

# SENATE BILL REPORT

## EHB 1745

---

---

As Reported By Senate Committee On:  
Judiciary, March 27, 2001

**Title:** An act relating to child support technical amendments regarding medical support.

**Brief Description:** Making child support technical amendments regarding medical support.

**Sponsors:** By Representatives Lambert and Dickerson; by request of Department of Social and Health Services.

**Brief History:**

**Committee Activity:** Judiciary: 3/19/01, 3/27/01 [DP].

---

### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Kastama, Long, McCaslin and Thibaudeau.

**Staff:** Lilah Amos (786-7421)

**Background:** To enforce a parent's obligation to provide medical insurance coverage for a dependent child, the Department of Social and Health Services (DSHS) can send a notice to the non-custodial parent's employer or union requiring that the child be enrolled in an available health insurance plan. The federal government has specified that all states use the same notice and that the department adopt rules specifying the responsibility of employers and health plan administrators in complying with these requirements. Washington statutes do not currently conform to the new federal regulations about medical insurance coverage.

The Administrative Procedure Act governs rule-making authority and standards of review for state agencies. It provides that the burden of demonstrating the invalidity of agency action is on the party asserting invalidity. All petitions for declaratory judgment regarding the validity of a rule must be filed in the Thurston County Superior Court. The validity of a rule may be challenged when the rule or its threatened application interferes with or impairs or threatens to interfere with any right or privilege of the petitioner.

**Summary of Bill:** The DSHS Division of Child Support is authorized to use a national medical support notice to notify employers of the terms of a parent's obligation to maintain health insurance for a child. In accordance with federal requirements, the medical support notice must be sent to employers within two days of the time the employer sends notice of a new employee to the state directory of new hires. The Division of Child Support is given limited authority to specify by rule the responsibilities of employers and plan administrators to comply with the requirements of the national medical support notice.

The standard for judicial review under the Administrative Procedure Act (APA) is changed for rules authorized by this act. The agency bears the burden of demonstrating that the agency action was authorized by law, and also bears the burden of establishing the validity of the rule when the interest of a party asserting invalidity arises from agency actions imposing a penalty on the party. The party challenging the validity of the rule may petition any superior court in the state for a declaratory judgment. In determining whether a rule exceeds the agency's statutory authority and is therefore invalid, the court must consider whether the rule exceeds the limited delegation of authority granted by the Legislature, which is described as the minimum necessary to administer the act's clear and unambiguous objectives and to the administration of circumstances and behaviors foreseeable at the time of enactment. If the standards for judicial review are inconsistent with the Administrative Procedure Act, these standards supercede the APA.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** The procedure for sending a medical support notice requiring insurance coverage for a dependent child to a noncustodial parent needs to be streamlined by providing for use of a standardized notice by all states. As a condition of receipt of funds, the federal government requires the Division of Child Support to use this notice and to take the actions directed in the bill. Section 2 of the bill reflects the desire to strictly limit the rule-making authority of DSHS to only those rules necessary to implement the bill.

**Testimony Against:** There should not be different rule-making standards for different agencies. The proposed limitations on rule-making authority should be addressed in the Administrative Procedure Act, not in a piecemeal way as is done in this bill. It will be difficult to determine what set of rules to apply to rule-making. Procedural rules should apply equally to all agencies.

**Testified:** Representative Lambert, prime sponsor; David Stillman, DSHS (pro, but objecting to limitations on rule-making authority in section 2).