
SENATE BILL 6113

State of Washington

54th Legislature

1996 Regular Session

By Senators Wojahn, Winsley and Smith

Read first time 01/08/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to paternity; and amending RCW 26.26.040 and
2 74.20A.055.

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

4 **Sec. 1.** RCW 26.26.040 and 1994 c 230 s 14 are each amended to read
5 as follows:

6 (1) A man is presumed to be the natural father of a child for all
7 intents and purposes if:

8 (a) He and the child's natural mother are or have been married to
9 each other and the child is born during the marriage, or within three
10 hundred days after the marriage is terminated by death, annulment,
11 declaration of invalidity, divorce, or dissolution, or after a decree
12 of separation is entered by a court; or

13 (b) Before the child's birth, he and the child's natural mother
14 have attempted to marry each other by a marriage solemnized in apparent
15 compliance with law, although the attempted marriage is or could be
16 declared invalid, and the child is born within three hundred days after
17 the termination of cohabitation;

18 (c) After the child's birth, he and the child's natural mother have
19 married, or attempted to marry, each other by a marriage solemnized in

1 apparent compliance with law, although the attempted marriage is or
2 could be declared invalid, and

3 (i) He has acknowledged his paternity of the child in writing filed
4 with the registrar of vital statistics,

5 (ii) With his consent, he is named as the child's father on the
6 child's birth certificate, or

7 (iii) He is obligated to support the child under a written
8 voluntary promise or by court order;

9 (d) While the child is under the age of majority, he receives the
10 child into his home and openly holds out the child as his child;

11 (e) He acknowledges his paternity of the child pursuant to RCW
12 70.58.080 or in a writing filed with the state office of vital
13 statistics, which shall promptly inform the mother of the filing of the
14 acknowledgment, if she does not dispute the acknowledgment within a
15 reasonable time after being informed thereof, in a writing filed with
16 the registrar of vital statistics. In order to enforce rights of
17 residential time, custody, and visitation, a man presumed to be the
18 father as a result of filing a written acknowledgement must seek
19 appropriate judicial orders under this title;

20 (f) The United States immigration and naturalization service made
21 or accepted a determination that he was the father of the child at the
22 time of the child's entry into the United States and he had the
23 opportunity at the time of the child's entry into the United States to
24 admit or deny the paternal relationship; or

25 (g) Genetic testing indicates a ninety-eight percent or greater
26 probability of paternity.

27 (2) A presumption under this section may be rebutted in an
28 appropriate administrative or judicial action only by clear, cogent,
29 and convincing evidence. If two or more presumptions arise which
30 conflict with each other, the presumption which on the facts is founded
31 on the weightier considerations of policy and logic controls. The
32 presumption is rebutted by a court decree establishing paternity of the
33 child by another man.

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

36 (1) The secretary may, in the absence of a superior court order,
37 serve on the responsible parent or parents a notice and finding of
38 financial responsibility requiring a responsible parent or parents to

1 appear and show cause in an adjudicative proceeding why the finding of
2 responsibility and/or the amount thereof is incorrect, should not be
3 finally ordered, but should be rescinded or modified. This notice and
4 finding shall relate to the support debt accrued and/or accruing under
5 this chapter and/or RCW 26.16.205, including periodic payments to be
6 made in the future. The hearing shall be held pursuant to this
7 section, chapter 34.05 RCW, the Administrative Procedure Act, and the
8 rules of the department. This adjudicative proceeding is an
9 appropriate administrative proceeding for the purposes of RCW
10 26.26.040(2).

11 (2) The notice and finding of financial responsibility shall be
12 served in the same manner prescribed for the service of a summons in a
13 civil action or may be served on the responsible parent by certified
14 mail, return receipt requested. The receipt shall be prima facie
15 evidence of service. The notice shall be served upon the debtor within
16 sixty days from the date the state assumes responsibility for the
17 support of the dependent child or children on whose behalf support is
18 sought. If the notice is not served within sixty days from such date,
19 the department shall lose the right to reimbursement of payments made
20 after the sixty-day period and before the date of notification:
21 PROVIDED, That if the department exercises reasonable efforts to locate
22 the debtor and is unable to do so the entire sixty-day period is tolled
23 until such time as the debtor can be located.

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

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

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

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

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

1 (e) A statement that, if the responsible parent fails in timely
2 fashion to file an application for an adjudicative proceeding, the
3 support debt and payments stated in the notice and finding, including
4 periodic support payments in the future, shall be assessed and
5 determined and ordered by the department and that this debt and amounts
6 due under the notice shall be subject to collection action;

7 ~~((e))~~ (f) A statement that the property of the debtor, without
8 further advance notice or hearing, will be subject to lien and
9 foreclosure, distraint, seizure and sale, order to withhold and
10 deliver, notice of payroll deduction or other collection action to
11 satisfy the debt and enforce the support obligation established under
12 the notice.

13 (4) A responsible parent who objects to the notice and finding of
14 financial responsibility may file an application for an adjudicative
15 proceeding within twenty days of the date of service of the notice or
16 thereafter as provided under this subsection. An adjudicative
17 proceeding shall be held in the county of residence or other place
18 convenient to the responsible parent.

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

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

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

38 (d) If the responsible parent files the application more than one
39 year after the date of service, the department shall schedule an

1 adjudicative proceeding at which the responsible parent must show good
2 cause for failure to file a timely application. The filing of the
3 application does not stay future collection action and does not affect
4 prior collection action:

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

8 (ii) If the presiding officer finds that good cause does not exist,
9 the presiding officer shall treat the application as a petition for
10 prospective modification of the amount for current and future support
11 established under the notice and finding. In the modification
12 proceeding, the presiding officer shall set current and future support
13 under chapter 26.19 RCW. The responsible parent need show neither good
14 cause nor a substantial change of circumstances to justify modification
15 of current and future support;

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

21 (5) If an application for an adjudicative proceeding is filed, the
22 presiding or reviewing officer shall determine the past liability and
23 responsibility, if any, of the alleged responsible parent and shall
24 also determine the amount of periodic payments to be made in the
25 future, which amount is not limited by the amount of any public
26 assistance payment made to or for the benefit of the child. If
27 deviating from the child support schedule in making these
28 determinations, the presiding or reviewing officer shall apply the
29 standards contained in the child support schedule and enter written
30 findings of fact supporting the deviation.

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

37 (7) The final administrative order establishing liability and/or
38 future periodic support payments shall be superseded upon entry of a

1 superior court order for support to the extent the superior court order
2 is inconsistent with the administrative order.

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

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