

HOUSE BILL REPORT

E2SSB 5375

As Reported By House Committee On:

Law & Justice
Appropriations

Title: An act relating to suspension of licenses for failure to pay child support.

Brief Description: Suspending various licenses for failure to pay child support.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Wojahn, McCaslin, Haugen, Deccio, Franklin, Spanel, Kohl, Snyder, Quigley, Prentice, Oke and Moyer).

Brief History:

Committee Activity:

Law & Justice: 2/23/96 [DPA];
Appropriations: 2/24/96 [DPA(APP w/o LJ)s].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 15 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Smith; Sterk and Veloria.

Staff: Edie Adams (786-7180); Doug Ruth (786-7134).

Background: Washington issues driver's licenses and licenses, registrations, and certificates of competency for many professions, occupations, and business activities. These approvals are provided and enforced under the authority of various agencies and boards, including the departments of Social and Health Services, Health, Licensing, and Labor and Industries.

The state also has procedures for determining child support for dependent children and for enforcing compliance with child support orders. Many of these programs are prescribed by the federal public assistance laws that require the states to take steps to improve the effectiveness of child support enforcement.

The Congress recently passed a federal welfare reform proposal that was vetoed by the President. This proposal, H.R. 4, contained a requirement for the states to adopt

procedures for withholding or suspending, or restricting the use of, driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support or failing, after notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

Similar programs are in effect in Maine, Vermont, Massachusetts, Arizona, and California.

Summary of Amended Bill: Certain parents who fail to comply with child support orders or residential or visitation schedule orders are subject to suspension of various professional and occupational licenses and certificates and driver's licenses.

Intent:

Recognizing that the current procedures for collecting child support do not apply to all persons who owe child support, the Legislature intends to provide a strong incentive for persons to make timely payments by suspending certain licenses held by persons owing support. The Legislature also intends that the objective be to obtain payment in full or to obtain cooperation in making payments towards the arrears, and that if the person refuses to cooperate or make timely payments then license suspension should be imposed. In addition, the Legislature intends to include custodial parents who deny visitation as persons subject to license suspension or denial, because disputes over child visitation are an often-cited reason why child support is not paid.

Persons Subject to License Denial or Suspension:

License denial or suspension may be imposed on a parent who is responsible for child support under a support order and who has (1) a support debt of more than six months of payments, (2) failed to make payments under a written agreement with the Department of Social and Health Services (DSHS) towards a support debt exceeding six months of payments, or (3) failed to make payments required by a court under a support order or administrative order towards a support debt exceeding six months of payments.

The responsible parent is not subject to license suspension if DSHS can collect enough through payroll deduction from the parent's earnings to ensure the payment of current support and a reasonable amount toward the support debt.

License denial or suspension may be imposed on a custodial parent who has been found in contempt of court on two occasions within a three-year period for not complying, in bad faith, with a court order establishing residential provisions for a child.

Licenses Covered:

The suspension procedures apply by definition to licenses, certificates, registrations, permits, approvals, or similar documents issued by licensing entities for authority to engage in a profession, occupation, business, or industry, or to operate a motor vehicle. The following licenses are specifically made subject to the suspension procedures:

***Drivers Licenses**

Accountants

Architects

Auctioneers

Cosmetologists, Barbers, and Manicurists

Boarding Home Operators

Contractors

Debt Adjusters

Embalmers and Funeral Directors

Engineers and Land Surveyors

Escrow Agents

Maternity Home Operators

Nursing Home Operators

Poison Center Directors/Poison Information Specialists

Real Estate Brokers and Salespersons

Landscape Architects

Water Well Construction

Plumbers

Naturopaths

Midwives

Ocularists

Massage Practitioners

Dental Hygienists

Acupuncturists

Radiologists

Respiratory Practitioners

Counselors

Nursing Pool Operators

Nursing Assistants

Health Care Assistants

Dietitians and Nutritionists

Sex Offender Treatment providers

Emergency Medical Care Technicians

Emergency Transport Service Personnel

Podiatrists

Chiropractors

Dentists
Hearing Aid Technicians
Nursing Home Administrators
Optometrists
Nurses
Osteopaths
Osteopathic Physicians' Assistants
Pharmacists
Pharmacy Assistants
Physicians
Physicians' Assistants
Physical Therapists
Occupational Therapists
Psychologists
Veterinarians
Real Estate Appraisers
Shorthand Reporters
Fire Sprinkler System Contractors
Private Detectives
Security Guards
Athlete Agents
Bail Bond Agents
Electricians/Electrical Contractors
Farm Labor Contractors
Collection Agents
Employment Agent
Food Locker Operators
Camping Resort Operators
Travel Agents
Commercial Telephone Solicitors
International Student Exchange Placement Organization
Agricultural Products Merchants
Securities Brokers
Insurance Agents, Brokers, Solicitors, or Adjusters
Pilots
Child Care and Developmentally Disabled Agencies
Private Treatment Establishments
Liquor Licenses
Vessel Registrations (e.g., Boat Licenses)
Vessel Dealers
Boxing Licenses
Master Licenses (State Licenses to Conduct Business)
Explosives Purchasers, Manufacturers
Installers

Incinerator and Landfill Operators
Wastewater Treatment Plant Operators
Pesticide Applicators
Decontamination Contractors
Mortgage Brokers
**Attorneys
Liquor Permits
Teachers
Court Reporters

* Suspension Only

** Requested

Procedure for License Denial or Suspension:

Notice. Parents subject to potential license denial or suspension will be notified by DSHS of the department's intent to submit the parent's name to the appropriate licensing entity. The notice must be served by certified mail or personal service and must include (1) the address and telephone number of the department or division issuing the notice; (2) the right to request a hearing to contest the issue of noncompliance; (3) the time limit for making the request; (4) the effect of requesting or not requesting a hearing; (5) the effect of agreeing to make timely payments and to a reasonable payment schedule; (6) the effect of commencing the certification procedure; (7) the effect of filing a motion to modify support obligations; and (8) the requirement for reinstating the licensure when DSHS provides a written release concerning compliance.

Request for Hearing. If the notified parent requests, in writing, a hearing within 20 days of service of the notice, a hearing will be held on whether the parent is in compliance with the order. The issues that may be considered are (1) whether the parent is required to pay support under a child support order; (2) whether the parent is in compliance with the order; and (3) whether license denial or suspension would create a substantial hardship on the responsible parent, the responsible parent's employees or legal dependents residing with the responsible parent, or others served by the responsible parent. DSHS must stay action on the certification process until entry of a written decision finding the parent not in compliance with the order.

If the parent does not request a hearing within 20 days of service of the notice and if the parent remains in noncompliance, DSHS will certify the parent to the licensing entity for noncompliance.

Request for Payment Schedule. If the parent requests arrangement of a payment schedule for the support debt within the 20-day period, DSHS must stay action for no more than 30 days. DSHS must establish a schedule for payment of the debt that is

fair and reasonable considering (1) the financial hardship to the responsible parent; and (2) whether the schedule would create a significant hardship to the responsible parent, an employee or dependent of the responsible parent, or other persons or entities served by the responsible parent. If no payment schedule is agreed to in writing, the responsible parent may file an application for an adjudicatory hearing to determine a schedule for the payment of the support debt. The responsible parent may petition the superior court for a de novo review of the administrative order.

Filing a Motion to Modify a Child Support Order. A parent may file a motion with the court to modify child support or request DSHS to amend an administrative decision establishing support. If there is a reasonable likelihood that the motion or request will significantly change the amount of the support obligation, the court or DSHS may, for up to 180 days, stay action on the license suspension process. An automatic stay will be entered if the motion or request is made before service of notice of the license suspension action.

Noncompliance With a Residential or Visitation Order. If a court finds a parent in contempt of court on two occasions within three years for bad faith noncompliance with the residential or visitation schedule, the court must enter an order directed to the appropriate licensing entity certifying that the parent is not in compliance with a residential or visitation order.

The order shall contain (1) the name, address, and social security number of the noncomplying parent; and (2) whether the obligor is believed to be a licensee who has a license or is applying for a license by the licensing entity. The court clerk must forward a copy of the order to the licensing entity.

The court must set a review hearing date to determine whether the noncomplying parent comes into compliance with the residential or visitation order. If the parent is in compliance, the court must issue to the parent a written release stating that the parent is in compliance with the residential or visitation order.

Certification for Noncompliance. DSHS may certify names to the appropriate licensing entity if a parent is not in compliance with a child support order, does not request a hearing after notice or a hearing results in a decision that the parent is not in compliance, or the court finds on review that the parent is not in compliance.

A court may certify the name to the appropriate licensing entity if a parent has been found in contempt of court on two occasions in a three-year period for failing to comply with the residential or visitation schedule.

The licensing entity must notify the parent, without undue delay, that the parent's license has been suspended because of certification by DSHS for noncompliance with a child support order or certification by a court for noncompliance with a residential

or visitation order. The suspension of the license must remain in effect until the parent provides a written release from DSHS or a court stating that the parent is in compliance with the order.

The licensing entity may not issue a license to an applicant for licensure if the applicant has been certified by DSHS as not in compliance with a child support order or by a court as not in compliance with a residential or visitation order.

Release from License Suspension. DSHS must promptly provide a written release when the parent subsequently complies with the support order. The licensing entity that receives a copy of the written release must automatically issue, renew, reinstate, or otherwise extend a suspended license in accordance with the entity's rules if the person has continued to meet all other requirements for the action. The application of a parent for licensure may be reviewed after the written release has been provided to the licensing entity.

Notice in Support Orders and Other Orders:

Court orders establishing or modifying child support and administrative orders establishing child support must state that the responsible parent's privileges to obtain and maintain a license may be denied, not renewed, or suspended if the parent is not in compliance with the order. Court orders establishing permanent parenting plans must contain a warning that a violation of the provisions of the permanent parenting plan may cause the violator to be denied or have suspended or not renewed a professional, driver's, or other license. Wage assignment orders and notices of payroll deduction must contain a notice to the responsible parent that, despite a wage assignment or payroll deduction, the responsible parent's privileges to obtain and maintain a license may be denied, suspended, or not renewed if the responsible parent is not in compliance with a support order.

Interagency Agreements:

DSHS and various licensing entities must enter into agreements that are necessary to carry out the license suspension program to the extent that an agreement is cost-effective or required by federal law.

DSHS and the licensing entities must perform a comparison of the names of parents owing child support to identify current licensees who are not in compliance with child support orders and to provide DSHS with certain information about the parent's license.

Reports to the Legislature and Governor:

On December 1, 1997, and annually thereafter, DSHS must report to the Legislature and the Governor on (1) the number of parents identified as licensees; (2) the number of licensees identified as not in compliance with a child support order; (3) the number of notices of noncompliance served and the number of requests for hearings; (4) the number of hearings held and the results; (5) the number of certifications to licensing entities and the types of license held; (6) the costs incurred in implementing and enforcing the license suspension program; (7) recommendations for inclusion or exclusion of licenses subject to suspension, with reasons for the recommendation; and (8) recommendation for statutory changes for cost-effective management.

Other Provisions:

A motor vehicle insurance policy that contains a provision excluding coverage for unlicensed drivers will not apply for 90 days after a suspension of a driver's license for failure to comply with a child support order.

The Legislature requests the Washington Supreme Court to adopt rules for the denial or suspension of a person's admission to the practice of law for noncompliance with a child support order or residential or visitation order.

Rules Authority. DSHS is authorized to adopt rules to implement and enforce the licensure denial and suspension program.

Amended Bill Compared to Engrossed Second Substitute Bill: The engrossed second substitute bill allows a licensing entity only to suspend a license. It does not allow the licensing entity to deny a license or not renew a license. The engrossed second substitute bill did not include a substantial number of professions and occupations that have licensing, certification, or registration requirements. The amended bill includes these professions and occupations.

The engrossed second substitute bill allows for suspension of a license for noncompliance with a residential or visitation order but does not define noncompliance and does not specify any procedures or standards.

In an adjudicatory hearing to determine whether or not the parent is in compliance with a support order, the engrossed second substitute bill allows evidence of whether or not the parent is subject to a support order and whether or not the parent is in compliance with that order. The amended bill adds that the responsible parent may present evidence of whether or not substantial hardship would result on the responsible parent or an employee or dependent of the responsible parent.

The engrossed second substitute bill contains the following penalties to be imposed on an obligor who fails to comply with a child support order:

- (1) a requirement that the parent participate in community service work of at least 100 hours per month;
- (2) imprisonment for the crime of family nonsupport under RCW 26.20.035; and
- (3) the name of the noncomplying parent and the fact of nonsupport shall be published in the local newspaper.

The engrossed second substitute bill contains a provision specifying that a person is not eligible for aid to families with dependent children unless that person provides the names of both parents of the child.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: None.

Testimony Against: None.

Testified: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Law & Justice. Signed by 26 members: Representatives Huff, Chairman; Clements, Vice Chairman; Pelesky, Vice Chairman; H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Brumsickle; Carlson; Cooke; Crouse; Dyer; Foreman; Grant; Hickel; Kessler; Lambert; Linville; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Silver; Smith; Talcott and Wolfe.

Staff: Beth Redfield (786-7130).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Law & Justice: The standard of "significant" hardship for purposes of contesting noncompliance with a child support order is changed to "substantial" hardship. The bill is made null and void if not referenced by the supplemental operating budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: None.

Testimony Against: None.

Testified: None.