

SENATE BILL 5281

State of Washington

52nd Legislature

1991 Regular Session

By Senator Cantu.

Read first time January 28, 1991. Referred to Committee on Ways & Means.

1 AN ACT Relating to the financial partnership plan for services
2 provided and funded by the department of social and health services;
3 amending RCW 74.20A.030, 13.32A.175, 13.34.160, and 13.40.220; adding
4 a new section to chapter 69.54 RCW; adding a new section to chapter
5 70.01 RCW; adding a new section to chapter 71.05 RCW; adding a new
6 section to chapter 71.24 RCW; adding a new section to chapter 71.34
7 RCW; adding a new section to chapter 72.33 RCW; adding a new section to
8 chapter 74.26 RCW; adding new sections to chapter 43.20B RCW; creating
9 a new section; repealing RCW 74.26.060; and providing an effective
10 date.

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

12 NEW SECTION. **Sec. 1.** Sections 1 through 5 of this act may be
13 known and cited as the department of social and health services
14 financial partnership plan.

1 NEW SECTION. **Sec. 2.** (1) The legislature recognizes the
2 mission of the department of social and health services to help
3 individuals and families who are unable to fully provide for their
4 primary basic needs; to protect the general public, especially those
5 individuals unable to protect themselves; and to provide rehabilitative
6 and habilitative services to individuals who are mentally,
7 developmentally, or physically disabled. The legislature also
8 recognizes the responsibility and ability of some individuals to
9 participate financially with the department in the provision of these
10 services. The legislature, therefore, declares it to be public policy
11 that:

12 (a) It is the responsibility of Washington state residents to
13 provide for themselves, their spouses, and their unmarried minor
14 children to the best of their ability;

15 (b) The department shall continue to provide services and encourage
16 and assist families and individuals to meet the primary responsibility
17 of providing for themselves, their spouses, and their unmarried minor
18 children;

19 (c) When the department does assist individuals and families in
20 meeting their primary responsibilities, the department should recover
21 the costs of the services based upon the ability of the individual, the
22 individual's estate, or family, to pay. Recovery of costs is not
23 intended to result in the impoverishment of the individual or family,
24 or in the significant impairment of their ability to discharge their
25 primary responsibilities; and

26 (d) Funds collected under this act shall be returned to the
27 departmental program for which financial participation was assessed.

28 (2) In order to implement this public policy, the department shall:

1 (a) Apply the financial participation criteria in section 4 of this
2 act uniformly across all existing and new programs unless a program is
3 specifically exempted in this act;

4 (b) Investigate the financial condition of persons potentially
5 liable for the costs of services provided in order to make a
6 determination of that person's financial participation based on ability
7 to pay;

8 (c) Provide for a one-time one hundred dollar exemption per family
9 for services to encourage early access to services; and

10 (d) Assess on the responsible party or parties the amount of
11 financial participation based on ability to pay and recover that
12 participation.

13 (3) The department shall not:

14 (a) Assess or recover any financial participation in excess of the
15 cost of the service;

16 (b) Deny services to an individual, including a minor, solely
17 because of:

18 (i) Inability to pay;

19 (ii) The existence of a previously unpaid obligation to the
20 department; or

21 (iii) The refusal of a responsible party to pay for services
22 previously provided to a minor; or

23 (c) Assess any financial participation for the adoption costs of
24 special needs children.

25 (4) The secretary of the department may waive liability for
26 financial participation if, in the secretary's discretion, the assessed
27 liability would not be in the best interest of the state.

28 (5) Nothing in this chapter is intended to prohibit the department
29 or a provider of services for the department from accepting voluntary
30 donations of monetary or other gifts.

1 NEW SECTION. **Sec. 3.** As used in sections 1 through 5 of this
2 act, the following terms have the meanings indicated unless the context
3 clearly requires otherwise.

4 (1) "Department" means the department of social and health
5 services.

6 (2) "Family" means an individual, his or her spouse, and his or her
7 unmarried minor children, or any combination thereof.

8 (3) "Financial eligibility service" means any service provided or
9 funded by the department that is made available to an individual or
10 family based on a preeligibility financial means test.

11 (4) "Gross income" means the gross amount of all income declared
12 for income tax purposes.

13 (5) "Minor" means an unmarried person under the age of eighteen.

14 (6) "Protective service" means any service provided or funded by
15 the department in response to an allegation of abuse, neglect, or
16 domestic violence.

17 (7) "Recipient" means any person receiving any nonfinancial
18 eligibility service which is provided or funded by the department and
19 includes multiservice users.

20 (8) "Residential service" means any service provided directly, or
21 funded, by the department that provides food and shelter, in addition
22 to other services, on a twenty-four hour basis.

23 (9) "Responsible party" means an individual, his or her spouse, or
24 the parents of a minor, receiving services provided or funded by the
25 department. A representative payee, fiduciary, or legal guardian of
26 the recipient is a responsible party only to the extent of benefits
27 received, assets of the estate, or both.

28 NEW SECTION. **Sec. 4.** (1) A recipient, other responsible
29 party, or both, are liable for the cost of any nonfinancial eligibility

1 service provided or funded by the department whether the services are
2 provided on a voluntary or involuntary basis. Liability is limited to
3 the ability of the recipient, the responsible party, or both, to pay.

4 (2) A determination of financial participation shall be made
5 annually by the department based on ability to pay.

6 (3) The amount of financial participation shall not exceed the cost
7 of the service provided including the costs of collection.

8 (4) Insurance benefits for which the recipient, or responsible
9 party on behalf of the recipient, is eligible or potentially eligible
10 shall be applied to the actual costs of services provided by or for the
11 department to the full extent of the coverage prior to the calculation
12 of ability to pay as provided in this section. For the purpose of this
13 section, insurance benefits include private or group policies and
14 government entitlement programs that provide coverage for the service
15 furnished or funded by the department.

16 (5) The maximum amount of annual financial participation for a
17 family for services received shall be determined by the following
18 formula:

19 Gross income minus fifty percent of the state median income as
20 adjusted for family size, with the result multiplied by a
21 percentage which is based on a sliding scale. The sliding
22 scale is as follows:

23 (a) For annual gross incomes less than sixteen thousand
24 dollars, ten percent;

25 (b) For annual gross incomes of sixteen thousand dollars or
26 more, but less than twenty-one thousand dollars, twelve
27 percent;

28 (c) For annual gross incomes of twenty-one thousand dollars or
29 more, but less than twenty-six thousand dollars, fourteen
30 percent;

1 (d) For annual gross incomes of twenty-six thousand dollars or
2 more, but less than thirty-one thousand dollars, sixteen
3 percent;

4 (e) For annual gross incomes of thirty-one thousand dollars or
5 more, but less than thirty-six thousand dollars, eighteen
6 percent; and

7 (f) For annual gross incomes of thirty-six thousand dollars or
8 more, twenty percent.

9 (6) Family size for this purpose is that number of exemptions for
10 the recipient's family allowed by federal income tax regulations.

11 (7) For families who use services over a long period, the amount of
12 state median income protected under the formula should be adjusted for
13 each year the individual or family participates in the cost of care.
14 The amount of state median income protected will increase by three
15 percent each year for the first five years, two percent each year the
16 second five years, and one percent each year the remaining years.

17 (8) A recipient of residential services who constitutes a family
18 size of one shall be expected to participate to the full extent of
19 gross earned and unearned annual income less a reasonable amount for
20 personal expenses, to secure or to retain community housing, or both.

21 (9) The department shall establish and maintain a central system
22 for determining and assessing ability to pay, for accounting, and for
23 collecting financial participation.

24 (10) The department shall adopt rules establishing criteria for
25 determining ability to pay, issuing notices of financial liability and
26 notices of delinquency, and securing repayment.

27 NEW SECTION. **Sec. 5.** Financial participation is due and
28 payable within thirty days after billing. The department shall adopt
29 rules establishing criteria for declaring an obligation delinquent and

1 for recovering delinquent obligations. If the responsible party fails
2 to voluntarily pay the determined financial participation within that
3 time without adequate justification, the account becomes delinquent and
4 a notice of delinquency will be served. If the responsible party fails
5 to adequately respond to the notice of delinquency, the department may
6 issue an order to withhold and deliver, or pursue its other remedies.

7 **Sec. 6.** RCW 74.20A.030 and 1989 c 360 s 14 are each amended to
8 read as follows:

9 (1) The department shall be subrogated to the right of any
10 dependent child or children or person having the care, custody, and
11 control of said child or children, if public assistance money is paid
12 to or for the benefit of the child, to prosecute or maintain any
13 support action or execute any administrative remedy existing under the
14 laws of the state of Washington to obtain reimbursement of moneys
15 expended, based on the support obligation of the responsible parent
16 established by a superior court order or RCW 74.20A.055. Distribution
17 of any support moneys shall be made in accordance with 42 U.S.C. Sec.
18 657.

19 (2) The department may initiate, continue, maintain, or execute an
20 action to establish, enforce, and collect a support obligation,
21 including establishing paternity and performing related services, under
22 this chapter and chapter 74.20 RCW, or through the attorney general or
23 prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, 26.23,
24 or 26.26 RCW or other appropriate statutes or the common law of this
25 state, for so long as and under such conditions as the department may
26 establish by regulation.

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

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

5 **Sec. 7.** RCW 13.32A.175 and 1987 c 435 s 13 are each amended to
6 read as follows:

7 In any proceeding in which the court approves an alternative
8 residential placement, (~~the court shall inquire into the ability of~~
9 ~~parents to contribute to the child's support. If the court finds that~~
10 ~~the parents are able to contribute to the support of the child, the~~
11 ~~court shall order them to make such support payments as the court deems~~
12 ~~equitable. The court may enforce such an order by execution or in any~~
13 ~~way in which a court of equity may enforce its orders. However,~~
14 ~~payments shall not be required of a parent who has both opposed the~~
15 ~~placement and continuously sought reconciliation with, and the return~~
16 ~~of, the child.)) the parent and any other responsible party as defined
17 in section 3 of this act shall be liable for the cost of those services
18 based on ability to pay. The department shall determine ability to pay
19 and the required financial participation in the manner provided in
20 section 4 of this act, and shall recover that required participation
21 under this chapter. All orders entered in a proceeding approving
22 alternative residential placement shall be in compliance with the
23 provisions of RCW 26.23.050.~~

24 **Sec. 8.** RCW 13.34.160 and 1987 c 435 s 14 are each amended to read
25 as follows:

26 In any case in which the court shall find the child dependent, (~~it~~
27 ~~may in the same or subsequent proceeding upon the parent or parents,~~
28 ~~guardian, or other person having custody of said child, being duly~~

1 ~~summoned or voluntarily appearing, proceed to inquire into the ability~~
2 ~~of such persons or person able to support the child or contribute~~
3 ~~thereto, the court may enter such order or decree as shall be according~~
4 ~~to equity in the premises, and may enforce the same by execution, or in~~
5 ~~any way in which a court of equity may enforce its decrees)) the parent~~
6 ~~and any other responsible party as defined in section 3 of this act~~
7 ~~shall be liable for the cost of those services based on ability to pay.~~
8 ~~The department shall determine ability to pay and the required~~
9 ~~financial participation in the manner provided in section 4 of this~~
10 ~~act, and shall recover that required participation under this chapter.~~
11 All child support orders entered pursuant to this chapter shall be in
12 compliance with the provisions of RCW 26.23.050.

13 **Sec. 9.** RCW 13.40.220 and 1977 ex.s. c 291 s 76 are each amended
14 to read as follows:

15 Whenever legal custody of a child is vested in someone other than
16 ~~((his or her)) the child's parents, ((after due notice to the parents~~
17 ~~or other persons legally obligated to care for and support the child,~~
18 ~~and after a hearing, the court may order and decree that the parent or~~
19 ~~other legally obligated person shall pay in such a manner as the court~~
20 ~~may direct a reasonable sum representing in whole or in part the costs~~
21 ~~of support, treatment, and confinement of the child after the decree is~~
22 ~~entered. If the parent or other legally obligated person wilfully~~
23 ~~fails or refuses to pay such sum, the court may proceed against such~~
24 ~~person for contempt.)) the parent and any other responsible party as~~
25 ~~defined in section 3 of this act shall be liable for the cost of those~~
26 ~~services based on ability to pay. The department shall determine~~
27 ~~ability to pay and the required financial participation in the manner~~
28 ~~provided in section 4 of this act, and shall recover that required~~
29 ~~participation under this chapter.~~

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 69.54 RCW
2 to read as follows:

3 Except as provided in RCW 69.54.060, any recipient of services
4 provided or funded by the department under this chapter and any other
5 responsible party as defined in section 3 of this act, shall be liable
6 for the cost of those services based on ability to pay. The department
7 shall determine ability to pay and the required financial participation
8 in the manner provided in section 4 of this act, and shall recover that
9 required participation under this chapter.

10 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.01 RCW
11 to read as follows:

12 Any recipient of services provided or funded by the department
13 under this chapter and any other responsible party as defined in
14 section 3 of this act, shall be liable for the cost of those services
15 based on ability to pay. The department shall determine ability to pay
16 and the required financial participation in the manner provided in
17 section 4 of this act, and shall recover that required participation
18 under this chapter.

19 NEW SECTION. **Sec. 12.** A new section is added to chapter 71.05 RCW
20 to read as follows:

21 Any recipient of services provided or funded by the department
22 under this chapter and any other responsible party as defined in
23 section 3 of this act, shall be liable for the cost of those services
24 based on ability to pay. The department shall determine ability to pay
25 and the required financial participation in the manner provided in
26 section 4 of this act, and shall recover that required participation
27 under this chapter.

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.24 RCW
2 to read as follows:

3 Any recipient of services provided or funded by the department
4 under this chapter and any other responsible party as defined in
5 section 3 of this act, shall be liable for the cost of those services
6 based on ability to pay. The department shall determine ability to pay
7 and the required financial participation in the manner provided in
8 section 4 of this act, and shall recover that required participation
9 under this chapter.

10 NEW SECTION. **Sec. 14.** A new section is added to chapter 72.33 RCW
11 to read as follows:

12 Any recipient of services provided or funded by the department
13 under this chapter and any other responsible party as defined in
14 section 3 of this act, shall be liable for the cost of those services
15 based on ability to pay. The department shall determine ability to pay
16 and the required financial participation in the manner provided in
17 section 4 of this act, and shall recover that required participation
18 under this chapter.

19 NEW SECTION. **Sec. 15.** A new section is added to chapter 71.34 RCW
20 to read as follows:

21 Any recipient of services provided or funded by the department
22 under this chapter and any other responsible party as defined in
23 section 3 of this act, shall be liable for the cost of those services
24 based on ability to pay. The department shall determine ability to pay
25 and the required financial participation in the manner provided in
26 section 4 of this act, and shall recover that required participation
27 under this chapter.

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 74.26 RCW
2 to read as follows:

3 Any recipient of services provided or funded by the department
4 under this chapter and any other responsible party as defined in
5 section 3 of this act, shall be liable for the cost of those services
6 based on ability to pay. The department shall determine ability to pay
7 and the required financial participation in the manner provided in
8 section 4 of this act, and shall recover that required participation
9 under this chapter.

10 NEW SECTION. **Sec. 17.** Sections 1 through 5 of this act shall
11 be added to chapter 43.20B RCW and codified with the subchapter heading
12 of "department of social and health services financial partnership
13 plan."

14 NEW SECTION. **Sec. 18.** The enactment of this act shall not have
15 the effect of terminating or in any way modifying any liability, civil
16 or criminal, which is already in existence on the effective date of
17 this act.

18 NEW SECTION. **Sec. 19.** RCW 74.26.060 and 1980 c 106 s 6 are each
19 repealed.

20 NEW SECTION. **Sec. 20.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 21.** This act shall take effect, and the
25 secretary of social and health services shall have an implementation

1 plan in place, on October 1, 1991. The secretary may immediately take
2 such steps as are necessary to ensure that this act is implemented
3 according to that plan on its effective date.