

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6113

54th Legislature
1996 Regular Session

Passed by the Senate February 12, 1996
YEAS 49 NAYS 0

President of the Senate

Passed by the House February 26, 1996
YEAS 89 NAYS 6

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6113** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6113

Passed Legislature - 1996 Regular Session

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10 finally ordered, but should be rescinded or modified.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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