
SUBSTITUTE SENATE BILL 5166

State of Washington

61st Legislature

2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Regala, Stevens, and Kline)

READ FIRST TIME 02/02/09.

1 AN ACT Relating to license suspension for the failure to pay child
2 support; amending RCW 74.20A.320 and 46.20.342; adding new sections to
3 chapter 74.20A RCW; and 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 following information:

1 ~~((a) The parent may request an adjudicative proceeding to contest~~
2 ~~the issue of compliance with the child support order. The only issues~~
3 ~~that may be considered at the adjudicative proceeding are whether the~~
4 ~~parent is required to pay child support under a child support order and~~
5 ~~whether the parent is in compliance with that order;~~

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

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

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

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

28 ~~(f) If the department certifies the responsible parent to the~~
29 ~~department of licensing and a licensing entity for noncompliance with~~
30 ~~a child support order, the licensing entity will suspend or not renew~~
31 ~~the parent's license and the department of licensing will suspend or~~
32 ~~not renew any driver's license that the parent holds until the parent~~
33 ~~provides the department of licensing and the licensing entity with a~~
34 ~~release from the department stating that the responsible parent is in~~
35 ~~compliance with the child support order;~~

36 ~~(g) If the department certifies the responsible parent as a person~~
37 ~~who is in noncompliance with a child support order, the department of~~
38 ~~fish and wildlife will suspend the fishing license, hunting license,~~

1 commercial fishing license, or any other license issued under chapters
2 77.32, 77.28 [75.28], and 75.25 RCW that the responsible parent may
3 possess. Notice from the department of licensing that a responsible
4 parent's driver's license has been suspended shall serve as notice of
5 the suspension of a license issued under chapters 77.32 and 75.25 RCW;

6 (h) Suspension of a license will affect insurability if the
7 responsible parent's insurance policy excludes coverage for acts
8 occurring after the suspension of a license;

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

21 (j)) (a) The address and telephone number of the department's
22 division of child support office that issued the notice;

23 (b) That in order to prevent the department from certifying the
24 parent's name to the department of licensing or any other licensing
25 entity, the parent has twenty days from receipt of the notice to
26 contact the department and:

27 (i) Pay the overdue support amount in full;

28 (ii) Request an adjudicative proceeding as provided in section 2 of
29 this act;

30 (iii) Agree to a payment schedule with the department as provided
31 in section 4 of this act; or

32 (iv) File an action to modify the child support order with the
33 appropriate court or administrative forum, in which case the department
34 will stay the certification process up to six months;

35 (c) That failure to contact the department within twenty days of
36 receipt of the notice will result in certification of the responsible
37 parent's name to the department of licensing and any other appropriate

1 licensing entity for noncompliance with a child support order. Upon
2 receipt of the notice:

3 (i) The licensing entity will suspend or not renew the parent's
4 license and the department of licensing will suspend or not renew any
5 driver's license that the parent holds until the parent provides the
6 department of licensing and the licensing entity with a release from
7 the department stating that the responsible parent is in compliance
8 with the child support order;

9 (ii) The department of fish and wildlife will suspend a fishing
10 license, hunting license, commercial fishing license, or any other
11 license issued under chapter 77.32 RCW that the responsible parent may
12 possess. Notice from the department of licensing that a responsible
13 parent's driver's license has been suspended shall serve as notice of
14 the suspension of a license issued under chapter 77.32 RCW;

15 (d) That suspension of a license will affect insurability if the
16 responsible parent's insurance policy excludes coverage for acts
17 occurring after the suspension of a license;

18 (e) If the responsible parent subsequently ((becomes-in)) comes
19 into compliance with the child support order, the department will
20 promptly provide the parent and the appropriate licensing entities with
21 a release stating that the parent is in compliance with the order((,
22 and the parent may request that the licensing entity or the department
23 of licensing reinstate the suspended license)).

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

33 ~~(a) The person named as the responsible parent is the responsible~~
34 ~~parent;~~

35 ~~(b) The responsible parent is required to pay child support under~~
36 ~~a child support order; and~~

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

1 ~~(4) The decision resulting from the adjudicative proceeding must be~~
2 ~~in writing and inform the responsible parent of his or her rights to~~
3 ~~review. The parent's copy of the decision may be sent by regular mail~~
4 ~~to the parent's most recent address of record.~~

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

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

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

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

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

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

37 ~~(d) The department and the responsible parent have been unable to~~
38 ~~agree on a fair and reasonable schedule of payment of the arrears;~~

1 ~~(e) The responsible parent fails to comply with a payment schedule~~
2 ~~established pursuant to subsection (5) of this section; or~~

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

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

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

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

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

1 ~~(12))~~ (4) The department of licensing and a licensing entity may
2 renew, reinstate, or otherwise extend a license in accordance with the
3 licensing entity's or the department of licensing's rules after the
4 licensing entity or the department of licensing receives a copy of the
5 release specified in subsection ~~((9))~~ (3) of this section. The
6 department of licensing and a licensing entity may waive any applicable
7 requirement for reissuance, renewal, or other extension if it
8 determines that the imposition of that requirement places an undue
9 burden on the person and that waiver of the requirement is consistent
10 with the public interest.

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

15 NEW SECTION. **Sec. 2.** (1) A responsible parent may request an
16 adjudicative proceeding upon service of the notice described in RCW
17 74.20A.320. The request for an adjudicative proceeding must be
18 received by the department within twenty days of service. The request
19 must be in writing and indicate the current mailing address and daytime
20 phone number, if available, of the responsible parent.

21 (2) If a responsible parent timely requests an adjudicative
22 proceeding, the department may not certify the name of the parent to
23 the department of licensing or a licensing entity for noncompliance
24 with a child support order unless the adjudicative proceeding results
25 in a finding that the responsible parent is not in compliance with the
26 order and has not made a good faith effort to comply.

27 (3) The issues that may be considered at the adjudicative
28 proceeding are limited to whether:

29 (a) The person named as the responsible parent is the responsible
30 parent;

31 (b) The responsible parent is required to pay child support under
32 a child support order;

33 (c) The responsible parent is in compliance with the order; and

34 (d) The responsible parent has made a good faith effort to comply
35 with the order.

36 (4) If the administrative law judge finds that the parent is not in

1 compliance with the support order, but has made a good faith effort to
2 comply, the administrative law judge shall formulate a payment schedule
3 as provided in section 4 of this act.

4 (5) The decision resulting from the adjudicative proceeding must be
5 in writing and inform the responsible parent of his or her rights to
6 review. The parent's copy of the decision may be sent by regular mail
7 to the parent's most recent address of record.

8 (6) The proceedings under this subsection shall be conducted in
9 accordance with the requirements of chapter 34.05 RCW, the
10 administrative procedure act.

11 (7) The procedures of this section constitute the exclusive
12 administrative remedy for contesting the establishment of noncompliance
13 with a child support order and suspension of a license under this
14 section, and satisfy the requirements of RCW 34.05.422.

15 (8) For the purposes of this section, "good faith effort to comply"
16 is a factual determination to be made by the administrative law judge
17 based on the responsible parent's payment history, ability to pay, and
18 efforts to find and maintain gainful employment.

19 NEW SECTION. **Sec. 3.** (1) The department may certify to the
20 department of licensing and any appropriate licensing entity the name
21 of a responsible parent who is not in compliance with a child support
22 order if:

23 (a) Within twenty-one days after service of a notice issued under
24 RCW 74.20A.320, the responsible parent does not request an adjudicative
25 proceeding or file a motion with the appropriate court or
26 administrative forum to modify the child support obligation;

27 (b) An adjudicative proceeding results in a decision that the
28 responsible parent is not in compliance with a child support order and
29 has not made a good faith effort to comply;

30 (c) The court enters a judgment on a petition for judicial review
31 that finds the responsible parent is not in compliance with a child
32 support order and has not made a good faith effort to comply; or

33 (d) The responsible parent fails to comply with a payment schedule
34 established pursuant to section 4 of this act.

35 (2) The department shall send by regular mail a copy of any
36 certification of noncompliance filed with the department of licensing

1 or a licensing entity to the responsible parent at the responsible
2 parent's most recent address of record along with information as to how
3 the parent may get his or her license reinstated.

4 (3) The department of licensing and a licensing entity shall,
5 without undue delay, notify a responsible parent certified by the
6 department under subsection (1) of this section that the parent's
7 driver's license or other license has been suspended because the
8 parent's name has been certified by the department as a responsible
9 parent who is not in compliance with a child support order.

10 NEW SECTION. **Sec. 4.** (1) If a responsible parent contacts the
11 department's division of child support office indicated on the notice
12 of noncompliance within twenty days of service of the notice provided
13 in RCW 74.20A.320 and requests arrangement of a payment schedule, the
14 department shall stay the certification of noncompliance during
15 negotiation of the schedule for payment of arrears up to thirty days
16 from the date of contact by the responsible parent.

17 (2) In proposing or approving a written payment schedule, the
18 department or the administrative law judge shall take into
19 consideration the amount of the arrearages, the amount of the current
20 support order, the earnings of the responsible parent, and the needs of
21 all children who rely on the responsible parent for support. The
22 department or administrative law judge shall consider the individual
23 financial circumstances of each responsible parent in evaluating the
24 parent's ability to pay any proposed payment schedule and shall propose
25 a fair and reasonable payment schedule tailored to the individual
26 financial circumstances of the responsible parent. A payment schedule
27 may include a graduated payment plan and may require a responsible
28 parent to engage in employment-enhancing activities to attain a
29 satisfactory payment level.

30 (3) A payment schedule may be for the payment of less than current
31 monthly support for a reasonable time and is not required to include a
32 lump sum payment for the amount of arrears.

33 NEW SECTION. **Sec. 5.** The department may adopt rules to implement
34 and enforce the requirements of RCW 74.20A.320 and sections 2 through
35 4 of this act.

1 **Sec. 6.** RCW 46.20.342 and 2008 c 282 s 4 are each amended to read
2 as follows:

3 (1) It is unlawful for any person to drive a motor vehicle in this
4 state while that person is in a suspended or revoked status or when his
5 or her privilege to drive is suspended or revoked in this or any other
6 state. Any person who has a valid Washington driver's license is not
7 guilty of a violation of this section.

8 (a) A person found to be an habitual offender under chapter 46.65
9 RCW, who violates this section while an order of revocation issued
10 under chapter 46.65 RCW prohibiting such operation is in effect, is
11 guilty of driving while license suspended or revoked in the first
12 degree, a gross misdemeanor. Upon the first such conviction, the
13 person shall be punished by imprisonment for not less than ten days.
14 Upon the second conviction, the person shall be punished by
15 imprisonment for not less than ninety days. Upon the third or
16 subsequent conviction, the person shall be punished by imprisonment for
17 not less than one hundred eighty days. If the person is also convicted
18 of the offense defined in RCW 46.61.502 or 46.61.504, when both
19 convictions arise from the same event, the minimum sentence of
20 confinement shall be not less than ninety days. The minimum sentence
21 of confinement required shall not be suspended or deferred. A
22 conviction under this subsection does not prevent a person from
23 petitioning for reinstatement as provided by RCW 46.65.080.

24 (b) A person who violates this section while an order of suspension
25 or revocation prohibiting such operation is in effect and while the
26 person is not eligible to reinstate his or her driver's license or
27 driving privilege, other than for a suspension for the reasons
28 described in (c) of this subsection, is guilty of driving while license
29 suspended or revoked in the second degree, a gross misdemeanor. This
30 subsection applies when a person's driver's license or driving
31 privilege has been suspended or revoked by reason of:

32 (i) A conviction of a felony in the commission of which a motor
33 vehicle was used;

34 (ii) A previous conviction under this section;

35 (iii) A notice received by the department from a court or diversion
36 unit as provided by RCW 46.20.265, relating to a minor who has
37 committed, or who has entered a diversion unit concerning an offense

1 relating to alcohol, legend drugs, controlled substances, or imitation
2 controlled substances;

3 (iv) A conviction of RCW 46.20.410, relating to the violation of
4 restrictions of an occupational driver's license, a temporary
5 restricted driver's license, or an ignition interlock driver's license;

6 (v) A conviction of RCW 46.20.345, relating to the operation of a
7 motor vehicle with a suspended or revoked license;

8 (vi) A conviction of RCW 46.52.020, relating to duty in case of
9 injury to or death of a person or damage to an attended vehicle;

10 (vii) A conviction of RCW 46.61.024, relating to attempting to
11 elude pursuing police vehicles;

12 (viii) A conviction of RCW 46.61.500, relating to reckless driving;

13 (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a
14 person under the influence of intoxicating liquor or drugs;

15 (x) A conviction of RCW 46.61.520, relating to vehicular homicide;

16 (xi) A conviction of RCW 46.61.522, relating to vehicular assault;

17 (xii) A conviction of RCW 46.61.527(4), relating to reckless
18 endangerment of roadway workers;

19 (xiii) A conviction of RCW 46.61.530, relating to racing of
20 vehicles on highways;

21 (xiv) A conviction of RCW 46.61.685, relating to leaving children
22 in an unattended vehicle with motor running;

23 (xv) A conviction of RCW 46.61.740, relating to theft of motor
24 vehicle fuel;

25 (xvi) A conviction of RCW 46.64.048, relating to attempting,
26 aiding, abetting, coercing, and committing crimes;

27 (xvii) An administrative action taken by the department under
28 chapter 46.20 RCW; or

29 (xviii) A conviction of a local law, ordinance, regulation, or
30 resolution of a political subdivision of this state, the federal
31 government, or any other state, of an offense substantially similar to
32 a violation included in this subsection.

33 (c) A person who violates this section when his or her driver's
34 license or driving privilege is, at the time of the violation,
35 suspended or revoked solely because (i) the person must furnish proof
36 of satisfactory progress in a required alcoholism or drug treatment
37 program, (ii) the person must furnish proof of financial responsibility
38 for the future as provided by chapter 46.29 RCW, (iii) the person has

1 failed to comply with the provisions of chapter 46.29 RCW relating to
2 uninsured accidents, (iv) the person has failed to respond to a notice
3 of traffic infraction, failed to appear at a requested hearing,
4 violated a written promise to appear in court, or has failed to comply
5 with the terms of a notice of traffic infraction or citation, as
6 provided in RCW 46.20.289, (v) the person has committed an offense in
7 another state that, if committed in this state, would not be grounds
8 for the suspension or revocation of the person's driver's license, (vi)
9 the person has been suspended or revoked by reason of one or more of
10 the items listed in (b) of this subsection, but was eligible to
11 reinstate his or her driver's license or driving privilege at the time
12 of the violation, or (vii) the person has received traffic citations or
13 notices of traffic infraction that have resulted in a suspension under
14 RCW 46.20.267 relating to intermediate drivers' licenses, or any
15 combination of (i) through (vii), is guilty of driving while license
16 suspended or revoked in the third degree, a misdemeanor.

17 (d) It is a traffic infraction for any person to violate this
18 section when his or her driver's license or driving privilege is, at
19 the time of the violation, suspended or revoked solely because the
20 person's license is suspended for the failure to pay child support
21 pursuant to section 3 of this act and RCW 43.24.112. A violation of
22 this section is a misdemeanor if a person has a previous traffic
23 infraction for violating this section when his or her driver's license
24 or driving privilege is, at the time of the violation, suspended or
25 revoked solely because the person's license is suspended for the
26 failure to pay child support pursuant to section 3 of this act and RCW
27 43.24.112.

28 (2) Upon receiving a record of conviction of any person or upon
29 receiving an order by any juvenile court or any duly authorized court
30 officer of the conviction of any juvenile under this section, the
31 department shall:

32 (a) For a conviction of driving while suspended or revoked in the
33 first degree, as provided by subsection (1)(a) of this section, extend
34 the period of administrative revocation imposed under chapter 46.65 RCW
35 for an additional period of one year from and after the date the person
36 would otherwise have been entitled to apply for a new license or have
37 his or her driving privilege restored; or

1 (b) For a conviction of driving while suspended or revoked in the
2 second degree, as provided by subsection (1)(b) of this section, not
3 issue a new license or restore the driving privilege for an additional
4 period of one year from and after the date the person would otherwise
5 have been entitled to apply for a new license or have his or her
6 driving privilege restored; or

7 (c) Not extend the period of suspension or revocation if the
8 conviction was under subsection (1)(c) of this section. If the
9 conviction was under subsection (1)(a) or (b) of this section and the
10 court recommends against the extension and the convicted person has
11 obtained a valid driver's license, the period of suspension or
12 revocation shall not be extended.

13 NEW SECTION. **Sec. 7.** Sections 2 through 5 of this act are each
14 added to chapter 74.20A RCW.

--- END ---