

***Judiciary Committee***

***SSB 5369***

***Title:*** *An act relating to jurisdiction in child support matters.*

***Brief Description:*** *Revising provisions for jurisdiction in child support matters.*

***Sponsors:*** *By Senate Committee on Judiciary (originally sponsored by Senators Kline, Long and Costa; by request of Department of Social and Health Services).*

***Brief Summary of Substitute Bill***

- *Allows the custodial parent to be a party to administrative hearings to establish child support.*
- *Allows adjustments to certain administrative support obligations under certain circumstances.*
- *Authorizes service to the county prosecuting attorney when the state is a party to a child support proceeding.*
- *Authorizes notices for child support proceedings to be served using parcel delivery service.*
- *Makes other changes to the statutes governing establishment and enforcement of child support orders.*

***Hearing Date:*** *3/23/01*

***Staff:*** *Trudes Hutcheson (786-7384).*

***Background:***

*Child support obligations may be established either judicially (in superior court) or administratively by the Division of Child Support (DCS). The DCS may establish a support obligation when there is no superior court order for child support after a dissolution or pursuant to a paternity establishment. An administrative child support obligation is*

*superseded by the entry of a court order to the extent that they conflict.*

**A. Administrative establishment and enforcement of child support.**

*When establishing a support order administratively, the DCS will serve on the responsible parent a notice and finding of financial responsibility. The notice and finding sets forth the amount of child support the responsible parent is required to pay. The responsible parent may request a hearing within 20 days of the date of service of the notice. The responsible parent must show cause why the finding of financial responsibility is incorrect or should be modified.*

*If the responsible parent fails to timely request a hearing, the finding of financial responsibility will become a final administrative order for support and be enforceable. If there is good cause shown, a party may still receive an administrative hearing even if the party failed to file a timely request for a hearing.*

*A parent's child support obligation is calculated under the child support schedule set in statute. Under the schedule, the parents' presumptive support obligation is based upon their combined monthly net income and the number and ages of the children.*

*The court will impute income to parents who are voluntarily unemployed or underemployed. In the absence of any earnings information, income can be imputed based on the Approximate Median Net Monthly Income Table. A parent's support obligation may not be of an amount that reduces the parent's income below the "need standard" for a person to receive public assistance.*

*Individuals who receive public assistance assign their rights to any child support to the state as reimbursement for the assistance they receive on behalf of the children. The state becomes the party to the action for child support. The state, through the attorney general or prosecuting attorney, is authorized to initiate an action in superior court for child support, enforce an existing support order, and generally appear as a party in child support matters.*

**B. Service of notice.**

*Notice of child support proceedings must be sent to the attorney general's office in cases where the state is a party to the proceedings. Generally, notice of proceedings in child support proceedings must be served either in the manner prescribed for service in a civil action or by certified mail.*

**C. Wrongful deprivation of custody as defense to support payments.**

*The DCS may bring a child support collection action against a parent to be reimbursed for public assistance paid on behalf of the child. If the parent who is required to pay support is the legal custodian of the child and has been wrongfully deprived of physical custody of the child, the DCS may excuse the person from support payments.*

**Summary of Bill:**

*Changes are made to various provisions governing establishment and enforcement of child support.*

**A. Administrative establishment of child support.**

*When parents who are subject to a superior court order for child support marry each other or get remarried to each other, the child support provisions in the superior court order are terminated.*

*The DCS may serve notice on both the responsible parent and the custodial parent (including a custodian who is a nonparent) when establishing child support obligations administratively. The custodial parent may participate in proceedings regarding the responsible parent's child support obligation.*

*The parties who appear for the proceedings may enter an agreed settlement, which may be different from the terms of the DCS notice and finding of financial responsibility. The hearing officer may enter an order that is different from the terms stated in the notice if the obligation is supported by credible evidence presented by any party at the hearing.*

*If the responsible parent's support obligation was based on imputed median net income, the grant standard, or the family need standard (instead of the standard used in the child support schedule), the DCS may seek a hearing to adjust the support obligation for the entire period covered by the notice based on credible evidence presented by either party.*

**B. Service of notice.**

*Notice of proceedings may be served to the county prosecuting attorney, instead of the attorney general's office in cases where the state is a party. Notice of child support proceedings may be served by parcel delivery service with a return receipt.*

**C. Wrongful deprivation of custody.**

*The defense to support based on wrongful deprivation of custody is expanded to include cases in which the DCS is providing nonassistance support enforcement services.*

**D. Miscellaneous.**

*Changes are made to reflect in statutes that the Office of Administrative Hearings is the entity that handles administrative hearings with the DCS. The statute authorizing notice to the custodial parent in hearings for establishing parental responsibility is repealed.*

**Appropriation:** None.

**Fiscal Note:** Available.

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

