
HOUSE BILL 2153

State of Washington 52nd Legislature 1991 Regular Session

By Representative Appelwick.

Read first time March 1, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to enforcement of child support; amending RCW
2 26.18.070, 26.18.100, 26.18.110, 26.18.140, 26.23.050, 26.23.060, and
3 26.23.100; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 26.18.070 and 1987 c 435 s 18 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 is
9 (~~more than fifteen days~~) past due in child support payments in an
10 amount equal to or greater than the support payable for one month. The
11 petition or motion shall include a sworn statement by the obligee,
12 stating the facts authorizing the issuance of the wage assignment
13 order, including:

1 (a) That the obligor, stating his or her name and residence, is
2 (~~more than fifteen days~~) past due in child support payments in an
3 amount equal to or greater than the support payable for one month;

4 (b) A description of the terms of the support order requiring
5 payment of support, and the amount past due;

6 (c) The name and address of the obligor's employer;

7 (d) That notice by personal service or any form of mail requiring
8 a return receipt, has been provided to the obligor (~~at least fifteen~~
9 ~~days~~) prior to the obligee seeking a mandatory wage assignment, unless
10 the order for support states that the obligee may seek a mandatory wage
11 assignment without notice to the obligor; and

12 (e) In cases not filed by the state, whether the obligee has
13 received public assistance from any source and, if the obligee has
14 received public assistance, that the department of social and health
15 services has been notified in writing of the pending action.

16 (2) If the court in which a mandatory wage assignment is sought
17 does not already have a copy of the support order in the court file,
18 then the obligee shall attach a copy of the support order to the
19 petition or motion seeking the wage assignment.

20 **Sec. 2.** RCW 26.18.100 and 1989 c 416 s 10 are each amended to read
21 as follows:

22 The wage assignment order shall be substantially in the following
23 form:

24 IN THE SUPERIOR COURT OF THE STATE OF
25 WASHINGTON IN AND FOR THE COUNTY OF

26
27

1

2 Obligee No.....

3 vs.

4, WAGE ASSIGNMENT

5 Obligor ORDER

6

7 Employer

8 THE STATE OF WASHINGTON TO:

9 Employer

10 AND TO:

11 Obligor

12 The above-named obligee claims that the above-named obligor is
13 ((~~more than fifteen days~~)) past due in child support payments in an
14 amount equal to or greater than the child support payable for one
15 month. The amount of the accrued child support debt as of this date is
16 dollars, the amount of arrearage payments specified in the
17 support order (if applicable) is dollars per, and
18 the amount of the current and continuing support obligation under the
19 support order is dollars per

20 You are hereby commanded to answer this order by filling in the
21 attached form according to the instructions, and you must mail or
22 deliver the original of the answer to the court, one copy to the
23 Washington state support registry, one copy to the obligee or obligee's
24 attorney, and one copy to the obligor within twenty days after service
25 of this wage assignment order upon you.

1 If you possess any earnings due and owing to the obligor, then you
2 shall do as follows:

3 (1) Withhold from the obligor's earnings each month, or from each
4 regular earnings disbursement, the lesser of:

5 (a) The sum of the accrued support debt and the current support
6 obligation;

7 (b) The sum of the specified arrearage payment amount and the
8 current support obligation; or

9 (c) Fifty percent of the disposable earnings of the obligor.

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

12 (3) Upon receipt of this wage assignment order you shall make
13 immediate deductions from the obligor's earnings and remit to the
14 Washington state support registry the proper amounts at each regular
15 pay interval.

16 You shall continue to withhold the ordered amounts from nonexempt
17 earnings of the obligor until notified by:

18 (a) The court that the wage assignment has been modified or
19 terminated; ~~((or))~~

20 (b) The Washington state support registry, office of support
21 enforcement that the accrued child support debt has been paid; or

22 (c) The court that has entered an order delaying, modifying, or
23 terminating the wage assignment order and has approved an alternate
24 payment plan as provided in RCW 26.23.050(2).

25 You shall promptly notify the court and the Washington state
26 support registry if and when the employee is no longer employed by you.
27 If you no longer employ the employee, the wage assignment order shall
28 remain in effect for one year after the employee has left your
29 employment. You shall continue to hold the wage assignment order
30 during that one-year period. If the employee returns to your

1 employment during the one-year period you shall immediately begin to
2 withhold the employee's earnings according to the terms of the wage
3 assignment order. If the employee has not returned to your employment
4 within one year, the wage assignment will cease to have effect at the
5 expiration of the one-year period from which you gave notice.

6 You shall deliver the withheld earnings to the Washington state
7 support registry at each regular pay interval(~~(, but the first delivery~~
8 ~~shall occur no sooner than twenty days after your receipt of this wage~~
9 ~~assignment order)~~).

10 You shall deliver a copy of this order to the obligor as soon as is
11 reasonably possible. This wage assignment order has priority over any
12 other wage assignment or garnishment, except for another wage
13 assignment or garnishment for child support, or order to withhold or
14 deliver under chapter 74.20A RCW.

15 WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO
16 ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED
17 SUPPORT DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.

18 NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE
19 SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT
20 THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.

21 DATED THIS ... day of ..., 19

22 -----

23 Obligee, Judge/Court, Commissioner

24 or obligee's attorney

1 **Sec. 3.** RCW 26.18.110 and 1989 c 416 s 11 are each amended to read
2 as follows:

3 (1) An employer upon whom service of a wage assignment order has
4 been made shall answer the order by sworn affidavit within twenty days
5 after the date of service. The answer shall state whether the obligor
6 is employed by or receives earnings from the employer, whether the
7 employer will honor the wage assignment order, and whether there are
8 multiple child support attachments against the obligor.

9 (2) If the employer possesses any earnings due and owing to the
10 obligor, the earnings subject to the wage assignment order shall be
11 withheld immediately upon receipt of the wage assignment order. The
12 withheld earnings shall be delivered to the Washington state support
13 registry at each regular pay interval(~~(, but the first delivery shall~~
14 ~~occur no sooner than twenty days after receipt of the wage assignment~~
15 ~~order)~~).

16 (3) The employer shall continue to withhold the ordered amounts
17 from nonexempt earnings of the obligor until notified by:

18 (a) The court that the wage assignment has been modified or
19 terminated; (~~or~~)

20 (b) The Washington state support registry that the accrued child
21 support debt has been paid, provided the wage assignment order contains
22 the language set forth under RCW 26.18.100(2)(b). The employer shall
23 promptly notify the Washington state support registry when the employee
24 is no longer employed. If the employer no longer employs the employee,
25 the wage assignment order shall remain in effect for one year after the
26 employee has left the employment or has been in possession of any
27 earnings owed to the employee. The employer shall continue to hold the
28 wage assignment order during that one-year period. If the employee
29 returns to the employer's employment during the one-year period the
30 employer shall immediately begin to withhold the employee's earnings

1 according to the terms of the wage assignment order. If the employee
2 has not returned within one year, the wage assignment shall cease to
3 have effect at the expiration of the one-year period; or

4 (c) The court that has entered an order delaying, modifying, or
5 terminating the wage assignment order and has approved an alternate
6 payment plan as provided in RCW 26.23.050(2).

7 (4) The employer may deduct a processing fee from the remainder of
8 the employee's earnings after withholding under the wage assignment
9 order, even if the remainder is exempt under RCW 26.18.090. The
10 processing fee may not exceed (a) ten dollars for the first
11 disbursement made by the employer to the Washington state support
12 registry; and (b) one dollar for each subsequent disbursement to the
13 clerk.

14 (5) An order for wage assignment for support entered under this
15 chapter shall have priority over any other wage assignment or
16 garnishment, except for another wage assignment or garnishment for
17 child support, or order to withhold and deliver under chapter 74.20A
18 RCW.

19 (6) An employer who fails to withhold earnings as required by a
20 wage assignment issued under this chapter may be held liable to the
21 obligee for ((the amounts disbursed to the obligor in violation of the
22 wage assignment order, and may be found by the court to be in contempt
23 of court and may be punished as provided by law)) one hundred percent
24 of the support debt, or the amount of support moneys that should have
25 been withheld from the employee's earnings whichever is the lesser
26 amount, if the employer:

27 (a) Fails or refuses, after being served with a wage assignment
28 order, to deduct and promptly remit from the unpaid earnings the
29 amounts of money required in the order;

1 (b) Fails or refuses to submit an answer to the notice of wage
2 assignment after being served; or

3 (c) Is unwilling to comply with the other requirements of this
4 section.

5 Liability may be established in superior court. Awards in superior
6 court shall include costs, interest under RCW 19.52.020 and 4.56.110,
7 and reasonable attorneys' fees.

8 (7) No employer who complies with a wage assignment issued under
9 this chapter may be liable to the employee for wrongful withholding.

10 (8) No employer may discharge, discipline, or refuse to hire an
11 employee because of the entry or service of a wage assignment issued
12 and executed under this chapter. ~~((A person who violates this~~
13 ~~subsection may be found by the court to be in contempt of court and may~~
14 ~~be punished as provided by law)) If an employer discharges,
15 disciplines, or refuses to hire an employee in violation of this
16 section, the employee or person shall have a cause of action against
17 the employer. The employer shall be liable for double the amount of
18 damages suffered as a result of the violation and for costs and
19 reasonable attorneys' fees, and shall be subject to a civil penalty of
20 not more than two thousand five hundred dollars for each violation.
21 The employer may also be ordered to hire, rehire, or reinstate the
22 aggrieved individual.~~

23 (9) An employer may combine amounts withheld from various employees
24 into a single payment to the Washington state support registry, if the
25 payment includes a listing of the amounts attributable to each employee
26 and other information as required by the registry.

27 (10) An employer shall deliver a copy of the wage assignment order
28 to the obligor as soon as is reasonably possible.

1 **Sec. 4.** RCW 26.18.140 and 1984 c 260 s 14 are each amended to read
2 as follows:

3 (1) Except as provided in subsection (2) of this section, in a
4 hearing to quash, modify, or terminate the wage assignment order, the
5 court may grant relief only upon a showing that the wage assignment
6 order causes extreme hardship or substantial injustice. Satisfaction
7 by the obligor of all past due payments subsequent to the issuance of
8 the wage assignment order is not grounds to quash, modify, or terminate
9 the wage assignment order. If a wage assignment order has been in
10 operation for twelve consecutive months and the obligor's support
11 obligation is current, the court may terminate the order upon motion of
12 the obligor unless the obligee can show good cause as to why the wage
13 assignment order should remain in effect.

14 (2) The court may enter an order delaying, modifying, or
15 terminating the wage assignment order and order the obligor to make
16 payments directly to the obligee if the court approves an alternate
17 payment plan as provided in RCW 26.23.050(2).

18 **Sec. 5.** RCW 26.23.050 and 1989 c 360 s 15 are each amended to read
19 as follows:

20 (1) Except as provided in subsection (2) of this section, the
21 superior court shall include in all superior court orders which
22 establish or modify a support obligation:

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

26 (b) A statement that a notice of payroll deduction may be issued or
27 other income withholding action under chapter 26.18 RCW or chapter
28 74.20A RCW may be taken, without further notice to the responsible
29 parent((÷

1 ~~(i) If a support payment is not paid when due, and an amount equal~~
2 ~~to or greater than the support payable for one month is owed under an~~
3 ~~order entered prior to July 1, 1990; or~~

4 ~~(ii))~~ at any time after entry of the court order ~~((for orders~~
5 ~~entered by the court on or after July 1, 1990))~~, unless:

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

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

10 (c) A statement that the receiving parent may be required to submit
11 an accounting of how the support is being spent to benefit the child.

12 (2) The court may order the responsible parent to make payments
13 directly to the person entitled to receive the payments or, for orders
14 entered on or after July 1, 1990, direct that the issuance of a notice
15 of payroll deduction or other income withholding actions be delayed
16 until a support payment is past due if the court approves an alternate
17 payment plan. The parties to the order must agree to such a plan and
18 the plan must contain reasonable assurances that payments will be made
19 in a regular and timely manner. The court may approve such a plan and
20 modify or terminate the payroll deduction or other income withholding
21 action at the time of entry of the order or at a later date upon motion
22 and agreement of the parties. If the order directs payment to the
23 person entitled to receive the payments instead of to the Washington
24 state support registry, the order shall include a statement that the
25 order may be submitted to the registry if a support payment is past
26 due. If the order directs delayed issuance of the notice of payroll
27 deduction or other income withholding action, the order shall include
28 a statement that such action may be taken, without further notice, at
29 any time after a support payment is past due. The provisions of this

1 subsection do not apply if the department is providing public
2 assistance under Title 74 RCW.

3 (3) The office of administrative hearings and the department of
4 social and health services shall require that all support obligations
5 established as administrative orders include a provision which orders
6 and directs that the responsible parent shall make all support payments
7 to the Washington state support registry. All administrative orders
8 shall also state that a notice of payroll deduction may be issued, or
9 other income withholding action taken without further notice to the
10 responsible parent((÷

11 ~~(a) If a support payment is not paid when due and an amount equal~~
12 ~~to or greater than the support payable for one month is owed under an~~
13 ~~order entered prior to July 1, 1990; or~~

14 ~~(b)) at any time after entry of the order ((for administrative~~
15 ~~orders entered on or after July 1, 1990)), unless:~~

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

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

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

29 (5) Every support order shall state:

1 (a) That payment shall be made to the Washington state support
2 registry or in accordance with the alternate payment plan approved by
3 the court;

4 (b) That a notice of payroll deduction may be issued or other
5 income withholding action under chapter 26.18 RCW or chapter 74.20A RCW
6 may be taken, without further notice to the responsible parent((+)

7 ~~(i) If a support payment is not paid when due and an amount equal~~
8 ~~to or greater than the support payable for one month is owed under an~~
9 ~~order entered prior to July 1, 1990; or~~

10 ~~(ii))~~ at any time after entry of an order by the court ~~((on or~~
11 ~~after July 1, 1990))~~, unless:

12 (i) The court approves an alternate payment plan under subsection
13 (2) of this section;

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

16 (iii) The parties reach an alternate agreement that is approved by
17 the court that provides for an alternate arrangement;

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

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

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

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

24 (g) The social security number and residence address of the
25 physical custodian except as provided in subsection (6) of this
26 section;

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

29 (i) That the parties are to notify the Washington state support
30 registry of any change in residence address;

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

6 (k) That if proof of health insurance coverage is not provided
7 within twenty days, the obligee or the department may seek direct
8 enforcement of the coverage through the obligor's employer or union
9 without further notice to the obligor as provided under chapter 26.18
10 RCW; and

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

13 (6) The physical custodian's address shall be omitted from an order
14 entered under the administrative procedure act. A responsible parent
15 whose support obligation has been determined by such administrative
16 order may request the physical custodian's residence address by
17 submission of a request for disclosure under RCW 26.23.120.

18 (7) The superior court clerk, the office of administrative
19 hearings, and the department of social and health services shall,
20 within five days of entry, forward to the Washington state support
21 registry, a true and correct copy of all superior court orders or
22 administrative orders establishing or modifying a support obligation
23 which provide that support payments shall be made to the support
24 registry. If a superior court order entered prior to January 1, 1988,
25 directs the responsible parent to make support payments to the clerk,
26 the clerk shall send a true and correct copy of the support order and
27 the payment record to the registry for enforcement action when the
28 clerk identifies that a payment is more than fifteen days past due.
29 The office of support enforcement shall reimburse the clerk for the
30 reasonable costs of copying and sending copies of court orders to the

1 registry at the reimbursement rate provided in Title IV-D of the social
2 security act.

3 (8) Receipt of a support order by the registry or other action
4 under this section on behalf of a person or persons who are not
5 recipients of public assistance is deemed to be a request for support
6 enforcement services under RCW 74.20.040 to the fullest extent
7 permitted under federal law.

8 (9) After the responsible parent has been ordered or notified to
9 make payments to the Washington state support registry in accordance
10 with subsection (1), (~~((2), or))~~ (3), or (4) of this section, the
11 responsible parent shall be fully responsible for making all payments
12 to the Washington state support registry and shall be subject to
13 payroll deduction or other income withholding action. The responsible
14 parent shall not be entitled to credit against a support obligation for
15 any payments made to a person or agency other than to the Washington
16 state support registry. A civil action may be brought by the payor to
17 recover payments made to persons or agencies who have received and
18 retained support moneys paid contrary to the provisions of this
19 section.

20 **Sec. 6.** RCW 26.23.060 and 1989 c 360 s 32 are each amended to read
21 as follows:

22 (1) The office of support enforcement may issue a notice of payroll
23 deduction:

24 (a) As authorized by a support order that contains the income
25 withholding notice provisions in RCW 26.23.050 or a substantially
26 similar notice; or

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

1 ~~(2)~~ ~~The ((department may))~~ office of support enforcement shall
2 serve a notice of payroll deduction upon a responsible parent's
3 employer ((for child support obligations if the responsible parent
4 fails to pay child support as due in an amount equal to or greater than
5 the support payable for one month. Service shall be)), a person, or
6 organization, whether public or private, in possession of or owing
7 earnings to the responsible parent by personal service or by any form
8 of mail requiring a return receipt.

9 ~~((+2))~~ ~~(3)~~ Service of a notice of payroll deduction upon an
10 employer, person, or organization requires ((an)) the employer, person,
11 or organization to immediately make a mandatory payroll deduction from
12 the responsible ((parent/employee's)) parent's unpaid disposable
13 earnings. The employer, person, or organization shall thereafter
14 deduct each pay period the amount stated in the notice divided by the
15 number of pay periods per month. The payroll deduction each pay period
16 shall not exceed fifty percent of the responsible ((parent/employee's))
17 parent's disposable earnings.

18 ~~((+3))~~ ~~(4)~~ A notice of payroll deduction for support shall have
19 priority over any wage assignment ((or)), garnishment, attachment, or
20 other legal process.

21 ~~((+4))~~ ~~(5)~~ The notice of payroll deduction shall be in writing and
22 include:

23 (a) The name and social security number of the ((employee))
24 responsible parent;

25 (b) The amount to be deducted from the responsible parent's
26 disposable earnings each month, or alternate amounts and frequencies as
27 may be necessary to facilitate processing of the payroll deduction ((by
28 the employer));

29 (c) A statement that the total amount withheld shall not exceed
30 fifty percent of the responsible parent's disposable earnings; and

1 (d) The address to which the payments are to be mailed or
2 delivered.

3 ~~((+5))~~ (6) An informational copy of the notice of payroll
4 deduction shall be mailed to the last known address of the responsible
5 parent by regular mail.

6 ~~((+6))~~ (7) An employer, person, or organization who receives a
7 notice of payroll deduction shall make immediate deductions from the
8 ~~((employee's))~~ responsible parent's unpaid disposable earnings and
9 remit proper amounts to the Washington state support registry on each
10 date the ~~((employee))~~ responsible parent is due to be paid.

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

23 ~~((+8))~~ (9) The employer, person, or organization may deduct a
24 processing fee from the remainder of the ~~((employee's))~~ responsible
25 parent's earnings after withholding under the notice of payroll
26 deduction, even if the remainder is exempt under RCW 26.18.090. The
27 processing fee may not exceed: (a) Ten dollars for the first
28 disbursement made ~~((by the employer))~~ to the Washington state support
29 registry; and (b) one dollar for each subsequent disbursement to the
30 registry.

1 (~~(9)~~) (10) The notice of payroll deduction shall remain in effect
2 until released by the office of support enforcement (~~(or)~~), the court
3 enters an order terminating the notice and approving an alternate
4 payment plan under RCW 26.23.050(2), or one year has expired since the
5 employer, person, or organization has employed the responsible parent
6 or has been in possession of or owing any earnings to the responsible
7 parent.

8 **Sec. 7.** RCW 26.23.100 and 1989 c 360 s 31 are each amended to read
9 as follows:

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

13 (2) Except as provided in subsections (4) and (5) of this section,
14 the court may grant relief only upon a showing that the payroll
15 deduction: (a) Causes extreme hardship or substantial injustice; or
16 (b) that the support payment was not past due (~~in an amount equal to~~
17 ~~or greater than the support payable for one month~~) under the terms of
18 the order when the notice of payroll deduction was served on the
19 employer.

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

23 (4) If a notice of payroll deduction has been in operation for
24 twelve consecutive months and the (~~obligor's~~) obligor's support
25 obligation is current, upon motion of the obligor, the court may order
26 the (~~Washington state~~) office of support (~~(registry)~~) enforcement to
27 terminate the payroll deduction, unless the obligee can show good cause
28 as to why the payroll deduction should remain in effect.

1 (5) Subsection (1) of this section shall not prevent the court from
2 ordering an alternative payment plan as provided under RCW
3 26.23.050(2).