

SENATE BILL REPORT

ESB 5213

As Passed Senate, March 14, 1995

Title: An act relating to civil procedure in domestic relations actions.

Brief Description: Revising civil procedure for domestic relations actions.

Sponsors: Senators Quigley, Haugen, McAuliffe, Wood, McCaslin, Winsley and Rasmussen.

Brief History:

Committee Activity: Law & Justice: 1/31/95, 2/6/95 [DP].
Passed Senate, 3/14/95, 48-0.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Johnson, Long, McCaslin, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: The Department of Social and Health Services contracts with prosecutors and the Attorney General to provide legal representation in child support cases. However, the Attorney General is in the process of turning over the majority of the work to prosecutors. The prosecutors have proposed a number of changes to the child support enforcement laws to reflect this shift in the work, as well as recent changes in federal laws. They have also proposed clarifying amendments to provisions relating to interstate cases.

Some employers with health insurance plans governed by the Employee Retirement Income Security Act (ERISA) have claimed that federal law did not require them to comply with child support orders to enroll dependent children in health insurance. Recent amendments to federal law have attempted to clarify that child support orders can require enrollment of these children as long as the order complies with the federal definition of a "qualified medical child support order."

Federal law requires every state to establish guidelines for child support awards. The guidelines must include a rebuttable presumption that the award resulting from application of the guidelines is the correct amount of support that should be awarded. Washington's child support schedule establishes a minimum support amount of \$25 per child per month for parents with combined monthly net income of \$600 or less per month. The Western District of the U.S. District Court has held that this \$25 minimum child support payment is an irrebuttable child support obligation and, therefore, is in conflict with federal law.

Summary of Bill: A support order that requires health insurance coverage for a dependent child is a qualified medical child support order for the purposes of ERISA if it states the names and addresses of the obligor and each dependent child, a description of the coverage

to be provided, the term for which it is to be provided, and each plan to which the order applies.

The Attorney General is required to file a letter with the presiding superior court judge specifying the types of child support cases to be handled by the local prosecutor's office. Notice of entry of an order involving child support or maintenance in a case in which the Department of Social and Health Services has a financial interest must be given to the Office of the Prosecuting Attorney if the case is one designated for handling by the prosecutor's office.

In interstate paternity cases where the alleged father resides in Washington, the mother and child in the other state may be served personally or by certified mail. Service may be addressed to the mother and child, or to the agency referring the case to this state.

Support orders of another state that are registered in this state may include either the name and address of the obligee, or the agency or person to whom payments are to be remitted. Notice to the nonregistering party must be provided by the registering tribunal or the petitioner. Administrative support orders are superseded upon entry of an inconsistent superior court order.

For combined monthly net incomes of less than \$600, a support order of \$25 per child per month must be entered for each parent unless the obligor parent establishes that it would be unjust or inappropriate in that particular case. In deciding whether to deviate below the presumptive minimum payment, the court may consider the best interests of the child and the circumstances of each parent. The circumstances to be considered can include comparative hardship to the affected households, assets or liabilities, and earning capacity.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill enables enrollment of children in health insurance plans governed by ERISA and assists prosecutors in handling child support cases.

Testimony Against: None.

Testified: PRO: Kevin Callaghan, WA Assoc. of Prosecuting Attorneys; Meg Sollenberger, DSHS Division of Child Support.