

RCW 7.68.120 Reimbursement—Restitution to victim—Notice—Fees—Order to withhold and deliver—Limitation. Any person who has committed a criminal act which resulted in injury compensated under this chapter may be required to make reimbursement to the department as provided in this section.

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the department by any person found to have committed the criminal act in either a civil or criminal court proceeding in which he or she is a party. If there has been a superior or district court order, or an order of the indeterminate sentence review board or the department of social and health services, as provided in subsection (4) of this section, the debt shall be limited to the amount provided for in the order. A court order shall prevail over any other order. If, in a criminal proceeding, a person has been found to have committed the criminal act that results in the payment of benefits to a victim and the court in the criminal proceeding does not enter a restitution order, the department shall, within one year of imposition of the sentence, petition the court for entry of a restitution order.

(2) (a) The department may issue a notice of debt due and owing to the person found to have committed the criminal act, and shall serve the notice on the person in the manner prescribed for the service of a summons in a civil action or by certified mail. The department shall file the notice of debt due and owing along with proof of service with the superior court of the county where the criminal act took place. The person served the notice shall have thirty days from the date of service to respond to the notice by requesting a hearing in superior court.

(b) If a person served a notice of debt due and owing fails to respond within thirty days, the department may seek a default judgment. Upon entry of a judgment in an action brought pursuant to (a) of this subsection, the clerk shall enter the order in the execution docket. The filing fee shall be added to the amount of the debt indicated in the judgment. The judgment shall become a lien upon all real and personal property of the person named in the judgment as in other civil cases. The judgment shall be subject to execution, garnishment, or other procedures for collection of a judgment.

(3) (a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a judgment for a debt due and owing has been entered under subsection (2) of this section. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately

withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150.

(4) Upon being placed on work release pursuant to chapter 72.65 RCW, or upon release from custody of a state correctional facility on parole, any convicted person who owes a debt to the department as a consequence of a criminal act may have the schedule or amount of payments therefor set as a condition of work release or parole by the department of social and health services or indeterminate sentence review board respectively, subject to modification based on change of circumstances. Such action shall be binding on the department.

(5) Any requirement for payment due and owing the department by a convicted person under this chapter may be waived, modified downward or otherwise adjusted by the department in the interest of justice, the well-being of the victim, and the rehabilitation of the individual.

(6) The department shall not seek payment for a debt due and owing if such action would deprive the victim of the crime giving rise to the claim under this chapter of the benefit of any property to which the victim would be entitled under RCW 26.16.030. [1995 c 33 § 1; 1973 1st ex.s. c 122 § 12.]