

SENATE BILL REPORT

2ESSB 5375

As Reported By Senate Committee On:
Law & Justice, January 31, 1996
Ways & Means, February 6, 1996

Title: An act relating to suspension of licenses for failure to pay child support.

Brief Description: Suspending various licenses for failure to pay child support.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Wojahn, McCaslin, Haugen, Deccio, Franklin, Spanel, Kohl, Snyder, Quigley, Prentice, Oke and Moyer).

Brief History:

Committee Activity: Law & Justice: 1/31/95, 3/1/95 [DPS-WM]; 1/31/96 [DP2S-WM, DNP2S].

Ways & Means: 3/3/95, 3/6/95 [DPS (LAW)]; 2/5/96, 2/6/96 [DP2S (LAW)].

Passed Senate, 3/15/95, 31-17.

First Special Session: Passed Senate, 5/23/95, 31-17.

Second Special Session: Passed Senate, 5/25/95, 32-16.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Second Substitute Senate Bill No. 5375 be substituted therefor, and the second substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Hargrove, Haugen and Quigley.

Minority Report: Do not pass second substitute.

Signed by Senators Johnson and Schow.

Staff: Susan Carlson (786-7418)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5375 as recommended by Committee on Law & Justice be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Drew, Fraser, Hargrove, Kohl, McDonald, Moyer, Pelz, Quigley, Sheldon, Snyder, Spanel, Sutherland, Winsley and Wojahn.

Staff: Susan Lucas (786-7711)

Background: The Office of Support Enforcement has a number of tools available to assist in the collection of child support. These include wage withholding, employer reporting of

new hires, interception of income tax refunds, reporting of debts to credit bureaus, and seizure and sale of assets. However, in many cases, such as those involving persons who are self-employed, or involving persons whose assets are owned jointly with other people, these tools are not effective.

Some states have increased child support collections by implementation of programs requiring the suspension of a driver's license or other license if a person becomes delinquent on child support obligations. It has been suggested that a similar program should be implemented in Washington.

Summary of Second Substitute Bill: A program of license suspension for noncompliance with a child support order is established in the Department of Social and Health Services Child Support Division. Noncompliance with a child support order means that a parent has accumulated arrearages totaling more than six months of child support payments, or has failed to make payments towards an arrearage in an amount that exceeds six months of payments. The department may not seek suspension of a license if payment of support can be obtained through wage withholding.

A noncustodial parent may seek judicial suspension of a custodial parent's driver's, business, occupational or professional license if the custodial parent has not complied with a visitation order.

Licenses subject to suspension under the program are driver's licenses, business and professional licenses granted pursuant to Title 18 RCW, and licenses to practice law.

License suspension is initiated by the department by serving a notice of noncompliance with a child support order on the obligor. The obligor has 20 days to respond to the notice and may request a hearing, pay the arrearages in full, or request an opportunity to make arrangements with the department for a payment schedule. If the obligor requests a hearing, the issues that may be considered at the hearing are limited to whether the parent is required to pay child support and whether the parent is in compliance with the order. If the obligor requests arrangement of a payment schedule, the department is required to make good faith efforts to establish a fair and reasonable payment schedule, considering the financial situation of the obligor and the needs of all children who rely on the obligor for support. If the obligor can establish that he or she is unable to make payments, and is not voluntarily unemployed, or underemployed, the department may not proceed with license suspension. If a modification proceeding is pending at the time of service of the notice of noncompliance, license suspension procedures are automatically stayed until entry of a final order. If a motion for modification is filed after service of the notice, the judge has discretion to stay the license suspension proceedings for up to 180 days.

The department may send notice to the Department of Licensing, or other licensing entity, to suspend a license held by an obligor if the parent does not respond to service of the notice of noncompliance, refuses to agree to a reasonable payment schedule, or the hearing requested by the obligor results in a finding that the parent owes arrears. The Department of Licensing, or other licensing entity, is required to send the obligor notice that their license is suspended immediately upon receipt of the notice from the department that the parent is not in compliance with a child support order.

A parent may obtain reinstatement of a license by paying any arrearages in full or agreeing to a payment schedule. The department is then required to provide the parent a written release verifying that the parent is in compliance with the child support order. Upon receipt of a release, the Department of Licensing, or other licensing entity, is required to automatically reinstate the suspended license, as long as the parent continues to meet other conditions required to hold the license.

The Department of Social and Health Services is required to enter into agreements with the various licensing entities to implement the license suspension program. Every three months, the department and each licensing entity must conduct a comparison of persons who are not in compliance with a child support order and licensees. The licensing entities must provide the department the names and other identifying information of licensees who are not in compliance with a child support order.

By December 1, 1997, and annually thereafter, the Department of Social and Health Services is required to provide a report to the Legislature and the Governor regarding the operation of the license suspension program, and any recommendations for changes to the program.

Second Substitute Bill Compared to Original Bill: Electrician licenses are made subject to suspension and the Supreme Court is named as the licensing authority for attorneys.

The department may not proceed with suspension of a license if the obligor can establish that he or she is unable to pay and is not unemployed or underemployed.

The court can suspend a custodial parent's driver's, business, occupational or professional license for failure to comply with a visitation order.

The dates for completion of the DSHS report to the Legislature and to begin matching persons who have not paid child support with licensees were extended one year to January 1, 1997.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For (Law & Justice): The bill provides an effective, additional tool for enforcing child support orders thereby keeping some families off welfare. Other states that have implemented this type of program have collected large amounts of child support, with relatively few license suspensions.

Testimony Against (Law & Justice): The bill is a coercive approach to collecting child support, and does not take into consideration that reasons for failure to pay can vary.

Testified (Law & Justice): PRO: Senator Wojahn, prime sponsor; Meg Sollenberger, Mike Ricchio, DSHS, Division of Child Support; Janet Helson, Columbia Legal Services; Lonnie Johns-Brown, NOW; George LeClair, Children's Alliance; CON: Genie Saline,

Washington Families for Noncustodial Rights; Patricia Morgan, WSBA Family Law Section; Robert Welden, WA State Bar Assn.

Testimony For (Ways & Means): This bill enables women to leave welfare permanently. It addresses the issues of fairness and equity and helps parents take responsibility for their children. The fiscal note from the Division of Child Support is too conservative. Changes in the Law & Justice Committee allowing the defense of involuntary unemployment or underemployment are positive, since there would be minimal collections from this group. These provisos will help eliminate unnecessary license suspensions.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Rosalie Lang, League of Women Voters (pro); Judy Turpin, NW Women's Law Center (pro).