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**SUBSTITUTE SENATE BILL 6113**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators  
Wojahn, Winsley and Smith)

Read first time 02/06/96.

1           AN ACT Relating to paternity; and amending RCW 74.20A.055.

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

3           **Sec. 1.** RCW 74.20A.055 and 1991 c 367 s 46 are each amended to  
4 read as follows:

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10 finally ordered, but should be rescinded or modified.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

16           (2) The notice and finding of financial responsibility shall be  
17 served in the same manner prescribed for the service of a summons in a  
18 civil action or may be served on the responsible parent by certified  
19 mail, return receipt requested. The receipt shall be prima facie

1 evidence of service. The notice shall be served upon the debtor within  
2 sixty days from the date the state assumes responsibility for the  
3 support of the dependent child or children on whose behalf support is  
4 sought. If the notice is not served within sixty days from such date,  
5 the department shall lose the right to reimbursement of payments made  
6 after the sixty-day period and before the date of notification:  
7 PROVIDED, That if the department exercises reasonable efforts to locate  
8 the debtor and is unable to do so the entire sixty-day period is tolled  
9 until such time as the debtor can be located.

10 (3) The notice and finding of financial responsibility shall set  
11 forth the amount the department has determined the responsible parent  
12 owes, the support debt accrued and/or accruing, and periodic payments  
13 to be made in the future. The notice and finding shall also include:

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

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

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

23 (d) A statement that the alleged responsible parent may challenge  
24 the presumption of paternity;

25 (e) A statement that, if the responsible parent fails in timely  
26 fashion to file an application for an adjudicative proceeding, the  
27 support debt and payments stated in the notice and finding, including  
28 periodic support payments in the future, shall be assessed and  
29 determined and ordered by the department and that this debt and amounts  
30 due under the notice shall be subject to collection action;

31 ~~((e))~~ (f) A statement that the property of the debtor, without  
32 further advance notice or hearing, will be subject to lien and  
33 foreclosure, distraint, seizure and sale, order to withhold and  
34 deliver, notice of payroll deduction or other collection action to  
35 satisfy the debt and enforce the support obligation established under  
36 the notice.

37 (4) A responsible parent who objects to the notice and finding of  
38 financial responsibility may file an application for an adjudicative  
39 proceeding within twenty days of the date of service of the notice or

1 thereafter as provided under this subsection. An adjudicative  
2 proceeding shall be held in the county of residence or other place  
3 convenient to the responsible parent.

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

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

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

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

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

32 (ii) If the presiding officer finds that good cause does not exist,  
33 the presiding officer shall treat the application as a petition for  
34 prospective modification of the amount for current and future support  
35 established under the notice and finding. In the modification  
36 proceeding, the presiding officer shall set current and future support  
37 under chapter 26.19 RCW. The responsible parent need show neither good  
38 cause nor a substantial change of circumstances to justify modification  
39 of current and future support;

1 (e) The department shall retain and/or shall not refund support  
2 money collected more than twenty days after the date of service of the  
3 notice. Money withheld as the result of collection action shall be  
4 delivered to the department. The department shall distribute such  
5 money, as provided in published rules.

6 (5)(a) If an application for an adjudicative proceeding is filed,  
7 the presiding or reviewing officer shall determine the past liability  
8 and responsibility, if any, of the alleged responsible parent and shall  
9 also determine the amount of periodic payments to be made in the  
10 future, which amount is not limited by the amount of any public  
11 assistance payment made to or for the benefit of the child. If  
12 deviating from the child support schedule in making these  
13 determinations, the presiding or reviewing officer shall apply the  
14 standards contained in the child support schedule and enter written  
15 findings of fact supporting the deviation.

16 (b) If a responsible parent provides credible evidence at an  
17 adjudicative proceeding that would rebut the presumption of paternity  
18 set forth in RCW 26.26.040, the presiding officer shall direct the  
19 department to refer the issue for scheduling of an appropriate hearing  
20 in superior court to determine whether the presumption should be  
21 rebutted.

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

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

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

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