

# SENATE BILL REPORT

## SSB 5166

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As Passed Senate, March 3, 2009

**Title:** An act relating to license suspension for the failure to pay child support.

**Brief Description:** Modifying license suspension provisions for the failure to pay child support.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Stevens and Kline).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/23/09, 1/30/09 [DPS].

Passed Senate: 3/03/09, 49-0.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5166 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland and McAuliffe.

**Staff:** Shani Bauer (786-7468)

**Background:** Federal law requires that states have procedures allowing them to suspend or restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing past due child support. Failure to have these procedures will result in penalties to the state's Temporary Assistance to Needy Families (TANF) Block Grant. However, within the directive of federal law, states are free to implement the procedures as they see fit.

Washington law gives the Department of Social and Human Services (DSHS) the authority to administratively issue a notice of noncompliance to a responsible parent who has failed to pay his or her support when due. The parent is notified that if he or she fails to pay the required support or contact DSHS to enter into a payment agreement, the parent's licenses may be suspended.

The parent may request a hearing before an Administrative Law Judge (ALJ). The only issue to be considered at the hearing is whether the parent is required to pay support under a child support order and whether or not the parent is in compliance with that order. If the parent

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does not request a hearing or make payment arrangements with DSHS within 20 days of notification, DSHS will send notice to the Department of Licensing or other licensing entity to suspend the license.

If the parent contacts DSHS, DSHS may hold the license suspension action for no more than 30 days while attempting to reach an agreement. In entering into an agreement with the parent, DSHS is directed to establish a payment schedule that considers the financial needs of the parent. A payment agreement must be for current support plus a "fair and reasonable" payment toward the parent's arrears balance.

Once the parent's license is suspended, DSHS must promptly provide the parent with a release if the parent comes into compliance.

**Summary of Substitute Bill:** For readability, the statute is reorganized into separate statutes to address notice to the parent, adjudicative proceedings to contest license suspension, license suspension by DSHS, and written payment schedules.

A responsible parent may request an adjudicative hearing to contest license suspension if the parent believes he or she has made a good faith effort to comply with the support order. The ALJ may find the parent has made a good faith effort to pay, even if the parent is not technically in compliance with the support order. In that case, the ALJ has the authority to formulate a payment schedule for the parent. Good faith effort to comply is defined and is a determination of fact to be made by the ALJ.

When DSHS sends notice to the parent that his or her license has been suspended, DSHS must send information as to how the person may get his or her license reinstated.

In formulating a payment schedule, the payment schedule must be tailored to the individual financial circumstances of the responsible parent. The schedule may include a graduated payment plan and may require a responsible parent to engage in employment enhancing activities to attain a satisfactory payment level. The payment may be for less than current support for a reasonable period of time and is not required to include a lump sum payment towards the parent's arrears.

Driving with a suspended license when the person's license is suspended solely for the failure to pay child support is a civil infraction for the first offense and a misdemeanor thereafter.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2009.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill clarifies the license suspension process and adds a remedy for administrative law judges to create an individualized payment plan for parents that the judge finds have made a good faith effort to

pay their child support. This is a good step forward in allowing an objective party to craft a plan to get the parent back into the system.

**Persons Testifying:** PRO: David Stillman, DSHS, Division of Child Support; Sean Copeland, Washington Association of Criminal Defense Lawyers.