

SENATE BILL REPORT

SB 5403

As Reported by Senate Committee On:
Human Services & Corrections, February 20, 2013

Title: An act relating to the enforcement powers of the office of financial recovery.

Brief Description: Concerning the enforcement powers of the office of financial recovery.

Sponsors: Senators Carrell and Darneille; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Human Services & Corrections: 2/20/13 [DPS, DNP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5403 be substituted therefor, and the substitute bill do pass.

Signed by Senators Carrell, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove and Harper.

Minority Report: Do not pass.

Signed by Senator Padden.

Staff: Shani Bauer (786-7468)

Background: The Office of Financial Recovery (OFR) within the Department of Social and Health Services (DSHS) has specific authority to provide certain services. It does not have general authority to collect debts due DSHS. OFR is statutorily responsible for the following activities:

- the billing and collections for the cost of care of individuals living at state-operated Residential Habilitation Centers;
- the recovery from the estates of decedents of correctly paid long-term care services, Medicaid assistance, and related medical charges;
- the recovery of debts due DSHS from vendors who provide services to DSHS or its clients. The debts include vendor overpayments, nursing home cost settlements, civil fines, and certification fees;
- the collection of amounts due the Juvenile Rehabilitation Administration (JRA) for the cost of the juvenile's support, treatment, and confinement in JRA facilities;

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- the management of the Supplemental Security Income interim assistance reimbursement program;
- the recovery of the cost of patient care at the state psychiatric hospitals;
- the management of billing and accounting for the Children's Health Insurance Program and the Healthcare for Workers with Disabilities and Medical Extension Benefits programs;
- the recoupment of Worker's Compensation Time-Loss payments; and
- the recovery of financial, medical, social services, and food assistance overpayments from DSHS clients.

The Child Welfare Training and Advancement Program (CWTAP) is administered in partnership with DSHS and Eastern Washington University and the University of Washington. Under CWTAP, students accepted into the Master's in Social Work program at either university can receive a stipend for tuition and specialized practicum placement within DSHS. Students participating in CWTAP must agree to seek employment with DSHS after graduating. If selected, CWTAP students must agree, by virtue of a written agreement, to work for DSHS for a period roughly commensurate with the amount of time they received educational assistance. Although CWTAP students have signed agreements to work for DSHS in exchange for receiving a tuition stipend, some students have not worked for DSHS upon graduating and have not paid back the tuition DSHS provided for them. OFR has no means, other than filing a lawsuit, by which to collect the debt owed.

Summary of Bill (Recommended Substitute): OFR may establish and recover financial assistance payments made to persons under CWTAP who subsequently fail to comply with the terms of their agreement with DSHS. OFR may also establish and recover any amounts owing under a CWTAP participant agreement to repay DSHS for financial assistance the participant receives. If the CWTAP participant is currently employed by DSHS, the amounts owing can be recovered in the same way as a salary overpayment. If the person is not employed by DSHS, DSHS can recover the payments through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other legal action to satisfy the debt owed.

OFR may recover overpayments to current or former employees. An employee overpayment is an obligation owed by a current or former state employee to reimburse DSHS for overpayment of salary or nonsalary payments made to employees when the payments are later determined to have been made in error, personal use of state resources, or payments made to a third party by DSHS on behalf of an employee. OFR may establish overpayments for current employees and recover those by withholding monies from future paychecks. OFR may establish overpayments for former employees and recover those through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other legal action to satisfy the debt owed. OFR may, at the Secretary's discretion, secure the repayment of any outstanding employee overpayment, plus interest, by filing a lien against the debtor's property or by requiring the posting of a bond, assignment of deposit, or some other form of security. Liens bind the affected property for ten years after the lien has been recorded or six years after all good faith disputes have been resolved, whichever is later. Any action to enforce the employee overpayment debt, or a fine or civil penalty assessed by the Department of Early Learning (DEL), must be commenced within six years from the date of the notice to the debtor, unless a lien has already been recorded, in which case the action must be commenced within ten years from the date of the notice of the debt.

After DEL has imposed a fine or civil penalty against a child care provider or facility, OFR may collect the final debt on behalf of DEL. OFR may enforce the debt through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other legal action to satisfy the debt owed.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Language in the definition of CWTAP is adjusted to recognize that a student may fulfill their employment requirement by working for DSHS or another entity approved by DSHS. Provisions requiring a salary overpayment to be automatically deducted from an employee's wage is removed. Specific authorization for DSHS to adopt rules is removed as DSHS already has that authority.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The bill is designed to accomplish three things: (1) to establish standard enforcement authority in RCW 43.20B for OFR to collect DEL fines and overpayments and tuition owed pursuant to the CWTAP program; (2) to correct problems identified by the State Auditor's Office in a 2010 audit in which it found that DSHS does not consistently identify, track, or pursue payroll overpayments which results in loss of public funds; and (3) grant OFR limited but specific rulemaking authority to develop rules to use its new authority. As of August 2012, the following amounts were owed: fines and penalties: \$570,000; employee overpayments: \$267,000; and CWTAP: \$2,167,000.

OTHER: This bill would seem to supersede the current collective bargaining agreement (CBA) which covers the collection of overpayments from employees. The agreement allows the employee to choose how to repay the overpayment, so while the Washington Federation of State Employees (WFSE) conceptually agrees with the premise of the bill, the content of the bill needs to agree with the CBA.

Persons Testifying: PRO: David Stillman, Brice Montgomery, DSHS.

OTHER: Alia Griffing, WFSE.