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ENGROSSED SENATE BILL 5959

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators McDonald, Hayner and West.

Read first time April 15, 1991. Referred to Committee on Ways & Means.

1            AN ACT Relating to public assistance; amending RCW 74.04.005;  
2    repealing RCW 74.04.660; providing an effective date; and declaring an  
3    emergency.

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

5            **Sec. 1.** RCW 74.04.005 and 1991 c 126 s 1 are each amended to read  
6    as follows:

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

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

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

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

1 (4) "Director" or "secretary" means the secretary of social and  
2 health services.

3 (5) "Federal-aid assistance"--The specific categories of assistance  
4 for which provision is made in any federal law existing or hereafter  
5 passed by which payments are made from the federal government to the  
6 state in aid or in respect to payment by the state for public  
7 assistance rendered to any category of needy persons for which  
8 provision for federal funds or aid may from time to time be made, or a  
9 federally administered needs-based program.

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

11 (i) Are not eligible to receive federal-aid assistance, other than  
12 food stamps and medical assistance; however, an individual who refuses  
13 or fails to cooperate in obtaining federal-aid assistance, without good  
14 cause, is not eligible for general assistance;

15 (ii) Are either:

16 (A) Pregnant: PROVIDED, That need is based on the current income  
17 and resource requirements of the federal aid to families with dependent  
18 children program: PROVIDED FURTHER, That during any period in which an  
19 aid for dependent children employable program is not in operation, only  
20 those pregnant women who are categorically eligible for medicaid are  
21 eligible for general assistance; or

22 (B) Incapacitated from gainful employment by reason of bodily or  
23 mental infirmity that will likely continue for a minimum of ((~~sixty~~)  
24 ninety days as determined by the department. Persons who are  
25 unemployable due to alcohol or drug addiction are not eligible for  
26 general assistance. Persons receiving general assistance on July 26,  
27 1987, or becoming eligible for such assistance thereafter, due to an  
28 alcohol or drug-related incapacity, shall be referred to appropriate  
29 assessment, treatment, shelter, or supplemental security income  
30 referral services as authorized under chapter 74.50 RCW. Referrals

1 shall be made at the time of application or at the time of eligibility  
2 review. Alcoholic and drug addicted clients who are receiving general  
3 assistance on July 26, 1987, may remain on general assistance if they  
4 otherwise retain their eligibility until they are assessed for services  
5 under chapter 74.50 RCW. This subsection (6)(a)(ii)(B) shall not be  
6 construed to prohibit the department from granting general assistance  
7 benefits to alcoholics and drug addicts who are incapacitated due to  
8 other physical or mental conditions that meet the eligibility criteria  
9 for the general assistance program;

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

13 (iv) Have furnished the department their social security account  
14 number. If the social security account number cannot be furnished  
15 because it has not been issued or is not known, an application for a  
16 number shall be made prior to authorization of assistance, and the  
17 social security number shall be provided to the department upon  
18 receipt.

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

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

25 (ii) To the extent authorized by the legislature in the biennial  
26 appropriations act, to recipients of aid to families with dependent  
27 children whose needs are not being met because of a temporary reduction  
28 in monthly income below the entitled benefit payment level caused by  
29 loss or reduction of wages or unemployment compensation benefits or  
30 some other unforeseen circumstances. The amount of general assistance

1 authorized shall not exceed the difference between the entitled benefit  
2 payment level and the amount of income actually received.

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

12 (i) First failure: One week;

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

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

15 (d) The department shall adopt by rule medical criteria for general  
16 assistance eligibility to ensure that eligibility decisions are  
17 consistent with statutory requirements and are based on clear,  
18 objective medical information.

19 (e) The process implementing the medical criteria shall involve  
20 consideration of opinions of the treating or consulting physicians or  
21 health care professionals regarding incapacity, and any eligibility  
22 decision which rejects uncontroverted medical opinion must set forth  
23 clear and convincing reasons for doing so.

24 (f) Recipients of general assistance based upon a finding of  
25 incapacity from gainful employment who remain otherwise eligible shall  
26 not have their benefits terminated absent a clear showing of material  
27 improvement in their medical or mental condition or specific error in  
28 the prior determination that found the recipient eligible by reason of  
29 incapacitation. Recipients of general assistance based upon pregnancy  
30 who relinquish their child for adoption, remain otherwise eligible, and

1 are not eligible to receive benefits under the federal aid to families  
2 with dependent children program shall not have their benefits  
3 terminated until the end of the month in which the period of six weeks  
4 following the birth of the recipient's child falls. Recipients of the  
5 federal aid to families with dependent children program who lose their  
6 eligibility solely because of the birth and relinquishment of the  
7 qualifying child may receive general assistance through the end of the  
8 month in which the period of six weeks following the birth of the child  
9 falls.

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

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

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

19 (10) "Resource"--Any asset, tangible or intangible, owned by or  
20 available to the applicant at the time of application, which can be  
21 applied toward meeting the applicant's need, either directly or by  
22 conversion into money or its equivalent: PROVIDED, That an applicant  
23 may retain the following described resources and not be ineligible for  
24 public assistance because of such resources.

25 (a) A home, which is defined as real property owned and used by an  
26 applicant or recipient as a place of residence, together with a  
27 reasonable amount of property surrounding and contiguous thereto, which  
28 is used by and useful to the applicant. Whenever a recipient shall  
29 cease to use such property for residential purposes, either for himself  
30 or his dependents, the property shall be considered as a resource which

1 can be made available to meet need, and if the recipient or his  
2 dependents absent themselves from the home for a period of ninety  
3 consecutive days such absence, unless due to hospitalization or health  
4 reasons or a natural disaster, shall raise a rebuttable presumption of  
5 abandonment: PROVIDED, That if in the opinion of three physicians the  
6 recipient will be unable to return to the home during his lifetime, and  
7 the home is not occupied by a spouse or dependent children or disabled  
8 sons or daughters, such property shall be considered as a resource  
9 which can be made available to meet need.

10 (b) Household furnishings and personal effects and other personal  
11 property having great sentimental value to the applicant or recipient,  
12 as limited by the department consistent with limitations on resources  
13 and exemptions for federal aid assistance.

14 (c) A motor vehicle, other than a motor home, used and useful  
15 having an equity value not to exceed one thousand five hundred dollars.

16 (d) All other resources, including any excess of values exempted,  
17 not to exceed one thousand dollars or other limit as set by the  
18 department, to be consistent with limitations on resources and  
19 exemptions necessary for federal aid assistance.

20 (e) Applicants for or recipients of general assistance may retain  
21 the following described resources in addition to exemption for a motor  
22 vehicle or home and not be ineligible for public assistance because of  
23 such resources:

24 (i) Household furnishings, personal effects, and other personal  
25 property having great sentimental value to the applicant or recipient;

26 (ii) Term and burial insurance for use of the applicant or  
27 recipient;

28 (iii) Life insurance having a cash surrender value not exceeding  
29 one thousand five hundred dollars; and

1 (iv) Cash, marketable securities, and any excess of values above  
2 one thousand five hundred dollars equity in a vehicle and above one  
3 thousand five hundred dollars in cash surrender value of life  
4 insurance, not exceeding one thousand five hundred dollars for a single  
5 person or two thousand two hundred fifty dollars for a family unit of  
6 two or more. The one thousand dollar limit in subsection (10)(d) of  
7 this section does not apply to recipients of or applicants for general  
8 assistance.

9 (f) If an applicant for or recipient of public assistance possesses  
10 property and belongings in excess of the ceiling value, such value  
11 shall be used in determining the need of the applicant or recipient,  
12 except that: (i) The department may exempt resources or income when  
13 the income and resources are determined necessary to the applicant's or  
14 recipient's restoration to independence, to decrease the need for  
15 public assistance, or to aid in rehabilitating the applicant or  
16 recipient or a dependent of the applicant or recipient; and (ii) the  
17 department may provide grant assistance for a period not to exceed nine  
18 months from the date the agreement is signed pursuant to this section  
19 to persons who are otherwise ineligible because of excess real property  
20 owned by such persons when they are making a good faith effort to  
21 dispose of that property: PROVIDED, That:

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

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

28 (C) Applicants and recipients are advised of their right to a fair  
29 hearing and afforded the opportunity to challenge a decision that good

1 faith efforts to sell have ceased, prior to assessment of an  
2 overpayment under this section; and

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

5 (11) "Income"--(a) All appreciable gains in real or personal  
6 property (cash or kind) or other assets, which are received by or  
7 become available for use and enjoyment by an applicant or recipient  
8 during the month of application or after applying for or receiving  
9 public assistance. The department may by rule and regulation exempt  
10 income received by an applicant for or recipient of public assistance  
11 which can be used by him to decrease his need for public assistance or  
12 to aid in rehabilitating him or his dependents, but such exemption  
13 shall not, unless otherwise provided in this title, exceed the  
14 exemptions of resources granted under this chapter to an applicant for  
15 public assistance. In determining the amount of assistance to which an  
16 applicant or recipient of aid to families with dependent children is  
17 entitled, the department is hereby authorized to disregard as a  
18 resource or income the earned income exemptions consistent with federal  
19 requirements. The department may permit the above exemption of  
20 earnings of a child to be retained by such child to cover the cost of  
21 special future identifiable needs even though the total exceeds the  
22 exemptions or resources granted to applicants and recipients of public  
23 assistance, but consistent with federal requirements. In formulating  
24 rules and regulations pursuant to this chapter, the department shall  
25 define income and resources and the availability thereof, consistent  
26 with federal requirements. All resources and income not specifically  
27 exempted, and any income or other economic benefit derived from the use  
28 of, or appreciation in value of, exempt resources, shall be considered  
29 in determining the need of an applicant or recipient of public  
30 assistance.



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

6 (12) "Need"--The difference between the applicant's or recipient's  
7 standards of assistance for himself and the dependent members of his  
8 family, as measured by the standards of the department, and value of  
9 all nonexempt resources and nonexempt income received by or available  
10 to the applicant or recipient and the dependent members of his family.

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

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

22 NEW SECTION. **Sec. 2.** RCW 74.04.660 and 1989 c 11 s 26, 1985  
23 c 335 s 3, & 1981 1st ex.s. c 6 s 6 are each repealed.

24 NEW SECTION. **Sec. 3.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

1        NEW SECTION.    **Sec. 4.**        This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and shall take  
4 effect July 1, 1991.