

FINAL BILL REPORT

ESHB 1760

C 426 L 93
Synopsis as Enacted

Brief Description: Regulating obligations for child support and spousal maintenance.

By House Committee on Judiciary (originally sponsored by Representatives H. Myers, Brough, Appelwick, Miller, Johanson, Chappell, Ludwig, Scott and Mastin).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: A variety of provisions exist to enforce support obligations ordered for a dependent child or for a former spouse. One method to enforce child support is a "wage assignment order" which directs the obligor's employer to deduct the child support ordered from the obligor's wages. Unlike a garnishment, a wage assignment order is an ongoing order with which the employer must comply until directed otherwise. Spousal maintenance may be collected through a wage assignment order only if support for a dependent child is also due.

Employers must make child support payments to the Washington State support registry unless the court orders otherwise. Obligors may make spousal maintenance payments directly to the former spouse.

An employer served with a mandatory wage assignment order must hold a wage assignment order for one year after the employee has left employment. The wage assignment order remains in effect during that time. If the employee returns to employment within the year, the employer must continue to deduct support pursuant to the wage assignment order.

Wage assignment orders for child support have priority over other garnishments or wage assignments against the obligor's earnings, except other child support garnishments or wage assignment orders. If more than one child support wage assignment order is in effect, the employer must divide the earnings among the various obligees equally.

Contempt is another remedy to enforce support ordered for a dependent child.

The prevailing party is entitled to recover costs and reasonable attorneys' fees in an action to enforce support for a dependent child. The obligor may not be considered the prevailing party unless the obligee acted in bad faith.

If an obligor who has been ordered to obtain health insurance coverage for his or her dependents fails to obtain or maintain the insurance coverage, the obligee or the Office of Support Enforcement may enforce the coverage by requiring the obligor's employer to enroll the dependents in the health insurance plan. The provisions governing enforcement of health benefits do not explicitly provide that the obligee or department may enforce collection of any deductible paid under the plan or any out-of-pocket medical expenses incurred that are not covered by the plan. In practice, the obligee or the department may enforce collection of those expenses if a court order requires enforcement.

Federal law provides that wages or other "remuneration for employment" of federal employees may be collected for child support or spousal maintenance. Remuneration for employment includes payments of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, and "black lung" benefits. "Remuneration for employment" is not included in the state definition of "earnings" against which a mandatory wage assignment benefit may be enforced.

Summary: Spousal maintenance may be collected by use of a mandatory wage assignment order even if child support is not also due. A contempt action may also be used to enforce a spousal maintenance order. The court has continuing jurisdiction to enforce a support or maintenance order and may use contempt to collect all sums due, including arrearages.

The mandatory wage assignment order may be asserted against "remuneration for employment" as payable by the United States to the obligor.

Withheld earnings may be delivered to the Washington State support registry or, if the wage assignment is just for spousal maintenance, to the former spouse.

The wage assignment order will remain in effect for one year after the employee has left employment or the employer is no longer in possession of any earnings or remuneration owed to the employee, whichever is later.

Child support wage assignment orders continue to have priority over spousal maintenance wage assignment orders but spousal maintenance wage assignment orders have priority

over other garnishments. If more than one spousal maintenance order is asserted against the obligor's wages and the total due exceeds the amount of available disposable earnings, the wages will be divided among the obligees equally.

The provision concerning the award of reasonable attorneys' fees and costs to the prevailing party is amended to specify that a "support order" also includes a maintenance order.

The obligee and the Office of Support Enforcement are expressly authorized to collect the obligor's portion of any deductible paid for medical expenses, or any medical expenses incurred that exceed the coverage under the plan. The amount must be reduced to a sum certain in a court order before the obligee or the department may enforce collection through a wage assignment order.

Votes on Final Passage:

House	98	0
Senate	42	2

Effective: July 25, 1993