefits to
15 satisfy current and continuing spousal maintenance (~~(or property~~
16 ~~division obligation)~~) is per month. Upon satisfaction of
17 the accrued past due spousal maintenance debt, the department shall
18 withhold only dollars, the amount necessary to satisfy
19 current and continuing spousal maintenance from the obligor's benefits.
20 If the obligor has requested a withdrawal of accumulated contributions
21 from the department, the amount to be withheld from the obligor's
22 benefits to satisfy such accrued spousal maintenance (~~(or property~~
23 ~~division obligation)~~) is dollars (~~(and the amount to be~~
24 ~~withheld from the obligor's benefits to satisfy the obligee's property~~
25 ~~division interest in the obligor's accumulated contributions is ...~~
26 ~~percent of the disposable benefits or is dollars)).~~

27 You are hereby commanded to answer this order by filling in the
28 attached form according to the instructions, and you must mail or
29 deliver the original of the answer to the court, one copy to the
30 obligee or obligee's attorney, and one copy to the obligor within
31 twenty days after service of this benefits assignment order upon you.

32 (1) If you are currently paying periodic retirement payments to the
33 obligor, then you shall do as follows:

34 (a) Withhold from the obligor's retirement payments each month the
35 lesser of:

36 (i) The sum of the specified arrearage payment amount plus the
37 specified current spousal maintenance (~~(or property division~~
38 ~~obligation)~~) amount; or

39 (ii) Fifty percent of the disposable benefits of the obligor (~~(or~~
40 ~~the maximum amount allowed by federal law, whichever is less)).~~

41 (b) The total amount withheld above is subject to the mandatory
42 benefits assignment order, and all other sums may be disbursed to the
43 obligor.

44 You shall continue to withhold the ordered amounts from nonexempt
45 benefits of the obligor until notified by a court order that the
46 mandatory benefits assignment order has been modified or terminated.
47 You shall promptly notify the court if and when the obligor is no
48 longer receiving periodic retirement payments from the department of
49 retirement systems.

50 You shall deliver the withheld benefits to the clerk of the court
51 that issued this mandatory benefits assignment order each month, but
52 the first delivery shall occur no sooner than twenty days after your
53 receipt of this mandatory benefits assignment order.

54 (2) If you are not currently paying periodic retirement payments to
55 the obligor but the obligor has requested a withdrawal of accumulated
56 contributions, then you shall do as follows:

57 (a) Withhold from the obligor's benefits the sum of the specified
58 arrearage payment amount plus the specified (~~(property division)~~)

1 interest amount, up to one hundred percent of the disposable benefits
2 of the obligor.

3 (b) The total amount withheld above is subject to the mandatory
4 benefits assignment order, and all other sums may be disbursed to the
5 obligor.

6 You shall mail a copy of this order and a copy of your answer to
7 the obligor at the mailing address in the department's files as soon as
8 is reasonably possible. This mandatory benefits assignment order has
9 priority over any assignment or order of execution, garnishment,
10 attachment, levy, or similar legal process authorized by Washington
11 law, except for a wage assignment order for child support under chapter
12 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

13 NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE
14 SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO
15 REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY
16 BENEFITS ASSIGNMENT ORDER.

17 DATED THIS ... day of ..., 19

18
19 Obligee, Judge/Court Commissioner
20 or obligee's attorney

21 **Sec. 9.** RCW 41.50.600 and 1987 c 326 s 11 are each amended to read
22 as follows:

23 (1) The director or the director's designee shall answer an order
24 by sworn affidavit within twenty days after the date of service. The
25 answer shall state whether the obligor receives periodic payments from
26 the department of retirement systems, whether the obligor has requested
27 a withdrawal of accumulated contributions from the department, whether
28 the department will honor the mandatory benefits assignment order and
29 if not, the reasons why, and whether there are other current court or
30 administrative orders on file with the department directing the
31 department to withhold all or a portion of the obligor's benefits.

32 (2)(a) If any periodic retirement payments are currently payable to
33 the obligor, the funds subject to the mandatory benefits assignment
34 order shall be withheld from the next periodic retirement payment due
35 twenty days or more after receipt of the mandatory benefits assignment
36 order. The withheld amount shall be delivered to the clerk of the
37 court that issued the mandatory benefits assignment order each month,

1 but the first delivery shall occur no sooner than twenty days after
2 receipt of the mandatory benefits assignment order.

3 (b) The department shall continue to withhold the ordered amount
4 from nonexempt benefits of the obligor until notified by the court that
5 the mandatory benefits assignment order has been modified or
6 terminated. If the department is initially unable to comply, or able
7 to comply only partially, with the withholding obligation, the court's
8 order shall be interpreted to require the department to comply to the
9 greatest extent possible at the earliest possible date. The department
10 shall notify the court of changes in withholding amounts and the reason
11 for the change. When the obligor is no longer eligible to receive
12 funds from one or more public retirement systems the department shall
13 promptly notify the court.

14 (3)(a) If no periodic retirement payments are currently payable to
15 the obligor but the obligor has requested a withdrawal of accumulated
16 contributions, the funds subject to the mandatory benefits assignment
17 order shall be withheld from the withdrawal payment. The withheld
18 amount shall be delivered to the clerk of the court that issued the
19 mandatory benefits assignment order.

20 (b) If the department is unable to comply fully with the
21 withholding obligation, the court's order shall be interpreted to
22 require the department to comply to the greatest extent possible.

23 (4) The department may deduct a processing fee from the remainder
24 of the obligor's funds after withholding under the mandatory benefits
25 assignment order, unless the remainder is exempt under RCW 41.50.580.
26 The processing fee may not exceed (a) twenty-five dollars for the first
27 disbursement made by the department to the superior court clerk; and
28 (b) six dollars for each subsequent disbursement to the clerk. Funds
29 collected pursuant to this subsection shall be deposited in the
30 department of retirement systems expense fund.

1 (5) A court order for spousal maintenance (~~(or a property division~~
2 ~~obligation)~~) governed by RCW 41.50.500 through 41.50.650 or 26.09.138
3 shall have priority over any other assignment or order of execution,
4 garnishment, attachment, levy, or similar legal process authorized
5 under Washington law, except for a mandatory wage assignment for child
6 support under chapter 26.18 RCW, or an order to withhold and deliver
7 under chapter 74.20A RCW.

8 (6) If the department, without good cause, fails to withhold funds
9 as required by a mandatory benefits assignment order issued under RCW
10 41.50.570, the department may be held liable to the obligee for any
11 amounts wrongfully disbursed to the obligor in violation of the
12 mandatory benefits assignment order. However, the department shall
13 under no circumstances be held liable for failing to withhold funds
14 from a withdrawal of accumulated contributions unless the mandatory
15 benefits assignment order was properly served on the department at
16 least thirty days before the department made the withdrawal payment to
17 the obligor. If the department is held liable to an obligee for
18 failing to withhold funds as required by a mandatory benefits
19 assignment order, the department may recover such amounts paid to an
20 obligee by thereafter either withholding such amounts from the
21 available nonexempt benefits of the obligor or filing a legal action
22 against the obligor.

23 (7) If the department complies with a court order pursuant to RCW
24 41.50.500 through 41.50.650, neither the department, its officers, its
25 employees, nor any of the retirement systems listed in RCW 41.50.030
26 may be liable to the obligor or an obligee for wrongful withholding.

27 (8) The department may combine amounts withheld from various
28 obligors into a single payment to the superior court clerk, if the
29 payment includes a listing of the amounts attributable to each obligor
30 and other information as required by the clerk.

1 (9) The department shall mail to the obligor at the obligor's last
2 known mailing address appearing in the department's files copies of the
3 mandatory benefits assignment order and the department's answer within
4 twenty days after receiving the mandatory benefits assignment order.

5 (10) The department shall not consider any withholding allowance
6 that is elective to the employee to be a mandatory deduction for
7 purposes of calculating the member's disposable benefits subject to a
8 mandatory benefits assignment order. The department shall withhold
9 elective withholdings as elected by the employee after deducting from
10 the benefit the amount owing to an obligee pursuant to a mandatory
11 benefits assignment order.

12 **Sec. 10.** RCW 41.50.620 and 1987 c 326 s 13 are each amended to
13 read as follows:

14 (1) Service of the mandatory benefits assignment order on the
15 department is invalid unless it is served with four answer forms in
16 (~~substantial~~) conformance with RCW 41.50.610, together with stamped
17 envelopes addressed to, respectively, the clerk of the court where the
18 order was issued, the obligee's attorney or the obligee, and the
19 obligor at the last mailing address known to the obligee. The obligee
20 shall also include an extra copy of the mandatory benefits assignment
21 order for the department to mail to the obligor. Service on the
22 department shall be in person or by any form of mail requiring a return
23 receipt.

24 (2) On or before the date of service of the mandatory benefits
25 assignment order on the department, the obligee shall mail or cause to
26 be mailed by certified or registered mail a copy of the mandatory
27 benefits assignment order to the obligor at the obligor's last mailing
28 address known to the obligee; or, in the alternative, a copy of the
29 mandatory benefits assignment order shall be served on the obligor in

1 the same manner as a summons in a civil action on, before, or within
2 two days after the date of service of the order on the department. This
3 requirement is not jurisdictional, but if the copy is not mailed or
4 served as this subsection requires, or if any irregularity appears with
5 respect to the mailing or service, the superior court, in its
6 discretion, may quash the mandatory benefits assignment order, upon
7 motion of the obligor promptly made and supported by an affidavit
8 showing that the obligor has been prejudiced due to the failure to mail
9 or serve the copy.

10 **Sec. 11.** RCW 41.50.630 and 1987 c 326 s 14 are each amended to
11 read as follows:

12 In a hearing to quash, modify, or terminate the mandatory benefits
13 assignment order, the court may grant relief only upon a showing that
14 the mandatory benefits assignment order causes extreme hardship or
15 substantial injustice. Satisfaction by the obligor of all past due
16 payments subsequent to the issuance of the mandatory benefits
17 assignment order is not grounds to quash, modify, or terminate the
18 mandatory benefits assignment order. If a mandatory benefits
19 assignment order has been in operation for twelve consecutive months
20 and the obligor's spousal maintenance (~~or property division~~
21 ~~obligation~~) is current, the court may terminate the order upon motion
22 of the obligor unless the obligee can show good cause as to why the
23 mandatory benefits assignment order should remain in effect.

24 **Sec. 12.** RCW 41.50.650 and 1987 c 326 s 16 are each amended to
25 read as follows:

26 (1) Notwithstanding RCW 2.10.180(1), 2.12.090(1), 41.26.180(1),
27 41.32.590(1), 41.40.380(1), and 43.43.310(1) as those sections existed
28 between July 1, 1987, and the effective date of this act, the

1 department of retirement systems (~~may~~) shall make direct payments of
2 benefits to a spouse or ex spouse pursuant to court orders or decrees
3 entered before July 1, 1987, that complied with all the requirements in
4 RCW 2.10.180(1), 2.12.090(2), 41.26.180(3), 41.32.590(3), 41.40.380(3),
5 43.43.310(2), and 41.04.310 through 41.04.330, as such requirements
6 existed before July 1, 1987. The department shall be responsible for
7 making direct payments only if the decree or court order expressly
8 orders the department to make direct payments to the spouse or ex
9 spouse and specifies a sum certain or percentage amount of the benefit
10 payments to be made to the spouse or ex spouse.

11 (2) The department of retirement systems shall notify a spouse or
12 ex spouse who, pursuant to a mandatory benefits assignment order
13 entered between July 1, 1987, and the effective date of this act, is
14 receiving benefits in satisfaction of a court-ordered property
15 division, that he or she is entitled to receive direct payments of a
16 court-ordered property division pursuant to section 13 of this act if
17 the dissolution order fully complies or is modified to fully comply
18 with the requirements of sections 13 through 17 and 25 of this act and,
19 as applicable, RCW 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.40.380,
20 43.43.310, and 26.09.138. The department shall send notice in writing
21 as soon as reasonably feasible but no later than ninety days after the
22 effective date of this act. The department shall also send notice to
23 the obligor member spouse.

24 NEW SECTION. Sec. 13. (1) Nothing in this chapter regarding
25 mandatory assignment of benefits to enforce a spousal maintenance
26 obligation shall abridge the right of an obligee to direct payments of
27 retirement benefits to satisfy a property division obligation ordered
28 pursuant to a court decree of dissolution or legal separation or any
29 court order or court-approved property settlement agreement incident to

1 any court decree of dissolution or legal separation as provided in RCW
2 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.180,
3 41.32.590, 41.40.380, 43.43.310, or 26.09.138, as those statutes
4 existed before July 1, 1987, and as those statutes exist on and after
5 the effective date of this act. The department shall pay benefits
6 under this chapter in a lump sum or as a portion of periodic retirement
7 payments as expressly provided by the dissolution order. A dissolution
8 order may not order the department to pay a periodic retirement payment
9 or lump sum unless that payment is specifically authorized under the
10 provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW, as
11 applicable.

12 (2) The department shall pay directly to an obligee the amount of
13 periodic retirement payments or lump sum payment, as appropriate,
14 specified in the dissolution order if the dissolution order filed with
15 the department pursuant to subsection (1) of this section includes a
16 provision that states in the following form:

17 If (the obligor) receives periodic retirement payments
18 as defined in RCW 41.50.500, the department of retirement systems shall
19 pay to (the obligee) dollars from such payments
20 or percent of such payments. If the obligor's debt is expressed
21 as a percentage of his or her periodic retirement payment and the
22 obligee does not have a survivorship interest in the obligor's benefit,
23 the amount received by the obligee shall be the percentage of the
24 periodic retirement payment that the obligor would have received had he
25 or she selected a standard allowance.

26 If (the obligor) requests or has requested a withdrawal
27 of accumulated contributions as defined in RCW 41.50.500, or becomes
28 eligible for a lump sum death benefit, the department of retirement
29 systems shall pay to (the obligee) dollars plus

1 interest at the rate paid by the department of retirement systems on
2 member contributions. Such interest to accrue from the date of this
3 order's entry with the court of record.

4 (3) This section does not require a member to select a standard
5 allowance upon retirement nor does it require the department to
6 recalculate the amount of a retiree's periodic retirement payment based
7 on a change in survivor option.

8 (4) A court may not award more than seventy-five percent of the
9 retirement benefits to an ex spouse or spouse in the dissolution order
10 if the court orders periodic retirement payments.

11 (5) Persons whose court decrees were entered between July 1, 1987,
12 and the effective date of this act shall also be entitled to receive
13 direct payments of retirement benefits to satisfy court-ordered
14 property divisions if the dissolution orders comply or are modified to
15 comply with this section and sections 14 through 17 and 25 of this act
16 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.180, 41.32.590,
17 41.40.380, 43.43.310, and 26.09.138.

18 (6) The obligee must file a copy of the dissolution order with the
19 department within ninety days of that order's entry with the court of
20 record.

21 (7) A division of benefits pursuant to a dissolution order under
22 this section shall be based upon the obligor's gross benefit prior to
23 any deductions. If the department is required to withhold a portion of
24 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of
25 that amount plus the amount owed to the obligee exceeds the total
26 benefit, the department shall satisfy the withholding requirements
27 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.
28 The provisions of this subsection do not apply to amounts withheld
29 pursuant to 26 U.S.C. Sec. 3402(i).

1 NEW SECTION. **Sec. 14.** The department may deduct a processing
2 fee for administering direct payments under section 13 of this act
3 according to the dissolution order. The fee may not exceed (1)
4 seventy-five dollars or the actual average administrative costs,
5 whichever is less, for the first disbursement made by the department;
6 and (2) six dollars or the actual average administrative costs,
7 whichever is less for subsequent disbursements. The department shall
8 deduct the fee in equal dollar amounts from the obligee's and obligor's
9 payments. The funds collected pursuant to this section shall be
10 deposited in the department of retirement systems expense account.

11 NEW SECTION. **Sec. 15.** Unless otherwise prohibited by federal
12 law, following both the initial and final postretirement audit of an
13 obligor's retirement benefit, the department shall provide an obligee
14 entitled to direct payment of retirement benefits pursuant to a
15 dissolution order under section 13 of this act with a statement of
16 monthly retirement benefit allowance to be paid to the obligor, and
17 other retirement benefit information available to the obligor including
18 the average final compensation, total years of service, retirement
19 date, the amount of the employee contributions made prior to
20 implementation of employer pickup under RCW 41.04.445 and 41.04.450,
21 and savings and interest.

22 NEW SECTION. **Sec. 16.** (1) The department's obligation to
23 provide direct payment of a property division obligation to an obligee
24 under section 13 of this act shall cease upon the death of the obligee
25 or upon the death of the obligor, whichever comes first. However, if
26 an obligor dies and is eligible for a lump sum death benefit, the
27 department shall be obligated to provide direct payment to the obligee

1 of all or a portion of the withdrawal of accumulated contributions
2 pursuant to a court order that complies with section 13 of this act.

3 (2) The direct payment of a property division obligation to an
4 obligee under section 13 of this act shall be paid as a deduction from
5 the member's periodic retirement payment. An obligee may not direct
6 the department to withhold any funds from such payment.

7 NEW SECTION. **Sec. 17.** (1) The remedies provided in sections
8 13 through 17 and 25 of this act are the exclusive remedies enforceable
9 against the department or the retirement systems listed in RCW
10 41.50.030 for the direct payment of retirement benefits to satisfy a
11 property division obligation pursuant to a dissolution order. The
12 department shall not be required to make payments to an obligee of
13 benefits accruing prior to (a) thirty calendar days following service
14 of the dissolution order on the department; or (b) benefit payments
15 restrained under section 25 of this act.

16 (2) Whenever the department of retirement systems makes direct
17 payments of property division to a spouse or ex spouse under section 13
18 of this act to the extent expressly provided for in any court decree of
19 dissolution or legal separation or in any court order or court-approved
20 property settlement agreement incident to any court decree of
21 dissolution or legal separation, it shall be a sufficient answer to any
22 claim of a beneficiary against the department for the department to
23 show that the payments were made pursuant to court decree.

24 **Sec. 18.** RCW 2.10.180 and 1989 c 360 s 22 are each amended to read
25 as follows:

26 (1) Except as provided in subsections (2), (3), and (4) of this
27 section, the right of a person to a retirement allowance, disability
28 allowance, or death benefit, the retirement, disability or death

1 allowance itself, any optional benefit, any other right accrued or
2 accruing to any person under the provisions of this chapter, and the
3 moneys in the fund created under this chapter, are hereby exempt from
4 any state, county, municipal, or other local tax and shall not be
5 subject to execution, garnishment, or any other process of law
6 whatsoever.

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

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

15 (4) Subsection (1) of this section shall not prohibit the
16 department of retirement systems from complying with (a) a wage
17 assignment order for child support issued pursuant to chapter 26.18
18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
19 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
20 RCW, (d) a mandatory benefits assignment order issued pursuant to
21 chapter 41.50 RCW, ~~((e))~~ (e) a court order directing the department of
22 retirement systems to pay benefits directly to an obligee under a
23 dissolution order as defined in RCW 41.50.500(3) which fully complies
24 with sections 13 and 16 of this act, or (f) any administrative or
25 court order expressly authorized by federal law.

26 **Sec. 19.** RCW 2.12.090 and 1989 c 360 s 23 are each amended to read
27 as follows:

28 (1) Except as provided in subsections (2), (3), and (4) of this
29 section, the right of any person to a retirement allowance or optional

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

7 (2) Subsection (1) of this section shall not prohibit the
8 department of retirement systems from complying with (a) a wage
9 assignment order for child support issued pursuant to chapter 26.18
10 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW,
11 (c) an order to withhold and deliver issued pursuant to chapter 74.20A
12 RCW, (d) a mandatory benefits assignment order issued pursuant to
13 chapter 41.50 RCW, ~~((e))~~ (e) a court order directing the department of
14 retirement systems to pay benefits directly to an obligee under a
15 dissolution order as defined in RCW 41.50.500(3) which fully complies
16 with sections 13 and 16 of this act, or (f) any administrative or
17 court order expressly authorized by federal law.

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

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

26 **Sec. 20.** RCW 41.26.180 and 1989 c 360 s 24 are each amended to
27 read as follows:

28 (1) Subject to subsections (2) and (3) of this section, the right
29 of a person to a retirement allowance, disability allowance, or death

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

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

17 (3) Subsection (1) of this section shall not prohibit the
18 department of retirement systems from complying with (a) a wage
19 assignment order for child support issued pursuant to chapter 26.18
20 RCW, (b) an order to withhold and deliver issued pursuant to chapter
21 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
22 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
23 chapter 41.50 RCW, ~~((e))~~ (e) a court order directing the department of
24 retirement systems to pay benefits directly to an obligee under a
25 dissolution order as defined in RCW 41.50.500(3) which fully complies
26 with sections 13 and 16 of this act, or (f) any administrative or court
27 order expressly authorized by federal law.

28 **Sec. 21.** RCW 41.32.590 and 1989 c 360 s 25 are each amended to
29 read as follows:

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

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

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

17 (b) Under a group health care benefit plan approved pursuant to RCW
18 28A.58.420 or 41.05.065 from authorizing monthly deductions therefrom,
19 of the amount or amounts of subscription payments, premiums, or
20 contributions to any person, firm, or corporation furnishing or
21 providing medical, surgical, and hospital care or other health care
22 insurance; or

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

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

1 (3) Subsection (1) of this section shall not prohibit the
2 department of retirement systems from complying with (a) a wage
3 assignment order for child support issued pursuant to chapter 26.18
4 RCW, (b) an order to withhold and deliver issued pursuant to chapter
5 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
6 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
7 chapter 41.50 RCW, ~~((or))~~ (e) a court order directing the department of
8 retirement systems to pay benefits directly to an obligee under a
9 dissolution order as defined in RCW 41.50.500(3) which fully complies
10 with sections 13 and 16 of this act, or (f) any administrative or court
11 order expressly authorized by federal law.

12 **Sec. 22.** RCW 41.40.380 and 1989 c 360 s 27 are each amended to
13 read as follows:

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

23 (2) This section shall not be deemed to prohibit a beneficiary of
24 a retirement allowance from authorizing deductions therefrom for
25 payment of premiums due on any group insurance policy or plan issued
26 for the benefit of a group comprised of public employees of the state
27 of Washington or its political subdivisions and which has been approved
28 for deduction in accordance with rules and regulations that may be
29 promulgated by the state health care authority and/or the department of

1 retirement systems, and this section shall not be deemed to prohibit a
2 beneficiary of a retirement allowance from authorizing deductions
3 therefrom for payment of dues and other membership fees to any
4 retirement association or organization the membership of which is
5 composed of retired public employees, if a total of three hundred or
6 more of such retired employees have authorized such deduction for
7 payment to the same retirement association or organization.

8 (3) Subsection (1) of this section shall not prohibit the
9 department of retirement systems from complying with (a) a wage
10 assignment order for child support issued pursuant to chapter 26.18
11 RCW, (b) an order to withhold and deliver issued pursuant to chapter
12 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
13 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
14 chapter 41.50 RCW, (~~(e)~~) (e) a court order directing the department of
15 retirement systems to pay benefits directly to an obligee under a
16 dissolution order as defined in RCW 41.50.500(3) which fully complies
17 with sections 13 and 16 of this act, or (f) any administrative or court
18 order expressly authorized by federal law.

19 **Sec. 23.** RCW 43.43.310 and 1989 c 360 s 29 are each amended to
20 read as follows:

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

1 (2) Subsection (1) of this section shall not prohibit the
2 department of retirement systems from complying with (a) a wage
3 assignment order for child support issued pursuant to chapter 26.18
4 RCW, (b) an order to withhold and deliver issued pursuant to chapter
5 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW
6 26.23.060, (d) a mandatory benefits assignment order issued pursuant to
7 chapter 41.50 RCW, ~~((or))~~ (e) a court order directing the department of
8 retirement systems to pay benefits directly to an obligee under a
9 dissolution order as defined in RCW 41.50.500(3) which fully complies
10 with sections 13 and 16 of this act, or (f) any administrative or court
11 order expressly authorized by federal law.

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

19 **Sec. 24.** RCW 26.09.138 and 1987 c 326 s 26 are each amended to
20 read as follows:

21 (1) Any obligee of a court order or decree establishing a spousal
22 maintenance obligation ~~((or a property division obligation))~~ may seek
23 a mandatory benefits assignment order under chapter 41.50 RCW if any
24 spousal maintenance payment ~~((or a property division obligation~~
25 ~~payment))~~ is more than fifteen days past due and the total of such past
26 due payments is equal to or greater than one hundred dollars, or if the
27 obligor requests a withdrawal of accumulated contributions from the
28 department of retirement systems.

1 (2) Any court order or decree establishing a spousal maintenance
2 obligation (~~((or a property division obligation))~~) may state that, if any
3 spousal maintenance payment (~~((or property division obligation payment))~~)
4 is more than fifteen days past due and the total of such past due
5 payments is equal to or greater than one hundred dollars, or if the
6 obligor requests a withdrawal of accumulated contributions from the
7 department of retirement systems, the obligee may seek a mandatory
8 benefits assignment order under chapter 41.50 RCW without prior notice
9 to the obligor. Any such court order or decree may also, or in the
10 alternative, contain a provision that would allow the department to
11 make a direct payment of all or part of a withdrawal of accumulated
12 contributions pursuant to RCW 41.50.550(3). Failure to include this
13 provision does not affect the validity of the court order or decree
14 establishing the spousal maintenance (~~((or property division~~
15 ~~obligations))~~), nor does such failure affect the general applicability
16 of RCW 41.50.500 through 41.50.650 to such obligations.

17 (3) The remedies in RCW 41.50.530 through 41.50.630 are the
18 exclusive provisions of law enforceable against the department of
19 retirement systems in connection with any action for enforcement of a
20 spousal maintenance obligation ordered pursuant to a divorce,
21 dissolution, or legal separation, and no other remedy ordered by a
22 court under this chapter shall be enforceable against the department of
23 retirement systems for collection of spousal maintenance.

24 (4)(a) Nothing in this section regarding mandatory assignment of
25 benefits to enforce a spousal maintenance obligation shall abridge the
26 right of an ex spouse to receive direct payment of retirement benefits
27 payable pursuant to: (i) A court decree of dissolution or legal
28 separation; or (ii) any court order or court-approved property
29 settlement agreement; or (iii) incident to any court decree of
30 dissolution or legal separation, if such dissolution orders fully

1 comply with sections 13 and 16 of this act, or as applicable, RCW
2 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.180,
3 41.32.590, 41.40.380, or 43.43.310 as those statutes existed before
4 July 1, 1987, and as those statutes exist on and after the effective
5 date of this act.

6 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)
7 were entered between July 1, 1987, and the effective date of this act
8 shall be entitled to receive direct payments of retirement benefits to
9 satisfy court-ordered property divisions if the dissolution orders
10 filed with the department comply or are amended to comply with sections
11 13 through 17 and 25 of this act and, as applicable, RCW 2.10.180,
12 2.12.090, 41.26.180, 41.32.590, 41.40.380, or 43.43.310.

13 NEW SECTION. Sec. 25. A party to a dissolution proceeding may
14 file a motion with the court requesting the court to enter an order
15 restraining the department from paying any benefits to a member until
16 further order of the court. The department shall not initiate payment
17 of benefits to a member from the time a restraining order is served on
18 the department until the court enters a further order disposing of the
19 benefits.

20 **Sec. 26.** RCW 6.27.150 and 1987 c 442 s 1015 are each amended to
21 read as follows:

22 (1) Except as provided in subsection (2) of this section, if the
23 garnishee is an employer owing the defendant earnings, then for each
24 week of such earnings, an amount shall be exempt from garnishment which
25 is the greatest of the following:

26 (a) Thirty times the federal minimum hourly wage prescribed by
27 section 206(a)(1) of Title 29 of the United States Code in effect at
28 the time the earnings are payable; or

1 (b) Seventy-five percent of the disposable earnings of the
2 defendant.

3 (2) In the case of a garnishment based on a judgment or other court
4 order for child support or court order for spousal maintenance, other
5 than a mandatory wage assignment order pursuant to chapter 26.18 RCW,
6 or a mandatory assignment of retirement benefits pursuant to chapter
7 41.50 RCW, the exemption shall be fifty percent of the disposable
8 earnings of the defendant if the individual is supporting a spouse or
9 dependent child (other than a spouse or child on whose behalf the
10 garnishment is brought), or forty percent of the disposable earnings of
11 the defendant if the individual is not supporting such a spouse or
12 dependent child.

13 (3) The exemptions stated in this section shall apply whether such
14 earnings are paid, or are to be paid, weekly, monthly, or at other
15 intervals, and whether earnings are due the defendant for one week, a
16 portion thereof, or for a longer period.

17 (4) Unless directed otherwise by the court, the garnishee shall
18 determine and deduct exempt amounts under this section as directed in
19 the writ of garnishment and answer, and shall pay these amounts to the
20 defendant.

21 (5) No money due or earned as earnings as defined in RCW 6.27.010
22 shall be exempt from garnishment under the provisions of RCW 6.15.010,
23 as now or hereafter amended.

24 **Sec. 27.** RCW 41.40.270 and 1990 c 249 s 11 are each amended to
25 read as follows:

26 (1) Should a member die before the date of retirement the amount of
27 the accumulated contributions standing to the member's credit in the
28 employees' savings fund, less any amount identified as owing to an

1 obligee upon withdrawal of accumulated contributions pursuant to a
2 court order filed under section 13 of this act, at the time of death:

3 (a) Shall be paid to such person or persons, having an insurable
4 interest in the member's life, as the member shall have nominated by
5 written designation duly executed and filed with the department; or

6 (b) If there be no such designated person or persons still living
7 at the time of the member's death, or if a member fails to file a new
8 beneficiary designation subsequent to marriage, remarriage, dissolution
9 of marriage, divorce, or reestablishment of membership following
10 termination by withdrawal or retirement, such accumulated
11 contributions, less any amount identified as owing to an obligee upon
12 withdrawal of accumulated contributions pursuant to a court order filed
13 under section 13 of this act, shall be paid to the surviving spouse as
14 if in fact such spouse had been nominated by written designation as
15 aforesaid, or if there be no such surviving spouse, then to the
16 member's legal representatives.

17 (2) Upon the death in service, or while on authorized leave of
18 absence for a period not to exceed one hundred and twenty days from the
19 date of payroll separation, of any member who is qualified but has not
20 applied for a service retirement allowance or has completed ten years
21 of service at the time of death, the designated beneficiary, or the
22 surviving spouse as provided in subsection (1) of this section, may
23 elect to waive the payment provided by subsection (1) of this section.
24 Upon such an election, a joint and one hundred percent survivor option
25 under RCW 41.40.188, calculated under the retirement allowance
26 described in RCW 41.40.185 or 41.40.190, whichever is greater,
27 actuarially reduced by the amount of any lump sum benefit identified as
28 owing to an obligee upon withdrawal of accumulated contributions
29 pursuant to a court order filed under section 13 of this act shall
30 automatically be given effect as if selected for the benefit of the

1 surviving spouse or dependent who is the designated beneficiary. If
2 the member is not then qualified for a service retirement allowance,
3 such benefit shall be based upon the actuarial equivalent of the sum
4 necessary to pay the accrued regular retirement allowance commencing
5 when the deceased member would have first qualified for a service
6 retirement allowance.

7 (3) Subsection (1) of this section, unless elected, shall not apply
8 to any member who has applied for service retirement in RCW 41.40.180,
9 as now or hereafter amended, and thereafter dies between the date of
10 separation from service and the member's effective retirement date,
11 where the member has selected a survivorship option under RCW
12 41.40.188. In those cases the beneficiary named in the member's final
13 application for service retirement may elect to receive either a cash
14 refund, less any amount identified as owing to an obligee upon
15 withdrawal of accumulated contributions pursuant to a court order filed
16 under section 13 of this act, or monthly payments according to the
17 option selected by the member.

18 **Sec. 28.** RCW 41.40.700 and 1990 c 249 s 18 are each amended to
19 read as follows:

20 (1) If a member or a vested member who has not completed at least
21 ten years of service dies, the amount of the accumulated contributions
22 standing to such member's credit in the retirement system at the time
23 of such member's death, less any amount identified as owing to an
24 obligee upon withdrawal of accumulated contributions pursuant to a
25 court order filed under section 13 of this act, shall be paid to such
26 person or persons having an insurable interest in such member's life as
27 the member shall have nominated by written designation duly executed
28 and filed with the department. If there be no such designated person
29 or persons still living at the time of the member's death, such

1 member's accumulated contributions standing to such member's credit in
2 the retirement system, less any amount identified as owing to an
3 obligee upon withdrawal of accumulated contributions pursuant to a
4 court order filed under section 13 of this act, shall be paid to the
5 member's surviving spouse as if in fact such spouse had been nominated
6 by written designation, or if there be no such surviving spouse, then
7 to such member's legal representatives.

8 (2) If a member who is eligible for retirement or a member who has
9 completed at least ten years of service dies, the surviving spouse or
10 eligible child or children shall elect to receive either:

11 (a) A retirement allowance computed as provided for in RCW
12 41.40.630(1), actuarially reduced by the amount of any lump sum benefit
13 identified as owing to an obligee upon withdrawal of accumulated
14 contributions pursuant to a court order filed under section 13 of this
15 act and actuarially adjusted to reflect a joint and one hundred percent
16 survivor option under RCW 41.40.660 and if the member was not eligible
17 for normal retirement at the date of death a further reduction as
18 described in RCW 41.40.630(2); if a surviving spouse who is receiving
19 a retirement allowance dies leaving a child or children of the member
20 under the age of majority, then such child or children shall continue
21 to receive an allowance in an amount equal to that which was being
22 received by the surviving spouse, share and share alike, until such
23 child or children reach the age of majority; if there is no surviving
24 spouse eligible to receive an allowance at the time of the member's
25 death, such member's child or children under the age of majority shall
26 receive an allowance share and share alike calculated as herein
27 provided making the assumption that the ages of the spouse and member
28 were equal at the time of the member's death; or

29 (b) The member's accumulated contributions, less any amount
30 identified as owing to an obligee upon withdrawal of accumulated

1 contributions pursuant to a court order filed under section 13 of this
2 act.

3 **Sec. 29.** RCW 41.32.520 and 1990 c 249 s 15 are each amended to
4 read as follows:

5 (1) Upon receipt of proper proofs of death of any member before
6 retirement or before the first installment of his or her retirement
7 allowance shall become due his or her accumulated contributions, less
8 any amount identified as owing to an obligee upon withdrawal of
9 accumulated contributions pursuant to a court order filed under section
10 13 of this act, and/or other benefits payable upon his or her death
11 shall be paid to his or her estate or to such persons as he or she
12 shall have nominated by written designation duly executed and filed
13 with the board of trustees. If a member fails to file a new
14 beneficiary designation subsequent to marriage, divorce, or
15 reestablishment of membership following termination by withdrawal,
16 lapsation, or retirement, payment of his or her accumulated
17 contributions, less any amount identified as owing to an obligee upon
18 withdrawal of accumulated contributions pursuant to a court order filed
19 under section 13 of this act, and/or other benefits upon death before
20 retirement shall be made to the surviving spouse, if any; otherwise, to
21 his or her estate. If a member had established ten or more years of
22 Washington membership service credit or was eligible for retirement,
23 the beneficiary or the surviving spouse if otherwise eligible may
24 elect, in lieu of a cash refund of the member's accumulated
25 contributions, the following survivor benefit plan actuarially reduced
26 by the amount of any lump sum benefit identified as owing to an obligee
27 upon withdrawal of accumulated contributions pursuant to a court order
28 filed under section 13 of this act:

1 (a) A widow or widower, without a child or children under eighteen
2 years of age, may elect a monthly payment of fifty dollars to become
3 effective at age fifty, provided the member had fifteen or more years
4 of Washington membership service credit.

5 (b) The beneficiary, if a surviving spouse or a dependent (as that
6 term is used in computing the dependent exemption for federal internal
7 revenue purposes) may elect to receive a joint and one hundred percent
8 retirement allowance under RCW 41.32.530.

9 (i) In the case of a dependent child the allowance shall continue
10 until attainment of majority or so long as the board judges that the
11 circumstances which created his or her dependent status continue to
12 exist. In any case, if at the time dependent status ceases, an amount
13 equal to the amount of accumulated contributions of the deceased member
14 has not been paid to the beneficiary, the remainder shall then be paid
15 in a lump sum to the beneficiary.

16 (ii) If at the time of death, the member was not then qualified for
17 a service retirement allowance, the benefit shall be based upon the
18 actuarial equivalent of the sum necessary to pay the accrued regular
19 retirement allowance commencing when the deceased member would have
20 first qualified for a service retirement allowance.

21 (2) If no qualified beneficiary survives a member, at his or her
22 death his or her accumulated contributions, less any amount identified
23 as owing to an obligee upon withdrawal of accumulated contributions
24 pursuant to a court order filed under section 13 of this act, shall be
25 paid to his or her estate, or his or her dependents may qualify for
26 survivor benefits under benefit plan (1)(b) in lieu of a cash refund of
27 the members accumulated contributions in the following order: Widow or
28 widower, guardian of a dependent child or children under age eighteen,
29 or dependent parent or parents.

1 (3) Under survivors' benefit plan (1)(a) the board of trustees
2 shall transfer to the survivors' benefit fund the accumulated
3 contributions of the deceased member together with an amount from the
4 pension fund determined by actuarial tables to be sufficient to fully
5 fund the liability. Benefits shall be paid from the survivors' benefit
6 fund monthly and terminated at the marriage of the beneficiary.

7 **Sec. 30.** RCW 41.32.805 and 1990 c 249 s 16 are each amended to
8 read as follows:

9 (1) If a member or a vested member who has not completed at least
10 ten years of service dies, the amount of the accumulated contributions
11 standing to such member's credit in the retirement system, less any
12 amount identified as owing to an obligee upon withdrawal of accumulated
13 contributions pursuant to a court order filed under section 13 of this
14 act, at the time of such member's death shall be paid to such person or
15 persons having an insurable interest in such member's life as the
16 member shall have nominated by written designation duly executed and
17 filed with the department. If there be no such designated person or
18 persons still living at the time of the member's death, such member's
19 accumulated contributions standing to such member's credit in the
20 retirement system, less any amount identified as owing to an obligee
21 upon withdrawal of accumulated contributions pursuant to a court order
22 filed under section 13 of this act, shall be paid to the member's
23 surviving spouse as if in fact such spouse had been nominated by
24 written designation, or if there be no such surviving spouse, then to
25 such member's legal representatives.

26 (2) If a member who is eligible for retirement or a member who has
27 completed at least ten years of service dies, the surviving spouse or
28 eligible children shall elect to receive either:

1 (a) A retirement allowance computed as provided for in RCW
2 41.32.765(1), actuarially reduced by the amount of any lump sum benefit
3 identified as owing to an obligee upon withdrawal of accumulated
4 contributions pursuant to a court order filed under section 13 of this
5 act and actuarially adjusted to reflect a joint and one hundred percent
6 survivor option under RCW 41.32.785 and if the member was not eligible
7 for normal retirement at the date of death a further reduction as
8 described in RCW 41.32.765(2); if a surviving spouse who is receiving
9 a retirement allowance dies leaving a child or children of the member
10 under the age of majority, then such child or children shall continue
11 to receive an allowance in an amount equal to that which was being
12 received by the surviving spouse, share and share alike, until such
13 child or children reach the age of majority; if there is no surviving
14 spouse eligible to receive an allowance at the time of the member's
15 death, such member's child or children under the age of majority shall
16 receive an allowance share and share alike calculated as herein
17 provided making the assumption that the ages of the spouse and member
18 were equal at the time of the member's death; or

19 (b) The member's accumulated contributions, less any amount
20 identified as owing to an obligee upon withdrawal of accumulated
21 contributions pursuant to a court order filed under section 13 of this
22 act.

23 **Sec. 31.** RCW 41.26.510 and 1990 c 249 s 14 are each amended to
24 read as follows:

25 (1) If a member or a vested member who has not completed at least
26 ten years of service dies, the amount of the accumulated contributions
27 standing to such member's credit in the retirement system at the time
28 of such member's death, less any amount identified as owing to an
29 obligee upon withdrawal of accumulated contributions pursuant to a

1 court order filed under section 13 of this act, shall be paid to such
2 person or persons having an insurable interest in such member's life as
3 the member shall have nominated by written designation duly executed
4 and filed with the department. If there be no such designated person
5 or persons still living at the time of the member's death, such
6 member's accumulated contributions standing to such member's credit in
7 the retirement system, less any amount identified as owing to an
8 obligee upon withdrawal of accumulated contributions pursuant to a
9 court order filed under section 13 of this act, shall be paid to the
10 member's surviving spouse as if in fact such spouse had been nominated
11 by written designation, or if there be no such surviving spouse, then
12 to such member's legal representatives.

13 (2) If a member who is eligible for retirement or a member who has
14 completed at least ten years of service dies, the surviving spouse or
15 eligible child or children shall elect to receive either:

16 (a) A retirement allowance computed as provided for in RCW
17 41.26.430(1), actuarially reduced by the amount of any lump sum benefit
18 identified as owing to an obligee upon withdrawal of accumulated
19 contributions pursuant to a court order filed under section 13 of this
20 act and actuarially adjusted to reflect a joint and one hundred percent
21 survivor option under RCW 41.26.460 and if the member was not eligible
22 for normal retirement at the date of death a further reduction as
23 described in RCW 41.26.430(2); if a surviving spouse who is receiving
24 a retirement allowance dies leaving a child or children of the member
25 under the age of majority, then such child or children shall continue
26 to receive an allowance in an amount equal to that which was being
27 received by the surviving spouse, share and share alike, until such
28 child or children reach the age of majority; if there is no surviving
29 spouse eligible to receive an allowance at the time of the member's
30 death, such member's child or children under the age of majority shall

1 receive an allowance share and share alike calculated as herein
2 provided making the assumption that the ages of the spouse and member
3 were equal at the time of the member's death; or

4 (b) The member's accumulated contributions, less any amount
5 identified as owing to an obligee upon withdrawal of accumulated
6 contributions pursuant to a court order filed under section 13 of this
7 act.

8 **Sec. 32.** RCW 43.43.280 and 1987 c 215 s 2 are each amended to read
9 as follows:

10 (1) If a member dies before retirement, and has no surviving spouse
11 or children under the age of eighteen years, all contributions made by
12 the member with interest as determined by the director, less any amount
13 identified as owing to an obligee upon withdrawal of accumulated
14 contributions pursuant to a court order filed under section 13 of this
15 act, shall be paid to such person or persons as the member shall have
16 nominated by written designation duly executed and filed with the
17 department, or if there be no such designated person or persons, then
18 to the member's legal representative.

19 (2) If a member should cease to be an employee before attaining age
20 sixty for reasons other than the member's death, or retirement, the
21 individual shall thereupon cease to be a member except as provided
22 under RCW 43.43.130 (2) and (3) and, the individual may withdraw the
23 member's contributions to the retirement fund, with interest as
24 determined by the director, by making application therefor to the
25 department, except that: A member who ceases to be an employee after
26 having completed at least five years of service shall remain a member
27 during the period of the member's absence from employment for the
28 exclusive purpose only of receiving a retirement allowance to begin at
29 attainment of age sixty, however such a member may upon written notice

1 to the department elect to receive a reduced retirement allowance on or
2 after age fifty-five which allowance shall be the actuarial equivalent
3 of the sum necessary to pay regular retirement benefits as of age
4 sixty: PROVIDED, That if such member should withdraw all or part of
5 the member's accumulated contributions, the individual shall thereupon
6 cease to be a member and this subsection shall not apply.

7 NEW SECTION. **Sec. 33.** Sections 13 through 17 and 25 of this
8 act are each added to chapter 41.50 RCW.

9 NEW SECTION. **Sec. 34.** If any provision of this act or its
10 application to any person or circumstances is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 35.** The sum of seventy-eight thousand
14 forty-nine dollars, or as much thereof as may be necessary, is
15 appropriated for the biennium ending June 30, 1993, from the department
16 of retirement systems expense fund to the department of retirement
17 systems for the purposes of implementing this act.