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HOUSE BILL 1480

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State of Washington                      55th Legislature                      1997 Regular Session

By Representatives Sherstad, Carrell, Dunn and Smith

Read first time 01/28/97. Referred to Committee on Law & Justice.

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 court may enter a  
30 wage assignment order, even if the obligor has a history of timely  
31 payment of previously ordered support, if the obligor is subject to a  
32 restraining order, no-contact order, or protection order with respect  
33 to the obligee or a child of the obligee. The order must: (a) Be  
34 issued as provided in RCW 26.18.100 ((and including)); (b) include the  
35 information required in RCW 26.18.090(1)((-)); (c) be directed to the  
36 employer((-)); and ((commanding)) (d) command the employer to answer  
37 the order on the forms served with the order that comply with RCW

1 26.18.120 within twenty days after service of the order upon the  
2 employer.

3 (2) The clerk of the court shall forward a copy of the mandatory  
4 wage assignment order, a true and correct copy of the support orders in  
5 the court file, and a statement containing the obligee's address and  
6 social security number shall be forwarded to the Washington state  
7 support registry within five days of the entry of the order.

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

10 (1) The wage assignment order shall be substantially in the  
11 following form:

12 IN THE SUPERIOR COURT OF THE  
13 STATE OF WASHINGTON IN AND FOR THE  
14 COUNTY OF . . . . .

15 . . . . . ,  
16 Obligee No. . . . .  
17 vs.  
18 . . . . . , WAGE ASSIGNMENT  
19 Obligor ORDER  
20 . . . . . ,  
21 Employer

22 THE STATE OF WASHINGTON TO: . . . . .  
23 Employer

24 AND TO: . . . . .  
25 Obligor

26 The above-named obligee claims that the above-named obligor is  
27 subject to a support order requiring immediate income withholding or is  
28 more than fifteen days past due in either child support or spousal  
29 maintenance payments, or both, in an amount equal to or greater than  
30 the child support or spousal maintenance payable for one month. The  
31 amount of the accrued child support or spousal maintenance debt as of  
32 this date is . . . . . dollars, the amount of arrearage payments  
33 specified in the support or spousal maintenance order (if applicable)  
34 is . . . . . dollars per . . . . . , and the amount of the current  
35 and continuing support or spousal maintenance obligation under the  
36 order is . . . . . dollars per . . . . .

1 You are hereby commanded to answer this order by filling in the  
2 attached form according to the instructions, and you must mail or  
3 deliver the original of the answer to the court, one copy to the  
4 Washington state support registry, one copy to the obligee or obligee's  
5 attorney, and one copy to the obligor within twenty days after service  
6 of this wage assignment order upon you.

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

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

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

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

15 ~~((c))~~ (iii) Fifty percent of the disposable earnings or  
16 remuneration of the obligor.

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

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

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

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

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

30 (3) You shall promptly notify the court and the addressee specified  
31 in the wage assignment order under this section if and when the  
32 employee is no longer employed by you, or if the obligor no longer  
33 receives earnings or remuneration from you. If you no longer employ  
34 the employee, the wage assignment order shall remain in effect for one  
35 year after the employee has left your employment or you are no longer  
36 in possession of any earnings or remuneration owed to the employee,  
37 whichever is later. You shall continue to hold the wage assignment  
38 order during that period. If the employee returns to your employment  
39 during the one-year period you shall immediately begin to withhold the



1 ordered support. The court shall not quash, modify, or terminate the  
2 wage assignment order if the obligor is subject to a restraining order,  
3 no-contact order, or protection order with respect to the obligee or a  
4 child of the obligee. Satisfaction by the obligor of all past due  
5 payments subsequent to the issuance of the wage assignment order is not  
6 grounds to quash, modify, or terminate the wage assignment order. If  
7 a wage assignment order has been in operation for twelve consecutive  
8 months and the obligor's support or spousal maintenance obligation is  
9 current, the court may terminate the order upon motion of the obligor  
10 unless the obligee can show good cause as to why the wage assignment  
11 order should remain in effect.

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

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

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

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

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

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

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

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

36 As used in this subsection and subsection (3) of this section,  
37 "good cause not to require immediate income withholding" means a  
38 written determination of why implementing immediate wage withholding

1 would not be in the child's best interests and, in modification cases,  
2 proof of a history of timely payment of previously ordered support.

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

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

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

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

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

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

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

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

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

36 (ii) If immediate income withholding is not ordered, the court  
37 shall require that income withholding be delayed until a payment is  
38 past due. The support order shall contain a statement that a notice of  
39 payroll deduction may be issued, or other income-withholding action

1 under chapter 26.18 or 74.20A RCW may be taken, without further notice  
2 to the responsible parent, after a payment is past due.

3 (c) If a mandatory wage withholding order under chapter 26.18 RCW  
4 is issued under this subsection and the office of support enforcement  
5 provides support enforcement services under RCW 26.23.045, the existing  
6 wage withholding assignment is prospectively superseded upon the office  
7 of support enforcement's subsequent service of an income withholding  
8 notice.

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

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

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

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

30 (5) Every support order shall state:

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

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

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

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



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

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

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

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

7 (g) The social security number and residence address of the  
8 physical custodian except as provided in subsection (6) of this  
9 section;

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

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

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

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

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

30 (6) The physical custodian's address:

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

35 (b) A responsible parent may request the physical custodian's  
36 residence address by submission of a request for disclosure under RCW  
37 26.23.120 to the office of support enforcement.

38 (7) The superior court clerk, the office of administrative  
39 hearings, and the department of social and health services shall,

1 within five days of entry, forward to the Washington state support  
2 registry, a true and correct copy of all superior court orders or  
3 administrative orders establishing or modifying a support obligation  
4 which provide that support payments shall be made to the support  
5 registry. If a superior court order entered prior to January 1, 1988,  
6 directs the responsible parent to make support payments to the clerk,  
7 the clerk shall send a true and correct copy of the support order and  
8 the payment record to the registry for enforcement action when the  
9 clerk identifies that a payment is more than fifteen days past due.  
10 The office of support enforcement shall reimburse the clerk for the  
11 reasonable costs of copying and sending copies of court orders to the  
12 registry at the reimbursement rate provided in Title IV-D of the social  
13 security act.

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

19 (9) After the responsible parent has been ordered or notified to  
20 make payments to the Washington state support registry under this  
21 section, the responsible parent shall be fully responsible for making  
22 all payments to the Washington state support registry and shall be  
23 subject to payroll deduction or other income withholding action. The  
24 responsible parent shall not be entitled to credit against a support  
25 obligation for any payments made to a person or agency other than to  
26 the Washington state support registry except as provided under RCW  
27 74.20.101. A civil action may be brought by the payor to recover  
28 payments made to persons or agencies who have received and retained  
29 support moneys paid contrary to the provisions of this section.

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

32 (1) The office of support enforcement may issue a notice of payroll  
33 deduction:

34 (a) As authorized by a support order that contains the income  
35 withholding notice provisions in RCW 26.23.050 or a substantially  
36 similar notice; or

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

1       The office of support enforcement shall not issue a notice of  
2 payroll deduction if the obligor has a history of timely payment of  
3 previously ordered child support. The department may issue a notice of  
4 payroll deduction, even if the obligor has a history of timely payment  
5 of previously ordered support, if the obligor is subject to a  
6 restraining order, no-contact order, or protection order with respect  
7 to the obligee or a child of the obligee.

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

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

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

26       (5) The notice of payroll deduction shall be in writing and  
27 include:

- 28       (a) The name and social security number of the responsible parent;
- 29       (b) The amount to be deducted from the responsible parent's  
30 disposable earnings each month, or alternate amounts and frequencies as  
31 may be necessary to facilitate processing of the payroll deduction;
- 32       (c) A statement that the total amount withheld shall not exceed  
33 fifty percent of the responsible parent's disposable earnings; and
- 34       (d) The address to which the payments are to be mailed or  
35 delivered.

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

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

6 (8) An employer, or the employment security department, upon whom  
7 a notice of payroll deduction is served, shall make an answer to the  
8 office of support enforcement within twenty days after the date of  
9 service. The answer shall confirm compliance and institution of the  
10 payroll deduction or explain the circumstances if no payroll deduction  
11 is in effect. The answer shall also state whether the responsible  
12 parent is employed by or receives earnings from the employer or  
13 receives unemployment compensation benefits from the employment  
14 security department, whether the employer or employment security  
15 department anticipates paying earnings or unemployment compensation  
16 benefits and the amount of earnings. If the responsible parent is no  
17 longer employed, or receiving earnings from the employer, the answer  
18 shall state the present employer's name and address, if known. If the  
19 responsible parent is no longer receiving unemployment compensation  
20 benefits from the employment security department, the answer shall  
21 state the present employer's name and address, if known.

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

29 (10) The notice of payroll deduction shall remain in effect until  
30 released by the office of support enforcement, the court enters an  
31 order terminating the notice and approving an alternate arrangement  
32 under RCW 26.23.050(2), or one year has expired since the employer has  
33 employed the responsible parent or has been in possession of or owing  
34 any earnings to the responsible parent or the employment security  
35 department has been in possession of or owing any unemployment  
36 compensation benefits to the responsible parent.

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

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

4 (2) Except as provided in subsections (4) and (5) of this section,  
5 the court may grant relief only upon a showing: (a) That the payroll  
6 deduction causes extreme hardship or substantial injustice; or (b) that  
7 the support payment was not past due under the terms of the order when  
8 the notice of payroll deduction was served on the employer and the  
9 obligor has a history of timely payment of previously ordered child  
10 support. The court shall not quash, modify, or terminate the wage  
11 assignment order if the obligor is subject to a restraining order, no-  
12 contact order, or protection order with respect to the obligee or a  
13 child of the obligee.

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

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

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

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