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SENATE BILL 6803

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State of Washington

60th Legislature

2008 Regular Session

By Senators McAuliffe, Hargrove, and Rasmussen

Read first time 01/24/08. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to restricted licenses for persons who fail to  
2 comply with child support obligations; amending RCW 74.20A.320; and  
3 prescribing penalties.

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

5 **Sec. 1.** RCW 74.20A.320 and 1997 c 58 s 802 are each amended to  
6 read as follows:

7 (1) The department may serve upon a responsible parent a notice  
8 informing the responsible parent of the department's intent to submit  
9 the parent's name to the department of licensing and any appropriate  
10 licensing entity as a licensee who is not in compliance with a child  
11 support order. The department shall attach a copy of the responsible  
12 parent's child support order to the notice. Service of the notice must  
13 be by certified mail, return receipt requested. If service by  
14 certified mail is not successful, service shall be by personal service.

15 (2) The notice of noncompliance must include the address and  
16 telephone number of the department's division of child support office  
17 that issues the notice and must inform the responsible parent that:

18 (a) The parent may request an adjudicative proceeding to contest  
19 the issue of compliance with the child support order. The only issues

1 that may be considered at the adjudicative proceeding are whether the  
2 parent is required to pay child support under a child support order and  
3 whether the parent is in compliance with that order;

4 (b) A request for an adjudicative proceeding shall be in writing  
5 and must be received by the department within twenty days of the date  
6 of service of the notice;

7 (c) If the parent requests an adjudicative proceeding within twenty  
8 days of service, the department will stay action to certify the parent  
9 to the department of licensing and any licensing entity for  
10 noncompliance with a child support order pending entry of a written  
11 decision after the adjudicative proceeding;

12 (d) If the parent does not request an adjudicative proceeding  
13 within twenty days of service and remains in noncompliance with a child  
14 support order, the department will certify the parent's name to the  
15 department of licensing and any appropriate licensing entity for  
16 noncompliance with a child support order;

17 (e) The department will stay action to certify the parent to the  
18 department of licensing and any licensing entity for noncompliance if  
19 the parent agrees to make timely payments of current support and agrees  
20 to a reasonable payment schedule for payment of the arrears. It is the  
21 parent's responsibility to contact in person or by mail the  
22 department's division of child support office indicated on the notice  
23 within twenty days of service of the notice to arrange for a payment  
24 schedule. The department may stay certification for up to thirty days  
25 after contact from a parent to arrange for a payment schedule;

26 (f) If the department certifies the responsible parent to the  
27 department of licensing and a licensing entity for noncompliance with  
28 a child support order, the licensing entity will issue a restricted  
29 license for a period of not less than ninety days. The license shall  
30 permit the obligor to:

31 (i) Drive to and from his or her place of employment;

32 (ii) Perform duties in the course of his or her employment; and

33 (iii) Drive during any period of time in which he or she has  
34 custody of his or her child or children pursuant to a parenting plan;

35 (g) After receiving notice of a restricted license, the obligor may  
36 work with the division of child support for a period of thirty days to  
37 reach an agreement by which his or her license will be returned;

1       (h) An obligor who is unable to reach agreement with the division  
2 of child support for return of his or her license is entitled to a  
3 hearing in front of an administrative law judge to determine whether  
4 the continued suspension will create undue hardship or interfere with  
5 the obligor's ability to comply with a child support order or perform  
6 typical parental functions and duties. If it is found such suspension  
7 will create undue hardship or interference, the licensing entity shall  
8 extend the obligor's restricted license to drive until the obligor is  
9 in compliance with the child support order. If no undue hardship or  
10 interference is found, the restricted license will expire, as  
11 scheduled. In making this determination, the administrative law judge  
12 shall consider, among other factors:

13       (i) Availability of public transportation near the obligor's place  
14 of residence including consideration of transportation: To and from  
15 work; as it affects obligations to children; in relation to medical  
16 concerns; and as it relates to the ability to comply with court-ordered  
17 obligations; and

18       (ii) Any other responsibilities the obligor may have to dependents,  
19 including children;

20       (i) Upon expiration of the restricted license, the licensing entity  
21 will suspend or not renew the parent's license and the department of  
22 licensing will suspend or not renew any driver's license that the  
23 parent holds until the parent provides the department of licensing and  
24 the licensing entity with a release from the department stating that  
25 the responsible parent is in compliance with the child support order;

26       ~~((g))~~ (j) If the department certifies the responsible parent as  
27 a person who is in noncompliance with a child support order, the  
28 department of fish and wildlife will suspend the fishing license,  
29 hunting license, commercial fishing license, or any other license  
30 issued under chapters 77.32(~~, 77.28 [75.28], and 75.25~~) and 77.65 RCW  
31 that the responsible parent may possess. Notice from the department of  
32 licensing that a responsible parent's driver's license has been  
33 suspended shall serve as notice of the suspension of a license issued  
34 under chapters 77.32 and (~~75.25~~) 77.65 RCW. If suspension of any of  
35 the above licenses affects the obligor's ability to comply with a child  
36 support order or parenting plan, (f), (g), and (h) of this subsection  
37 shall apply before any license suspension is ordered;

1       (~~(h)~~) (k) Suspension of a license will affect insurability if the  
2 responsible parent's insurance policy excludes coverage for acts  
3 occurring after the suspension of a license;

4       (~~(i)~~) (l) If after receiving the notice of noncompliance with a  
5 child support order, the responsible parent files a motion to modify  
6 support with the court or requests the department to amend a support  
7 obligation established by an administrative decision, or if a motion  
8 for modification of a court or administrative order for child support  
9 is pending, the department or the court may stay action to certify the  
10 parent to the department of licensing and any licensing entity for  
11 noncompliance with a child support order. A stay shall not exceed six  
12 months unless the department finds good cause. The responsible parent  
13 has the obligation to notify the department that a modification  
14 proceeding is pending and provide a copy of the motion or request for  
15 modification; and

16       (~~(j)~~) (m) If the responsible parent subsequently becomes in  
17 compliance with the child support order, the department will promptly  
18 provide the parent with a release stating that the parent is in  
19 compliance with the order, and the parent may request that the  
20 licensing entity or the department of licensing reinstate the suspended  
21 license.

22       (3) A responsible parent may request an adjudicative proceeding  
23 upon service of the notice described in subsection (1) of this section.  
24 The request for an adjudicative proceeding must be received by the  
25 department within twenty days of service. The request must be in  
26 writing and indicate the current mailing address and daytime phone  
27 number, if available, of the responsible parent. The proceedings under  
28 this subsection shall be conducted in accordance with the requirements  
29 of chapter 34.05 RCW. The issues that may be considered at the  
30 adjudicative proceeding are limited to whether:

31       (a) The person named as the responsible parent is the responsible  
32 parent;

33       (b) The responsible parent is required to pay child support under  
34 a child support order; and

35       (c) The responsible parent is in compliance with the order.

36       (4) The decision resulting from the adjudicative proceeding must be  
37 in writing and inform the responsible parent of his or her rights to

1 review. The parent's copy of the decision may be sent by regular mail  
2 to the parent's most recent address of record.

3 (5) If a responsible parent contacts the department's division of  
4 child support office indicated on the notice of noncompliance within  
5 twenty days of service of the notice and requests arrangement of a  
6 payment schedule, the department shall stay the certification of  
7 noncompliance during negotiation of the schedule for payment of  
8 arrears. In no event shall the stay continue for more than thirty days  
9 from the date of contact by the parent. The department shall establish  
10 a schedule for payment of arrears that is fair and reasonable, and that  
11 considers the financial situation of the responsible parent and the  
12 needs of all children who rely on the responsible parent for support.  
13 At the end of the thirty days, if no payment schedule has been agreed  
14 to in writing and the department has acted in good faith, the  
15 department shall proceed with certification of noncompliance.

16 (6) If a responsible parent timely requests an adjudicative  
17 proceeding pursuant to subsection (4) of this section, the department  
18 may not certify the name of the parent to the department of licensing  
19 or a licensing entity for noncompliance with a child support order  
20 unless the adjudicative proceeding results in a finding that the  
21 responsible parent is not in compliance with the order.

22 (7) The department may certify to the department of licensing and  
23 any appropriate licensing entity the name of a responsible parent who  
24 is not in compliance with a child support order or a residential or  
25 visitation order if:

26 (a) The responsible parent does not timely request an adjudicative  
27 proceeding upon service of a notice issued under subsection (1) of this  
28 section and is not in compliance with a child support order twenty-one  
29 days after service of the notice;

30 (b) An adjudicative proceeding results in a decision that the  
31 responsible parent is not in compliance with a child support order;

32 (c) The court enters a judgment on a petition for judicial review  
33 that finds the responsible parent is not in compliance with a child  
34 support order;

35 (d) The department and the responsible parent have been unable to  
36 agree on a fair and reasonable schedule of payment of the arrears; or

37 (e) The responsible parent fails to comply with a payment schedule  
38 established pursuant to subsection (5) of this section(~~(i-0#)~~).

1       The department shall send by regular mail a copy of any  
2 certification of noncompliance filed with the department of licensing  
3 or a licensing entity to the responsible parent at the responsible  
4 parent's most recent address of record.

5       (8) The department of licensing and a licensing entity shall,  
6 without undue delay, notify a responsible parent certified by the  
7 department under subsection (7) of this section that the parent's  
8 driver's license or other license has been suspended and a restricted  
9 license issued because the parent's name has been certified by the  
10 department as a responsible parent who is not in compliance with a  
11 child support order or a residential or visitation order.

12       (9) When a responsible parent who is served notice under subsection  
13 (1) of this section subsequently complies with the child support order,  
14 or when the department receives a court order (~~(under section 886 of~~  
15 ~~this act))~~) stating that the parent is in compliance with a residential  
16 or visitation order, the department shall promptly provide the parent  
17 with a release stating that the responsible parent is in compliance  
18 with the order. A copy of the release shall be transmitted by the  
19 department to the appropriate licensing entities.

20       (10) The department may adopt rules to implement and enforce the  
21 requirements of this section. The department shall deliver a copy of  
22 rules adopted to implement and enforce this section to the legislature  
23 by June 30, 1998.

24       (11) Nothing in this section prohibits a responsible parent from  
25 filing a motion to modify support with the court or from requesting the  
26 department to amend a support obligation established by an  
27 administrative decision. If there is a reasonable likelihood that a  
28 pending motion or request will significantly change the amount of the  
29 child support obligation, the department or the court may stay action  
30 to certify the responsible parent to the department of licensing and  
31 any licensing entity for noncompliance with a child support order. A  
32 stay shall not exceed six months unless the department finds good cause  
33 to extend the stay. The responsible parent has the obligation to  
34 notify the department that a modification proceeding is pending and  
35 provide a copy of the motion or request for modification.

36       (12) The department of licensing and a licensing entity may renew,  
37 reinstate, or otherwise extend a license in accordance with the  
38 licensing entity's or the department of licensing's rules after the

1 licensing entity or the department of licensing receives a copy of the  
2 release specified in subsection (9) of this section. The department of  
3 licensing and a licensing entity may waive any applicable requirement  
4 for reissuance, renewal, or other extension if it determines that the  
5 imposition of that requirement places an undue burden on the person and  
6 that waiver of the requirement is consistent with the public interest.

7 (13) The procedures in chapter 58, Laws of 1997, constitute the  
8 exclusive administrative remedy for contesting the establishment of  
9 noncompliance with a child support order and suspension of a license  
10 under this section, and satisfy the requirements of RCW 34.05.422.

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