
SENATE BILL 5212

State of Washington

54th Legislature

1995 Regular Session

By Senator Quigley; by request of Department of Social and Health Services

Read first time 01/16/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to child support enforcement; amending RCW
2 26.23.050 and 74.20A.055; and reenacting and amending RCW 74.20A.056.

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

4 **Sec. 1.** RCW 26.23.050 and 1994 c 230 s 9 are each amended to read
5 as follows:

6 (1) If the (~~office of support enforcement~~) division of child
7 support is providing support enforcement services under RCW
8 26.23.045(1) (a), (b), or (c), or if a party is applying for support
9 enforcement services by signing the application form on the bottom of
10 the support order, the superior court shall include in all court orders
11 that establish or modify a support obligation:

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

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

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

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

6 (c) A statement that the receiving parent (~~(might)~~) may be required
7 to submit an accounting of how the support is being spent to benefit
8 the child.

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

14 (2) In all other cases not under subsection (1) of this section,
15 the court may order the responsible parent to make payments directly to
16 the person entitled to receive the payments, to the Washington state
17 support registry, or may order that payments be made in accordance with
18 an alternate arrangement agreed upon by the parties.

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

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

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

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

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

33 As used in this subsection, "good cause not to require immediate
34 income withholding" is any reason that the court finds appropriate.

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

37 (i) Immediate income withholding may be ordered if the responsible
38 parent has earnings. If immediate income withholding is ordered under
39 this subsection, all support payments shall be paid to the Washington

1 state support registry. The superior court shall issue a mandatory
2 wage assignment order as set forth in chapter 26.18 RCW when the
3 support order is signed by the court. The parent entitled to receive
4 the transfer payment is responsible for serving the employer with the
5 order and for its enforcement as set forth in chapter 26.18 RCW.

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

12 (c) If a mandatory wage (~~((withholding order))~~) assignment under
13 chapter 26.18 RCW is issued under this subsection and the (~~((office of~~
14 ~~support enforcement))~~) division of child support provides support
15 enforcement services under RCW 26.23.045(1) (a), (b), or (c), the
16 existing wage (~~((withholding))~~) assignment is prospectively superseded
17 upon the (~~((office of support enforcement's))~~) division of child
18 support's subsequent service of an income withholding notice.

19 (3) The office of administrative hearings and the department of
20 social and health services shall require that all support obligations
21 established as administrative orders include a provision which orders
22 and directs that the responsible parent shall make all support payments
23 to the Washington state support registry. All administrative orders
24 shall also state that a notice of payroll deduction may be issued, or
25 other income withholding action taken without further notice to the
26 responsible parent at any time after entry of the order, unless:

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

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

32 (4) If the support order does not include the provision ordering
33 and directing that all payments be made to the Washington state support
34 registry and a statement that a notice of payroll deduction may be
35 issued if a support payment is past due or at any time after the entry
36 of the order, the (~~((office of support enforcement))~~) division of child
37 support may serve a notice on the responsible parent stating such
38 requirements and authorizations. Service may be by personal service or
39 any form of mail requiring a return receipt.

1 (5) Every support order shall state:

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

3 (b) That a notice of payroll deduction may be issued or other

4 income withholding action under chapter 26.18 or 74.20A RCW may be

5 taken, without further notice to the responsible parent at any time

6 after entry of an order by the court, unless:

7 (i) One of the parties demonstrates, and the court finds, that

8 there is good cause not to require immediate income withholding; or

9 (ii) The parties reach a written agreement that is approved by the

10 court that provides for an alternate arrangement;

11 (c) The income of the parties, if known, or that their income is

12 unknown and the income upon which the support award is based;

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

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

15 (f) The social security number, residence address, and name and

16 address of the employer of the responsible parent;

17 (g) The social security number and residence address of the

18 physical custodian except as provided in subsection (6) of this

19 section;

20 (h) The names, dates of birth, and social security numbers, if any,

21 of the dependent children;

22 (i) In cases requiring payment to the Washington state support

23 registry, that the parties are to notify the Washington state support

24 registry of any change in residence address. The responsible parent

25 shall notify the registry of the name and address of his or her current

26 employer, whether he or she has access to health insurance coverage at

27 reasonable cost and, if so, the health insurance policy information;

28 (j) That any parent owing a duty of child support shall be

29 obligated to provide health insurance coverage for his or her child if

30 coverage that can be extended to cover the child is or becomes

31 available to that parent through employment or is union-related as

32 provided under RCW 26.09.105;

33 (k) That if proof of health insurance coverage or proof that the

34 coverage is unavailable is not provided within twenty days, the obligee

35 or the department may seek direct enforcement of the coverage through

36 the obligor's employer or union without further notice to the obligor

37 as provided under chapter 26.18 RCW; and

38 (l) The reasons for not ordering health insurance coverage if the

39 order fails to require such coverage.

1 (6) The physical custodian's address:

2 (a) Shall be omitted from an order entered under the administrative
3 procedure act (~~(. When the physical custodian's address is omitted from~~
4 ~~an order, the order shall state that the custodian's address is known~~
5 ~~to the office of support enforcement.)~~);

6 (b) (~~(A responsible parent may request the physical custodian's~~
7 ~~residence address by submission of a request for disclosure under RCW~~
8 ~~26.23.120 to the office of support enforcement)~~) May be omitted from a
9 superior court order if the physical custodian is receiving services
10 under RCW 26.23.045 from the division of child support.

11 (7)(a) When the physical custodian's address is omitted from any
12 order the order shall state that the custodian's address is known to
13 the division of child support.

14 (b) A responsible parent may request the physical custodian's
15 residence address by submission of a request for disclosure under RCW
16 26.23.120 to the division of child support.

17 (8) The superior court clerk, the office of administrative
18 hearings, and the department of social and health services shall,
19 within five days of entry, forward to the Washington state support
20 registry, a true and correct copy of all superior court orders or
21 administrative orders establishing or modifying a support obligation
22 which provide that support payments shall be made to the support
23 registry. If a superior court order entered prior to January 1, 1988,
24 directs the responsible parent to make support payments to the clerk,
25 the clerk shall send a true and correct copy of the support order and
26 the payment record to the registry for enforcement action when the
27 clerk identifies that a payment is more than fifteen days past due.
28 The (~~office of support enforcement~~) division of child support shall
29 reimburse the clerk for the reasonable costs of copying and sending
30 copies of court orders to the registry at the reimbursement rate
31 provided in Title IV-D of the social security act.

32 (~~(+8)~~) (9) Receipt of a support order by the registry or other
33 action under this section on behalf of a person or persons who have not
34 made a written application for support enforcement services to the
35 (~~office of support enforcement~~) division of child support and who are
36 not recipients of public assistance is deemed to be a request for
37 payment services only.

38 (~~(+9)~~) (10) After the responsible parent has been ordered or
39 notified to make payments to the Washington state support registry

1 under this section, the responsible parent shall be fully responsible
2 for making all payments to the Washington state support registry and
3 shall be subject to payroll deduction or other income withholding
4 action. The responsible parent shall not be entitled to credit against
5 a support obligation for any payments made to a person or agency other
6 than to the Washington state support registry except as provided under
7 RCW 74.20.101. A civil action may be brought by the payor to recover
8 payments made to persons or agencies who have received and retained
9 support moneys paid contrary to the provisions of this section.

10 **Sec. 2.** RCW 74.20A.055 and 1991 c 367 s 46 are each amended to
11 read as follows:

12 (1) The secretary may, in the absence of a superior court order,
13 serve on the responsible parent or parents a notice and finding of
14 financial responsibility requiring a responsible parent or parents to
15 appear and show cause in an adjudicative proceeding why the finding of
16 responsibility and/or the amount thereof is incorrect, should not be
17 finally ordered, but should be rescinded or modified. This notice and
18 finding shall relate to the support debt accrued and/or accruing under
19 this chapter and/or RCW 26.16.205, including periodic payments to be
20 made in the future. The hearing shall be held pursuant to this
21 section, chapter 34.05 RCW, the Administrative Procedure Act, and the
22 rules of the department.

23 (2) The notice and finding of financial responsibility shall be
24 served in the same manner prescribed for the service of a summons in a
25 civil action or may be served on the responsible parent by certified
26 mail, return receipt requested. The receipt shall be prima facie
27 evidence of service. The notice shall be served upon the debtor within
28 sixty days from the date the state assumes responsibility for the
29 support of the dependent child or children on whose behalf support is
30 sought. If the notice is not served within sixty days from such date,
31 the department shall lose the right to reimbursement of payments made
32 after the sixty-day period and before the date of notification:
33 PROVIDED, That if the department exercises reasonable efforts to locate
34 the debtor and is unable to do so the entire sixty-day period is tolled
35 until such time as the debtor can be located.

36 (3) The notice and finding of financial responsibility shall set
37 forth the amount the department has determined the responsible parent

1 owes, the support debt accrued and/or accruing, and periodic payments
2 to be made in the future. The notice and finding shall also include:

3 (a) A statement of the name of the recipient or custodian and the
4 name of the child or children for whom support is sought;

5 (b) A statement of the amount of periodic future support payments
6 as to which financial responsibility is alleged;

7 (c) A statement that the responsible parent may object to all or
8 any part of the notice and finding, and file an application for an
9 adjudicative proceeding to show cause why said responsible parent
10 should not be determined to be liable for any or all of the debt, past
11 and future;

12 (d) A statement that, if the responsible parent fails in timely
13 fashion to file an application for an adjudicative proceeding, the
14 support debt and payments stated in the notice and finding, including
15 periodic support payments in the future, shall be assessed and
16 determined and ordered by the department and that this debt and amounts
17 due under the notice shall be subject to collection action;

18 (e) A statement that the property of the debtor, without further
19 advance notice or hearing, will be subject to lien and foreclosure,
20 distraint, seizure and sale, order to withhold and deliver, notice of
21 payroll deduction or other collection action to satisfy the debt and
22 enforce the support obligation established under the notice.

23 (4) A responsible parent who objects to the notice and finding of
24 financial responsibility may file an application for an adjudicative
25 proceeding within twenty days of the date of service of the notice or
26 thereafter as provided under this subsection. An adjudicative
27 proceeding shall be held in the county of residence or other place
28 convenient to the responsible parent.

29 (a) If the responsible parent files the application within twenty
30 days, the department shall schedule an adjudicative proceeding to hear
31 the parent's objection and determine the parents' support obligation
32 for the entire period covered by the notice and finding of financial
33 responsibility. The filing of the application stays collection action
34 pending the entry of a final administrative order;

35 (b) If the responsible parent fails to file an application within
36 twenty days, the notice and finding shall become a final administrative
37 order. The amounts for current and future support and the support debt
38 stated in the notice are final and subject to collection, except as
39 provided under (c) and (d) of this subsection;

1 (c) If the responsible parent files the application more than
2 twenty days after, but within one year of the date of service, the
3 department shall schedule an adjudicative proceeding to hear the
4 parents' objection and determine the parent's support obligation for
5 the entire period covered by the notice and finding of financial
6 responsibility. The filing of the application does not stay further
7 collection action, pending the entry of a final administrative order,
8 and does not affect any prior collection action;

9 (d) If the responsible parent files the application more than one
10 year after the date of service, the department shall schedule an
11 adjudicative proceeding at which the responsible parent must show good
12 cause for failure to file a timely application. The filing of the
13 application does not stay future collection action and does not affect
14 prior collection action:

15 (i) If the presiding officer finds that good cause exists, the
16 presiding officer shall proceed to hear the parent's objection to the
17 notice and determine the parent's support obligation;

18 (ii) If the presiding officer finds that good cause does not exist,
19 the presiding officer shall treat the application as a petition for
20 prospective modification of the amount for current and future support
21 established under the notice and finding. In the modification
22 proceeding, the presiding officer shall set current and future support
23 under chapter 26.19 RCW. The responsible parent need show neither good
24 cause nor a substantial change of circumstances to justify modification
25 of current and future support;

26 (e) Absent a showing of good cause for not filing the application
27 timely, the department shall retain and/or shall not refund support
28 money collected more than twenty days after the date of service of the
29 notice. Money withheld as the result of collection action shall be
30 delivered to the department. The department shall distribute such
31 money, as provided in published rules. The department may only refund
32 support moneys collected and retained by the department and may not
33 refund support moneys that have previously been distributed to a person
34 or entity other than the department.

35 (5) If an application for an adjudicative proceeding is filed, the
36 presiding or reviewing officer shall determine the past liability and
37 responsibility, if any, of the alleged responsible parent and shall
38 also determine the amount of periodic payments to be made in the
39 future, which amount is not limited by the amount of any public

1 assistance payment made to or for the benefit of the child. If
2 deviating from the child support schedule in making these
3 determinations, the presiding or reviewing officer shall apply the
4 standards contained in the child support schedule and enter written
5 findings of fact supporting the deviation.

6 (6) If the responsible parent fails to attend or participate in the
7 hearing or other stage of an adjudicative proceeding, upon a showing of
8 valid service, the presiding officer shall enter an administrative
9 order declaring the support debt and payment provisions stated in the
10 notice and finding of financial responsibility to be assessed and
11 determined and subject to collection action.

12 (7) The final administrative order establishing liability and/or
13 future periodic support payments shall be superseded upon entry of a
14 superior court order for support to the extent the superior court order
15 is inconsistent with the administrative order.

16 (8) Debts determined pursuant to this section, accrued and not
17 paid, are subject to collection action under this chapter without
18 further necessity of action by a presiding or reviewing officer.

19 **Sec. 3.** RCW 74.20A.056 and 1994 c 230 s 19 and 1994 c 146 s 5 are
20 each reenacted and amended to read as follows:

21 (1) If an alleged father has signed an affidavit acknowledging
22 paternity which has been filed with the state office of vital
23 statistics, the (~~office of support enforcement~~) division of child
24 support may serve a notice and finding of parental responsibility on
25 him. Service of the notice shall be in the same manner as a summons in
26 a civil action or by certified mail, return receipt requested. The
27 notice shall have attached to it a copy of the affidavit or
28 certification of birth record information advising of the existence of
29 a filed affidavit, provided by the center for health statistics, or
30 certification of birth record information advising of the existence of
31 a filed affidavit, provided by the center for health statistics, and
32 shall state that:

33 (a) The alleged father may file an application for an adjudicative
34 proceeding at which he will be required to appear and show cause why
35 the amount stated in the finding of financial responsibility as to
36 support is incorrect and should not be ordered;

37 (b) Pursuant to subsection (4) of this section, an alleged father
38 may request that a (~~blood or~~) genetic test be administered to

1 determine whether such test would exclude him from being a natural
2 parent and, if not excluded, may subsequently request that the ((office
3 of support enforcement)) division of child support initiate an action
4 in superior court to determine the existence of the parent-child
5 relationship; and

6 (c) If the alleged father does not request that a ((blood or))
7 genetic test be administered or file an application for an adjudicative
8 proceeding, the amount of support stated in the notice and finding of
9 parental responsibility shall become final, subject only to a
10 subsequent determination under RCW 26.26.060 that the parent-child
11 relationship does not exist.

12 (2) An alleged father who objects to the amount of support
13 requested in the notice may file an application for an adjudicative
14 proceeding up to twenty days after the date the notice was served. An
15 application for an adjudicative proceeding may be filed within one year
16 of service of the notice and finding of parental responsibility without
17 the necessity for a showing of good cause or upon a showing of good
18 cause thereafter. An adjudicative proceeding under this section shall
19 be pursuant to RCW 74.20A.055. The only issues shall be the amount of
20 the accrued debt, the amount of the current and future support
21 obligation, and the reimbursement of the costs of ((blood or)) genetic
22 tests if advanced by the department.

23 (3) If the application for an adjudicative proceeding is filed
24 within twenty days of service of the notice, collection action shall be
25 stayed pending a final decision by the department. If no application
26 is filed within twenty days:

27 (a) The amounts in the notice shall become final and the debt
28 created therein shall be subject to collection action; and

29 (b) Any amounts so collected shall neither be refunded nor returned
30 if the alleged father is later found not to be a responsible parent.

31 (4) An alleged father who denies being a responsible parent may
32 request that a ((blood or)) genetic test be administered ((at any
33 time)) within one year from the date the notice and finding of parental
34 responsibility is served upon him. The request for testing shall be in
35 writing and served on the ((office of support enforcement)) division of
36 child support personally or by registered or certified mail. If a
37 timely request for testing is made, the department shall arrange for
38 the test and, pursuant to rules adopted by the department, may advance
39 the cost of such testing. The department shall mail a copy of the test

1 results by certified mail, return receipt requested, to the alleged
2 father's last known address.

3 (5) If the test excludes the alleged father from being a natural
4 parent, the (~~office of support enforcement~~) division of child support
5 shall file a copy of the results with the state office of vital
6 statistics and shall dismiss any pending administrative collection
7 proceedings based upon the affidavit in issue. The state office of
8 vital statistics shall remove the alleged father's name from the birth
9 certificate.

10 (6) The alleged father may, within twenty days after the date of
11 receipt of the test results, request the (~~office of support~~
12 ~~enforcement~~) division of child support to initiate an action under RCW
13 26.26.060 to determine the existence of the parent-child relationship.
14 If the (~~office of support enforcement~~) division of child support
15 initiates a superior court action at the request of the alleged father
16 and the decision of the court is that the alleged father is a natural
17 parent, the alleged father shall be liable for court costs incurred.

18 (7) If the alleged father does not request the (~~office of support~~
19 ~~enforcement~~) division of child support to initiate a superior court
20 action, or if the alleged father fails to appear and cooperate with
21 (~~blood or~~) genetic testing, the notice of parental responsibility
22 shall become final for all intents and purposes (~~and may be overturned~~
23 ~~only~~).

24 (8) The alleged father may, at any time, contest the issue of
25 parentage presumed under this section by (~~a subsequent~~) initiating a
26 superior court (~~order entered~~) action under RCW 26.26.060.

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