
HOUSE BILL 2266

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

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1 AN ACT Relating to the collection of child support; and amending
2 RCW 26.18.070, 26.18.080, 26.18.100, 26.18.140, 26.23.050, 26.23.060,
3 and 26.23.100.

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

5 **Sec. 1.** RCW 26.18.070 and 1994 c 230 s 3 are each amended to read
6 as follows:

7 (1) A petition or motion seeking a mandatory wage assignment in an
8 action under RCW 26.18.040 may be filed by an obligee if the obligor
9 is:

10 (a) Subject to a support order allowing immediate income
11 withholding and does not have a history of timely payments of court
12 ordered or administratively ordered child support; or

13 (b) More than fifteen days past due in child support or spousal
14 maintenance payments in an amount equal to or greater than the
15 obligation payable for one month.

16 (2) The petition or motion shall include a sworn statement by the
17 obligee, stating the facts authorizing the issuance of the wage
18 assignment order, including:

19 (a) That the obligor, stating his or her name and residence, is:

1 (i) Subject to a support order allowing immediate income
2 withholding and does not have a history of timely payments of court
3 ordered or administratively ordered child support; or

4 (ii) More than fifteen days past due in child support or spousal
5 maintenance payments in an amount equal to or greater than the
6 obligation payable for one month;

7 (b) A description of the terms of the order requiring payment of
8 support or spousal maintenance, and the amount past due, if any;

9 (c) The name and address of the obligor's employer;

10 (d) That notice by personal service or any form of mail requiring
11 a return receipt, has been provided to the obligor at least fifteen
12 days prior to the obligee seeking a mandatory wage assignment, unless
13 the order for support or maintenance states that the obligee may seek
14 a mandatory wage assignment without notice to the obligor; and

15 (e) In cases not filed by the state, whether the obligee has
16 received public assistance from any source and, if the obligee has
17 received public assistance, that the department of social and health
18 services has been notified in writing of the pending action.

19 (3) If the court in which a mandatory wage assignment is sought
20 does not already have a copy of the support or maintenance order in the
21 court file, then the obligee shall attach a copy of the support or
22 maintenance order to the petition or motion seeking the wage
23 assignment.

24 **Sec. 2.** RCW 26.18.080 and 1987 c 435 s 19 are each amended to read
25 as follows:

26 (1) Upon receipt of a petition or motion seeking a mandatory wage
27 assignment that complies with RCW 26.18.070, the court shall issue a
28 wage assignment order, unless the obligor has a history of timely
29 payment of previously ordered child support. The order shall: (a) Be
30 issued as provided in RCW 26.18.100 (~~((and including))~~); (b) include the
31 information required in RCW 26.18.090(1)(~~(7)~~); (c) be directed to the
32 employer(~~(7)~~); and (~~((commanding))~~) (d) command the employer to answer
33 the order on the forms served with the order that comply with RCW
34 26.18.120 within twenty days after service of the order upon the
35 employer.

36 (2) The clerk of the court shall forward a copy of the mandatory
37 wage assignment order, a true and correct copy of the support orders in
38 the court file, and a statement containing the obligee's address and

1 3social security number shall be forwarded to the Washington state
2 support registry within five days of the entry of the order.

3 **Sec. 3.** RCW 26.18.100 and 1994 c 230 s 4 are each amended to read
4 as follows:

5 (1) The wage assignment order shall be substantially in the
6 following form:

7 IN THE SUPERIOR COURT OF THE
8 STATE OF WASHINGTON IN AND FOR THE
9 COUNTY OF

10 ,
11 Obligee No.
12 vs.
13 , WAGE ASSIGNMENT
14 Obligor ORDER
15 ,
16 Employer

17 THE STATE OF WASHINGTON TO:
18 Employer

19 AND TO:
20 Obligor

21 The above-named obligee claims that the above-named obligor: (a)
22 Is subject to a support order requiring immediate income withholding
23 and does not have a history of timely payments of court ordered or
24 administratively ordered child support; or (b) is more than fifteen
25 days past due in either child support or spousal maintenance payments,
26 or both, in an amount equal to or greater than the child support or
27 spousal maintenance payable for one month. The amount of the accrued
28 child support or spousal maintenance debt as of this date is
29 dollars, the amount of arrearage payments specified in the
30 support or spousal maintenance order (if applicable) is
31 dollars per , and the amount of the current and continuing
32 support or spousal maintenance obligation under the order is
33 dollars per

34 You are hereby commanded to answer this order by filling in the
35 attached form according to the instructions, and you must mail or
36 deliver the original of the answer to the court, one copy to the

1 Washington state support registry, one copy to the obligee or obligee's
2 attorney, and one copy to the obligor within twenty days after service
3 of this wage assignment order upon you.

4 (2) If you possess any earnings or other remuneration for
5 employment due and owing to the obligor, then you shall do as follows:

6 ~~((1))~~ (a) Withhold from the obligor's earnings or remuneration
7 each month, or from each regular earnings disbursement, the lesser of:

8 ~~((a))~~ (i) The sum of the accrued support or spousal maintenance
9 debt and the current support or spousal maintenance obligation;

10 ~~((b))~~ (ii) The sum of the specified arrearage payment amount and
11 the current support or spousal maintenance obligation; or

12 ~~((c))~~ (iii) Fifty percent of the disposable earnings or
13 remuneration of the obligor.

14 ~~((2))~~ (b) The total amount withheld above is subject to the wage
15 assignment order, and all other sums may be disbursed to the obligor.

16 ~~((3))~~ (c) Upon receipt of this wage assignment order you shall
17 make immediate deductions from the obligor's earnings or remuneration
18 and remit to the Washington state support registry or other address
19 specified below the proper amounts at each regular pay interval.

20 You shall continue to withhold the ordered amounts from nonexempt
21 earnings or remuneration of the obligor until notified by:

22 ~~((a))~~ (i) The court that the wage assignment has been modified or
23 terminated; or

24 ~~((b))~~ (ii) The addressee specified in the wage assignment order
25 under this section that the accrued child support or spousal
26 maintenance debt has been paid.

27 (3) You shall promptly notify the court and the addressee specified
28 in the wage assignment order under this section if and when the
29 employee is no longer employed by you, or if the obligor no longer
30 receives earnings or remuneration from you. If you no longer employ
31 the employee, the wage assignment order shall remain in effect for one
32 year after the employee has left your employment or you are no longer
33 in possession of any earnings or remuneration owed to the employee,
34 whichever is later. You shall continue to hold the wage assignment
35 order during that period. If the employee returns to your employment
36 during the one-year period you shall immediately begin to withhold the
37 employee's earnings according to the terms of the wage assignment
38 order. If the employee has not returned to your employment within one
39 year, the wage assignment will cease to have effect at the expiration

1 assignment order has been in operation for twelve consecutive months
2 and the obligor's support or spousal maintenance obligation is current,
3 the court may terminate the order upon motion of the obligor unless the
4 obligee can show good cause as to why the wage assignment order should
5 remain in effect.

6 (2) The court may enter an order delaying, modifying, or
7 terminating the wage assignment order and order the obligor to make
8 payments directly to the obligee as provided in RCW 26.23.050(2).

9 **Sec. 5.** RCW 26.23.050 and 1994 c 230 s 9 are each amended to read
10 as follows:

11 (1) If the office of support enforcement is providing support
12 enforcement services under RCW 26.23.045, or if a party is applying for
13 support enforcement services by signing the application form on the
14 bottom of the support order, the superior court shall include in all
15 court orders that establish or modify a support obligation:

16 (a) A provision that orders and directs the responsible parent to
17 make all support payments to the Washington state support registry;

18 (b) A statement that a notice of payroll deduction may be issued,
19 or other income withholding action under chapter 26.18 or 74.20A RCW
20 may be taken, without further notice to the responsible parent at any
21 time after entry of the court order, unless:

22 (i) One of the parties demonstrates, and the court finds, that
23 there is good cause not to require immediate income withholding and
24 that withholding should be delayed until a payment is past due; or

25 (ii) The parties reach a written agreement that is approved by the
26 court that provides for an alternate arrangement; and

27 (c) A statement that the receiving parent might be required to
28 submit an accounting of how the support is being spent to benefit the
29 child.

30 As used in this subsection and subsection (3) of this section,
31 "good cause not to require immediate income withholding" means a
32 written determination of why implementing immediate wage withholding
33 would not be in the child's best interests and, in modification cases,
34 proof of a history of timely payment of previously ordered support.

35 (2) In all other cases not under subsection (1) of this section,
36 the court may order the responsible parent to make payments directly to
37 the person entitled to receive the payments, to the Washington state

1 support registry, or may order that payments be made in accordance with
2 an alternate arrangement agreed upon by the parties.

3 (a) The superior court shall include in all orders under this
4 subsection that establish or modify a support obligation:

5 (i) A statement that a notice of payroll deduction may be issued or
6 other income withholding action under chapter 26.18 or 74.20A RCW may
7 be taken, without further notice to the responsible parent at any time
8 after entry of the court order, unless:

9 (A) One of the parties demonstrates, and the court finds, that
10 there is good cause not to require immediate income withholding and
11 that withholding should be delayed until a payment is past due; or

12 (B) The parties reach a written agreement that is approved by the
13 court that provides for an alternate arrangement; and

14 (ii) A statement that the receiving parent may be required to
15 submit an accounting of how the support is being spent to benefit the
16 child.

17 As used in this subsection, "good cause not to require immediate
18 income withholding" is any reason that the court finds appropriate,
19 and, in modification hearings, includes a finding that the obligor has
20 a history of timely payment of previously ordered support.

21 (b) The superior court may order immediate or delayed income
22 withholding as follows:

23 (i) Immediate income withholding may be ordered if the responsible
24 parent has earnings. If immediate income withholding is ordered under
25 this subsection, all support payments shall be paid to the Washington
26 state support registry. The superior court shall issue a mandatory
27 wage assignment order as set forth in chapter 26.18 RCW when the
28 support order is signed by the court. The parent entitled to receive
29 the transfer payment is responsible for serving the employer with the
30 order and for its enforcement as set forth in chapter 26.18 RCW.

31 (ii) If immediate income withholding is not ordered, the court
32 shall require that income withholding be delayed until a payment is
33 past due. The support order shall contain a statement that a notice of
34 payroll deduction may be issued, or other income-withholding action
35 under chapter 26.18 or 74.20A RCW may be taken, without further notice
36 to the responsible parent, after a payment is past due.

37 (c) If a mandatory wage withholding order under chapter 26.18 RCW
38 is issued under this subsection and the office of support enforcement
39 provides support enforcement services under RCW 26.23.045, the existing

1 wage withholding assignment is prospectively superseded upon the office
2 of support enforcement's subsequent service of an income withholding
3 notice.

4 (3) The office of administrative hearings and the department of
5 social and health services shall require that all support obligations
6 established as administrative orders include a provision which orders
7 and directs that the responsible parent shall make all support payments
8 to the Washington state support registry. All administrative orders
9 shall also state that a notice of payroll deduction may be issued, or
10 other income withholding action taken without further notice to the
11 responsible parent at any time after entry of the order, unless:

12 (a) One of the parties demonstrates, and the presiding officer
13 finds, that there is good cause not to require immediate income
14 withholding; or

15 (b) The parties reach a written agreement that is approved by the
16 presiding officer that provides for an alternate agreement.

17 (4) If the support order does not include the provision ordering
18 and directing that all payments be made to the Washington state support
19 registry and a statement that a notice of payroll deduction may be
20 issued if a support payment is past due or at any time after the entry
21 of the order, the office of support enforcement may serve a notice on
22 the responsible parent stating such requirements and authorizations.
23 Service may be by personal service or any form of mail requiring a
24 return receipt.

25 (5) Every support order shall state:

26 (a) The address where the support payment is to be sent;

27 (b) That a notice of payroll deduction may be issued or other
28 income withholding action under chapter 26.18 or 74.20A RCW may be
29 taken, without further notice to the responsible parent at any time
30 after entry of an order by the court, unless:

31 (i) One of the parties demonstrates, and the court finds, that
32 there is good cause not to require immediate income withholding; or

33 (ii) The parties reach a written agreement that is approved by the
34 court that provides for an alternate arrangement;

35 (c) The income of the parties, if known, or that their income is
36 unknown and the income upon which the support award is based;

37 (d) The support award as a sum certain amount;

38 (e) The specific day or date on which the support payment is due;

1 (f) The social security number, residence address, and name and
2 address of the employer of the responsible parent;

3 (g) The social security number and residence address of the
4 physical custodian except as provided in subsection (6) of this
5 section;

6 (h) The names, dates of birth, and social security numbers, if any,
7 of the dependent children;

8 (i) In cases requiring payment to the Washington state support
9 registry, that the parties are to notify the Washington state support
10 registry of any change in residence address. The responsible parent
11 shall notify the registry of the name and address of his or her current
12 employer, whether he or she has access to health insurance coverage at
13 reasonable cost and, if so, the health insurance policy information;

14 (j) That any parent owing a duty of child support shall be
15 obligated to provide health insurance coverage for his or her child if
16 coverage that can be extended to cover the child is or becomes
17 available to that parent through employment or is union-related as
18 provided under RCW 26.09.105;

19 (k) That if proof of health insurance coverage or proof that the
20 coverage is unavailable is not provided within twenty days, the obligee
21 or the department may seek direct enforcement of the coverage through
22 the obligor's employer or union without further notice to the obligor
23 as provided under chapter 26.18 RCW; and

24 (l) The reasons for not ordering health insurance coverage if the
25 order fails to require such coverage.

26 (6) The physical custodian's address:

27 (a) Shall be omitted from an order entered under the administrative
28 procedure act. When the physical custodian's address is omitted from
29 an order, the order shall state that the custodian's address is known
30 to the office of support enforcement.

31 (b) A responsible parent may request the physical custodian's
32 residence address by submission of a request for disclosure under RCW
33 26.23.120 to the office of support enforcement.

34 (7) The superior court clerk, the office of administrative
35 hearings, and the department of social and health services shall,
36 within five days of entry, forward to the Washington state support
37 registry, a true and correct copy of all superior court orders or
38 administrative orders establishing or modifying a support obligation
39 which provide that support payments shall be made to the support

1 registry. If a superior court order entered prior to January 1, 1988,
2 directs the responsible parent to make support payments to the clerk,
3 the clerk shall send a true and correct copy of the support order and
4 the payment record to the registry for enforcement action when the
5 clerk identifies that a payment is more than fifteen days past due.
6 The office of support enforcement shall reimburse the clerk for the
7 reasonable costs of copying and sending copies of court orders to the
8 registry at the reimbursement rate provided in Title IV-D of the social
9 security act.

10 (8) Receipt of a support order by the registry or other action
11 under this section on behalf of a person or persons who have not made
12 a written application for support enforcement services to the office of
13 support enforcement and who are not recipients of public assistance is
14 deemed to be a request for payment services only.

15 (9) After the responsible parent has been ordered or notified to
16 make payments to the Washington state support registry under this
17 section, the responsible parent shall be fully responsible for making
18 all payments to the Washington state support registry and shall be
19 subject to payroll deduction or other income withholding action. The
20 responsible parent shall not be entitled to credit against a support
21 obligation for any payments made to a person or agency other than to
22 the Washington state support registry except as provided under RCW
23 74.20.101. A civil action may be brought by the payor to recover
24 payments made to persons or agencies who have received and retained
25 support moneys paid contrary to the provisions of this section.

26 **Sec. 6.** RCW 26.23.060 and 1994 c 230 s 10 are each amended to read
27 as follows:

28 (1) The office of support enforcement may issue a notice of payroll
29 deduction:

30 (a) As authorized by a support order that contains the income
31 withholding notice provisions in RCW 26.23.050 or a substantially
32 similar notice; or

33 (b) After service of a notice containing an income withholding
34 provision under this chapter or chapter 74.20A RCW.

35 The office of support enforcement shall not issue a notice of
36 payroll deduction if the obligor has a history of timely payment of
37 previously ordered child support.

1 (2) The office of support enforcement shall serve a notice of
2 payroll deduction upon a responsible parent's employer or upon the
3 employment security department for the state in possession of or owing
4 any benefits from the unemployment compensation fund to the responsible
5 parent pursuant to Title 50 RCW by personal service or by any form of
6 mail requiring a return receipt.

7 (3) Service of a notice of payroll deduction upon an employer or
8 employment security department requires the employer or employment
9 security department to immediately make a mandatory payroll deduction
10 from the responsible parent's unpaid disposable earnings or
11 unemployment compensation benefits. The employer or employment
12 security department shall thereafter deduct each pay period the amount
13 stated in the notice divided by the number of pay periods per month.
14 The payroll deduction each pay period shall not exceed fifty percent of
15 the responsible parent's disposable earnings.

16 (4) A notice of payroll deduction for support shall have priority
17 over any wage assignment, garnishment, attachment, or other legal
18 process.

19 (5) The notice of payroll deduction shall be in writing and
20 include:

21 (a) The name and social security number of the responsible parent;

22 (b) The amount to be deducted from the responsible parent's
23 disposable earnings each month, or alternate amounts and frequencies as
24 may be necessary to facilitate processing of the payroll deduction;

25 (c) A statement that the total amount withheld shall not exceed
26 fifty percent of the responsible parent's disposable earnings; and

27 (d) The address to which the payments are to be mailed or
28 delivered.

29 (6) An informational copy of the notice of payroll deduction shall
30 be mailed to the last known address of the responsible parent by
31 regular mail.

32 (7) An employer or employment security department that receives a
33 notice of payroll deduction shall make immediate deductions from the
34 responsible parent's unpaid disposable earnings and remit proper
35 amounts to the Washington state support registry on each date the
36 responsible parent is due to be paid.

37 (8) An employer, or the employment security department, upon whom
38 a notice of payroll deduction is served, shall make an answer to the
39 office of support enforcement within twenty days after the date of

1 service. The answer shall confirm compliance and institution of the
2 payroll deduction or explain the circumstances if no payroll deduction
3 is in effect. The answer shall also state whether the responsible
4 parent is employed by or receives earnings from the employer or
5 receives unemployment compensation benefits from the employment
6 security department, whether the employer or employment security
7 department anticipates paying earnings or unemployment compensation
8 benefits and the amount of earnings. If the responsible parent is no
9 longer employed, or receiving earnings from the employer, the answer
10 shall state the present employer's name and address, if known. If the
11 responsible parent is no longer receiving unemployment compensation
12 benefits from the employment security department, the answer shall
13 state the present employer's name and address, if known.

14 (9) The employer or employment security department may deduct a
15 processing fee from the remainder of the responsible parent's earnings
16 after withholding under the notice of payroll deduction, even if the
17 remainder is exempt under RCW 26.18.090. The processing fee may not
18 exceed: (a) Ten dollars for the first disbursement made to the
19 Washington state support registry; and (b) one dollar for each
20 subsequent disbursement to the registry.

21 (10) The notice of payroll deduction shall remain in effect until
22 released by the office of support enforcement, the court enters an
23 order terminating the notice and approving an alternate arrangement
24 under RCW 26.23.050(2), or one year has expired since the employer has
25 employed the responsible parent or has been in possession of or owing
26 any earnings to the responsible parent or the employment security
27 department has been in possession of or owing any unemployment
28 compensation benefits to the responsible parent.

29 **Sec. 7.** RCW 26.23.100 and 1994 c 230 s 11 are each amended to read
30 as follows:

31 (1) The responsible parent subject to a payroll deduction pursuant
32 to this chapter, may file a motion in superior court to quash, modify,
33 or terminate the payroll deduction.

34 (2) Except as provided in subsections (4) and (5) of this section,
35 the court may grant relief only upon a showing: (a) That the payroll
36 deduction causes extreme hardship or substantial injustice; or (b) that
37 the support payment was not past due under the terms of the order when
38 the notice of payroll deduction was served on the employer and the

1 obligor has a history of timely payment of previously ordered child
2 support.

3 (3) Satisfaction by the obligor of all past due payments subsequent
4 to the issuance of the notice of payroll deduction is not grounds to
5 quash, modify, or terminate the notice of payroll deduction.

6 (4) If a notice of payroll deduction has been in operation for
7 twelve consecutive months and the obligor's support obligation is
8 current, upon motion of the obligor, the court may order the office of
9 support enforcement to terminate the payroll deduction, unless the
10 obligee can show good cause as to why the payroll deduction should
11 remain in effect.

12 (5) Subsection (2) of this section shall not prevent the court from
13 ordering an alternative arrangement as provided under RCW 26.23.050(2).

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