

HOUSE BILL ANALYSIS

HB 1386

Title: An act relating to service and expiration of child support documents on employers and others.

Brief Description: Changing service of process provisions for divisions of child support documents.

Sponsors: Representatives Sheahan and Constantine; by request of Department of Social and Health Services.

Brief Summary of Bill

- Changes the manner in which the Division of Child Support may serve an employer with a notice of enrollment for health insurance coverage.
- Clarifies when an order to withhold and deliver expires.
- Allows orders and notices under the child support enforcement statutes to be served by parcel delivery service.

HOUSE COMMITTEE ON JUDICIARY

Staff: Trudes Hutcheson (786-7384).

Background:

Notice of Enrollment for Health Insurance Coverage:

Under the child support statutes, a parent's duty of support— of a dependent child includes the duty to provide health care.

A child support order must require either or both parents to maintain or provide health insurance coverage for any dependent child if: (a) coverage is available or will be available in the future through employment or union; and (b) the cost does not exceed 25 percent of the obligated parent's basic support obligation. If the cost exceeds 25 percent of the obligated parent's basic support obligation, the court has discretion to order coverage and must consider the best interests of the child. The parents must maintain health coverage until ordered otherwise by the court, or the child is emancipated, or health insurance is no longer available.

An order to provide health insurance coverage is enforceable either by the other parent or by the Division of Child Support. The division or the parent may send a notice of enrollment for health insurance coverage directly to the obligated parent's employer.

A notice of enrollment must be sent by certified mail. The employer must answer the notice of enrollment within 35 days. The answer must either confirm that the child is enrolled or will be enrolled at the next available enrollment period, or the reasons why the child cannot be covered.

Orders to Withhold and Deliver and Payroll Deduction Notices:

The division enforces child support obligations using a variety of methods, including payroll deduction notices and orders to withhold and deliver.

A payroll deduction notice is generally used to garnish an employee's wages. A notice to withhold and deliver can apply to a person's wages as well as to other personal property, such as funds in a savings account.

The employer must answer the payroll deduction notice or the notice to withhold and deliver within 20 days. The payroll deduction notice does not expire until: (a) released by the division or court order; or (b) until the employer no longer employs the employee, and no longer possesses or owes any earnings to the employee.

An order to withhold and deliver does not expire until: (a) released by division or court order; or (b) the person or entity receiving the order no longer possesses property of the parent or no longer owes money to the parent.

Service of Notices and Orders:

The statutes governing child support enforcement generally require that notices and orders be served upon the parties either through certified mail, electronically if there is an agreement between the division and the entity, or in the manner required for a civil action. In a civil action, personal service is generally required, or service by leaving the notice at the person's home with a resident of suitable age and discretion.

Summary of Bill:

Notice of Enrollment for Health Insurance Coverage:

The manner in which the division may serve a notice of enrollment is changed. The division may serve a notice of enrollment for health insurance coverage by: (a) regular mail; (b) in the manner required for a civil action; (c) by certified mail; or (d)

by electronic means if there is an agreement between the division and the person or entity.

The returned answer to the division constitutes proof of service of the notice of enrollment. The division may use uniform interstate forms adopted by the federal agency.

Orders to Withhold and Deliver:

The expiration date of an order to withhold and deliver served on an employer is clarified to be consistent with the expiration of a payroll deduction notice. An order to withhold and deliver that is served on an employer expires when the employer no longer employs, contracts, or owes money to the debtor. An order to withhold and deliver that is served on a person or entity other than an employer expires when the person or entity no longer possesses property or owes money to the debtor.

Service of Notices and Orders:

Orders or notices under the support enforcement statutes that require service by certified mail, or service in the manner required under a civil action, may also be served by parcel delivery that requires a signature or return receipt.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research