

HOUSE BILL REPORT

HB 2266

As Reported By House Committee On:

Law & Justice

Title: An act relating to the collection of child support.

Brief Description: Protecting persons with a history of timely child support payments from mandatory wage assignment orders.

Sponsors: Representatives McMahan, Sheahan, Carrell, Hargrove, Stevens, Sterk, Goldsmith, McMorris, Thompson, Buck, Robertson, Backlund, Honeyford, Mastin, D. Sommers, Romero, Wolfe, Mulliken and Johnson.

Brief History:

Committee Activity:

Law & Justice: 1/30/96, 2/2/96 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Murray; Robertson; Smith; Sterk and Veloria.

Staff: Edie Adams (786-7180).

Background: State law provides a number of provisions for the enforcement of child support obligations. Both the state and private parties may enforce support orders. Remedies include civil actions, contempt actions, and mandatory wage assignments.

Under current law, a court or the Department of Social and Health Services may order immediate income withholding as part of an order establishing a child support obligation. Every court and administrative order for child support must include a provision stating that a notice of payroll deduction or other income withholding may be issued without further notice to the obligor at any time after entry of the order. The obligor will not be subject to immediate income withholding if the court finds that there is good cause not to require immediate income withholding until a payment is past due, or if both parties agree for an alternate arrangement.

A petition seeking a mandatory wage assignment may be filed by an obligee, or may be implemented by the Office of Support Enforcement, if the obligor is subject to a support order allowing immediate income withholding, or is more than 15 days past due in child support payments in an amount equal to or greater than the obligation payable for one month. The obligor may seek a hearing to quash a wage assignment order upon a showing that the order causes extreme hardship or injustice. If a wage assignment order has been in operation for a period of 12 consecutive months and the obligor's support payments are current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the order should remain in effect.

Federal law generally requires states to use mandatory wage assignments for the enforcement of child support. Under federal law, states must require that all persons obligated to pay child support shall be subject to immediate income withholding unless there is good cause not to require immediate withholding, or the parties enter into a written agreement for an alternate arrangement. Persons who are not automatically subject to immediate income withholding shall become subject to withholding when they become past due in an amount of support equal to one month's obligation, or when the obligor or the obligee requests that withholding begin.

Summary of Substitute Bill: A court or the Office of Support Enforcement must not issue an order of payroll deduction or mandatory wage assignment for the enforcement of a child support obligation if the obligor has a history of timely payment of previously ordered child support. If the obligor is subject to a restraining order, no-contact order, or protection order with respect to the obligee or a child of the obligee, an order for immediate income withholding may be issued, even if the obligor has a history of timely payments.

An obligee may petition for a wage assignment order against the obligor's earnings only if the obligor is subject to an order allowing immediate income withholding and does not have a history of timely payment of previously ordered support.

Substitute Bill Compared to Original Bill: The substitute bill provides that an immediate income withholding may be ordered if the obligor is subject to a restraining order, no-contact order, or protection order with respect to the obligee or the obligee's child, even if the obligor has a history of timely payment of support.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Automatic wage withholding is perceived as punishment. Employers do not understand that an obligor is not necessarily delinquent in support payments if a payroll deduction is ordered. People are fired by their employers because of wage withholding orders. Allowing wage withholding allows the custodial parent to alienate the noncustodial parent from the child's life.

Testimony Against: Payroll deduction is an effective and efficient means of ensuring that children receive the support owed to them. Wage withholding is used in a variety of contexts, such as income taxes. The bill is not consistent with federal law and could therefore jeopardize the state's receipt of federal funding. The bill does not provide a definition of history of timely payment.

Testified: Representative McMahan, prime sponsor; Michele Delo, Washington Families (pro); Mike Ricchio, Department of Social and Health Services (con); and Judy Turpin, Northwest Women's Law Center (con).