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SECOND SUBSTITUTE SENATE BILL 5576

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State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senator Hargrove; by request of Governor Locke)

READ FIRST TIME 03/26/01.

1 AN ACT Relating to the simplification of public assistance asset  
2 tests; and amending RCW 74.04.005.

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

4 **Sec. 1.** RCW 74.04.005 and 2000 c 218 s 1 are each amended to read  
5 as follows:

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

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

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

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

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

17 (5) "Federal-aid assistance"--The specific categories of assistance  
18 for which provision is made in any federal law existing or hereafter  
19 passed by which payments are made from the federal government to the

1 state in aid or in respect to payment by the state for public  
2 assistance rendered to any category of needy persons for which  
3 provision for federal funds or aid may from time to time be made, or a  
4 federally administered needs-based program.

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

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

11 (ii) Meet one of the following conditions:

12 (A) Pregnant: PROVIDED, That need is based on the current income  
13 and resource requirements of the federal temporary assistance for needy  
14 families program; or

15 (B) Subject to chapter 165, Laws of 1992, incapacitated from  
16 gainful employment by reason of bodily or mental infirmity that will  
17 likely continue for a minimum of ninety days as determined by the  
18 department.

19 (C) Persons who are unemployable due to alcohol or drug addiction  
20 are not eligible for general assistance. Persons receiving general  
21 assistance on July 26, 1987, or becoming eligible for such assistance  
22 thereafter, due to an alcohol or drug-related incapacity, shall be  
23 referred to appropriate assessment, treatment, shelter, or supplemental  
24 security income referral services as authorized under chapter 74.50  
25 RCW. Referrals shall be made at the time of application or at the time  
26 of eligibility review. Alcoholic and drug addicted clients who are  
27 receiving general assistance on July 26, 1987, may remain on general  
28 assistance if they otherwise retain their eligibility until they are  
29 assessed for services under chapter 74.50 RCW. Subsection  
30 (6)(a)(ii)(B) of this section shall not be construed to prohibit the  
31 department from granting general assistance benefits to alcoholics and  
32 drug addicts who are incapacitated due to other physical or mental  
33 conditions that meet the eligibility criteria for the general  
34 assistance program;

35 (iii) Are citizens or aliens lawfully admitted for permanent  
36 residence or otherwise residing in the United States under color of  
37 law; and

38 (iv) Have furnished the department their social security account  
39 number. If the social security account number cannot be furnished

1 because it has not been issued or is not known, an application for a  
2 number shall be made prior to authorization of assistance, and the  
3 social security number shall be provided to the department upon  
4 receipt.

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

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

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

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

28 (i) First failure: One week;

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

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

31 (d) Persons found eligible for general assistance based on  
32 incapacity from gainful employment may, if otherwise eligible, receive  
33 general assistance pending application for federal supplemental  
34 security income benefits. Any general assistance that is subsequently  
35 duplicated by the person's receipt of supplemental security income for  
36 the same period shall be considered a debt due the state and shall by  
37 operation of law be subject to recovery through all available legal  
38 remedies.

1 (e) The department shall adopt by rule medical criteria for general  
2 assistance eligibility to ensure that eligibility decisions are  
3 consistent with statutory requirements and are based on clear,  
4 objective medical information.

5 (f) The process implementing the medical criteria shall involve  
6 consideration of opinions of the treating or consulting physicians or  
7 health care professionals regarding incapacity, and any eligibility  
8 decision which rejects uncontroverted medical opinion must set forth  
9 clear and convincing reasons for doing so.

10 (g) Recipients of general assistance based upon a finding of  
11 incapacity from gainful employment who remain otherwise eligible shall  
12 not have their benefits terminated absent a clear showing of material  
13 improvement in their medical or mental condition or specific error in  
14 the prior determination that found the recipient eligible by reason of  
15 incapacitation. Recipients of general assistance based upon pregnancy  
16 who relinquish their child for adoption, remain otherwise eligible, and  
17 are not eligible to receive benefits under the federal temporary  
18 assistance for needy families program shall not have their benefits  
19 terminated until the end of the month in which the period of six weeks  
20 following the birth of the recipient's child falls. Recipients of the  
21 federal temporary assistance for needy families program who lose their  
22 eligibility solely because of the birth and relinquishment of the  
23 qualifying child may receive general assistance through the end of the  
24 month in which the period of six weeks following the birth of the child  
25 falls.

26 (h) No person may be considered an eligible individual for general  
27 assistance with respect to any month if during that month the person:

28 (i) Is fleeing to avoid prosecution of, or to avoid custody or  
29 confinement for conviction of, a felony, or an attempt to commit a  
30 felony, under the laws of the state of Washington or the place from  
31 which the person flees; or

32 (ii) Is violating a condition of probation, community supervision,  
33 or parole imposed under federal or state law for a felony or gross  
34 misdemeanor conviction.

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

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

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

7 (10) "Resource"--Any asset, tangible or intangible, owned by or  
8 available to ~~((the))~~ an applicant ~~((at the time of application))~~ for,  
9 or recipient of, public assistance, which can be applied toward meeting  
10 the applicant's or recipient's need, either directly or by conversion  
11 into money or its equivalent. The department may by rule designate  
12 resources that an applicant or recipient may retain and not be  
13 ineligible for public assistance because of such resources. Exempt  
14 resources shall include, but are not limited to:

15 (a) A home that an applicant, recipient, or their dependents is  
16 living in, including the surrounding property;

17 (b) Household furnishings and personal effects;

18 (c) A motor vehicle, other than a motor home(~~(, used and useful~~  
19 ~~having an equity value not to exceed five thousand dollars))~~);

20 (d) A motor vehicle necessary to transport a physically disabled  
21 household member. This exclusion is limited to one vehicle per  
22 physically disabled person;

23 (e) All other resources, including any excess of values exempted,  
24 not to exceed ~~((one))~~ four thousand dollars or other limit as set by  
25 the department, for applicants and recipients of assistance to be  
26 consistent with limitations on resources and exemptions necessary for  
27 federal aid assistance(~~(. The department shall also allow recipients~~  
28 ~~of temporary assistance for needy families to exempt savings accounts~~  
29 ~~with combined balances of up to an additional three thousand dollars))~~);

30 (f) Applicants for or recipients of general assistance shall have  
31 their eligibility based on resource limitations consistent with the  
32 temporary assistance for needy families program rules adopted by the  
33 department; and

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

1 public assistance, or to aid in rehabilitating the applicant or  
2 recipient or a dependent of the applicant or recipient; and (ii) the  
3 department may provide grant assistance for a period not to exceed nine  
4 months from the date the agreement is signed pursuant to this section  
5 to persons who are otherwise ineligible because of excess real property  
6 owned by such persons when they are making a good faith effort to  
7 dispose of that property: PROVIDED, That:

8 (A) The applicant or recipient signs an agreement to repay the  
9 lesser of the amount of aid received or the net proceeds of such sale;

10 (B) If the owner of the excess property ceases to make good faith  
11 efforts to sell the property, the entire amount of assistance may  
12 become an overpayment and a debt due the state and may be recovered  
13 pursuant to RCW 43.20B.630;

14 (C) Applicants and recipients are advised of their right to a fair  
15 hearing and afforded the opportunity to challenge a decision that good  
16 faith efforts to sell have ceased, prior to assessment of an  
17 overpayment under this section; and

18 (D) At the time assistance is authorized, the department files a  
19 lien without a sum certain on the specific property.

20 (11) "Income"--(a) (~~All appreciable gains in real or personal~~  
21 ~~property (cash or kind) or other assets~~) Salary, wages, interest,  
22 dividends, and other earnings, and unearned income as defined for the  
23 purposes of federal assistance programs, which are received by ((or  
24 ~~become available for use and enjoyment by))~~ an applicant or recipient  
25 during the month of application or after applying for or receiving  
26 public assistance. The department may by rule (~~and regulation~~)  
27 exempt income received by an applicant for or recipient of public  
28 assistance which can be used by him or her to decrease his or her need  
29 for public assistance or to aid in rehabilitating him or her or his or  
30 her dependents(~~(, but such exemption shall not, unless otherwise~~  
31 ~~provided in this title, exceed the exemptions of resources granted~~  
32 ~~under this chapter to an applicant for public assistance))~~). In  
33 addition, for cash assistance the department may disregard income  
34 pursuant to RCW 74.08A.230 and 74.12.350.

35 (b) If, under applicable federal requirements, the state has the  
36 option of considering property in the form of lump sum compensatory  
37 awards or related settlements received by an applicant or recipient as  
38 income or as a resource, the department shall consider such property to  
39 be a resource.

1 (12) "Need"--The difference between the applicant's or recipient's  
2 standards of assistance for himself or herself and the dependent  
3 members of his or her family, as measured by the standards of the  
4 department, and value of all nonexempt resources and nonexempt income  
5 received by or available to the applicant or recipient and the  
6 dependent members of his or her family.

7 (13) For purposes of determining eligibility for public assistance  
8 and participation levels in the cost of medical care, the department  
9 shall exempt restitution payments made to people of Japanese and Aleut  
10 ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian  
11 and Pribilof Island Restitution Act passed by congress, P.L. 100-383,  
12 including all income and resources derived therefrom.

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

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