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SENATE BILL 6398

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Darneille and Chase

Read first time 01/23/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to child support; amending RCW 26.23.035; adding  
2 new sections to chapter 26.23 RCW; adding a new section to chapter 9.46  
3 RCW; adding a new section to chapter 67.16 RCW; prescribing penalties;  
4 and providing an effective date.

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

6 **Sec. 1.** RCW 26.23.035 and 2010 2nd sp.s. c 3 s 1 are each amended  
7 to read as follows:

8 (1) The department of social and health services shall adopt rules  
9 for the distribution of support money collected by the division of  
10 child support. These rules shall:

11 (a) Comply with Title IV-D of the federal social security act as  
12 amended by the personal responsibility and work opportunity  
13 reconciliation act of 1996 and the federal deficit reduction act of  
14 2005;

15 (b) Direct the division of child support to distribute support  
16 money within eight days of receipt, unless one of the following  
17 circumstances, or similar circumstances specified in the rules,  
18 prevents prompt distribution:

19 (i) The location of the custodial parent is unknown;

1 (ii) The support debt is in litigation;

2 (iii) The division of child support cannot identify the responsible  
3 parent or the custodian;

4 (c) Provide for proportionate distribution of support payments if  
5 the responsible parent owes a support obligation or a support debt for  
6 two or more Title IV-D cases; and

7 (d) Authorize the distribution of support money, except money  
8 collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to  
9 the IV-D custodian before the debt owed to the state when the custodian  
10 stops receiving a public assistance grant.

11 (2) The division of child support may distribute support payments  
12 to the payee under the support order or to another person who has  
13 lawful physical custody of the child or custody with the payee's  
14 consent. The payee may file an application for an adjudicative  
15 proceeding to challenge distribution to such other person. Prior to  
16 distributing support payments to any person other than the payee, the  
17 registry shall:

18 (a) Obtain a written statement from the child's physical custodian,  
19 under penalty of perjury, that the custodian has lawful custody of the  
20 child or custody with the payee's consent;

21 (b) Mail to the responsible parent and to the payee at the payee's  
22 last known address a copy of the physical custodian's statement and a  
23 notice which states that support payments will be sent to the physical  
24 custodian; and

25 (c) File a copy of the notice with the clerk of the court that  
26 entered the original support order.

27 (3) If the Washington state support registry distributes a support  
28 payment to a person in error, the registry may obtain restitution by  
29 means of a set-off against future payments received on behalf of the  
30 person receiving the erroneous payment, or may act according to RCW  
31 74.20A.270 as deemed appropriate. Any set-off against future support  
32 payments shall be limited to amounts collected on the support debt and  
33 ten percent of amounts collected as current support.

34 ~~(4) ((The division of child support shall ensure that the fifty~~  
35 ~~dollar pass through payment, as required by 42 U.S.C. Sec. 657 before~~  
36 ~~the adoption of P.L. 104-193, is terminated immediately upon July 27,~~  
37 ~~1997, and all rules to the contrary adopted before July 27, 1997, are~~  
38 ~~without force and effect.~~

1       ~~(5) The division of child support shall ensure that the child~~  
2 ~~support pass through payment adopted under section 2, chapter 143, Laws~~  
3 ~~of 2007 pursuant to 42 U.S.C. Sec. 657(a) as amended by section~~  
4 ~~7301(b)(7)(B) of the federal deficit reduction act of 2005, is~~  
5 ~~suspended as of May 1, 2011, and all rules to the contrary adopted~~  
6 ~~before May 1, 2011, are without force and effect.))~~ Effective July 1,  
7 2014, consistent with 42 U.S.C. Sec. 657(a) as amended by section  
8 7301(b)(7)(B) of the federal deficit reduction act of 2005, the  
9 department shall pass through child support that does not exceed one  
10 hundred dollars per month collected on behalf of a family, or in the  
11 case of a family that includes two or more children, an amount that is  
12 not more than two hundred dollars per month. The department has rule-  
13 making authority to implement this subsection.

14       NEW SECTION. **Sec. 2.** A new section is added to chapter 26.23 RCW  
15 to read as follows:

16       (1) Any person or entity doing business in the state of Washington  
17 who is required to file a report with the internal revenue service for  
18 services received from an independent contractor in the course of doing  
19 business shall report to the Washington state support registry the  
20 hiring of any independent contractor who resides or works in this state  
21 to whom the person or entity anticipates paying compensation.

22       (2) Persons or entities may report by any means authorized by the  
23 registry which will result in timely reporting. The following  
24 information must be reported:

25       (a) The independent contractor's name, address, social security  
26 number, and date of birth; and

27       (b) The person or entity's name, address, and, if applicable, the  
28 identifying number assigned under section 6109 of the internal revenue  
29 code of 1986.

30       (3) Persons or entities shall submit reports within twenty days of  
31 either entering into a contract with the independent contractor for  
32 compensation of six hundred dollars or more or making payments to the  
33 independent contractor totaling six hundred dollars or more.

34       (4) A person or entity who fails to report as required under this  
35 section is subject to a civil penalty of:

36       (a) Twenty-five dollars; or

1 (b) Five hundred dollars, if the failure to report is the result of  
2 a conspiracy between the person or entity and the independent  
3 contractor not to supply the required report, or to supply a false  
4 report. The penalty may be imposed and collected by the division of  
5 child support under RCW 74.20A.350.

6 (5)(a) The registry must retain the information for a particular  
7 independent contractor only if the registry is responsible for  
8 establishing, enforcing, or collecting a support debt of the  
9 independent contractor. The registry may, however, retain information  
10 for a particular independent contractor for as long as may be necessary  
11 to:

12 (i) Transmit the information to the national directory of new hires  
13 as required under federal law; or

14 (ii) Provide the information to other state agencies for comparison  
15 with records or information possessed by those agencies as required by  
16 law.

17 (b) Information that is not permitted to be retained must be  
18 promptly destroyed. Agencies that obtain information from the  
19 department of social and health services under this section shall  
20 maintain the confidentiality of the information received, except as  
21 necessary to implement the agencies' responsibilities.

22 (6) For the purposes of this section, "independent contractor"  
23 means an individual who:

24 (a) Is free from direction and control over the performance of the  
25 service;

26 (b) Performs the service either:

27 (i) Outside of the usual course of business for the entity for  
28 which the service is performed; or

29 (ii) Outside of all the places of business for which the service is  
30 performed; and

31 (c) Is customarily engaged in an independently established trade,  
32 occupation, profession, or business of the same nature as that involved  
33 in the service contract.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 26.23 RCW  
35 to read as follows:

36 (1) The department shall establish a gambling payment intercept

1 program to require licensees to withhold payments from winning players  
2 who owe past due child support.

3 (2)(a) The department shall develop and maintain a gambling payment  
4 intercept registry to allow licensees to determine if a winning player  
5 owes past due child support.

6 (b) Information accessed through the registry is confidential.  
7 Licensees shall not use information obtained from the registry except  
8 as needed for the gambling payment intercept program and are subject to  
9 criminal penalties for the misuse of information as provided in RCW  
10 26.23.120.

11 (3) If a licensee is required to file Form W-2G or a substantially  
12 equivalent form with the internal revenue service for a winning player  
13 who owes past due child support, before the payment of winnings from  
14 any gambling activity, the licensee:

15 (a) May deduct and retain an administrative fee in the amount of  
16 the lesser of three percent of the amount of past due child support  
17 withheld under (b) of this subsection; or one hundred dollars. If  
18 funds are available, the administrative fee shall be in addition to the  
19 amounts withheld in (b) of this subsection;

20 (b) Shall withhold the amount of past due child support owed from  
21 the winnings and within twenty-four hours, transmit the amount  
22 withheld; the full name, address, and social security number of the  
23 obligor parent; and the date, amount of payment, and location of the  
24 licensee to the department;

25 (c) Shall issue the obligor parent a receipt in a form prescribed  
26 by the department with the total amount withheld for past due child  
27 support and any administrative fee.

28 (4) Within two business days of receiving the withheld funds from  
29 the licensee, the department shall notify the obligor parent at the  
30 address provided by the licensee that the department intends to offset  
31 the obligor parent's past due child support with the winnings and  
32 provide the obligor parent with an opportunity to object.

33 (5) A licensee that makes payment under this section is not liable  
34 to the person to whom the winner owes an outstanding debt.

35 (6) As used in this section, "licensee" means a licensee under  
36 chapter 9.46 RCW, a class 1 association licensed to conduct parimutuel  
37 wagering under RCW 67.16.105(2), or an operator of an advance deposit  
38 wagering system licensed under RCW 67.16.260.

1 (7) The department shall work with the Washington state gambling  
2 commission to include participation in the gambling payment intercept  
3 program when the commission is negotiating tribal gaming compacts with  
4 the tribes.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.46 RCW  
6 to read as follows:

7 (1)(a) Any licensee authorized to conduct a gambling activity under  
8 this chapter shall participate in the gambling payment intercept  
9 program as required by section 3 of this act.

10 (b) Any licensee who fails to comply with section 3 of this act may  
11 be subject to suspension of its license or monetary penalties under  
12 this chapter.

13 (2) The commission shall consider the gambling payment intercept  
14 program as provided in section 3 of this act as an element to be  
15 negotiated with federally recognized Indian tribes as provided in RCW  
16 9.46.360.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 67.16 RCW  
18 to read as follows:

19 (1) Any class 1 association licensed to conduct parimutuel wagering  
20 under RCW 67.16.105(2) and any operator of an advance deposit wagering  
21 system licensed under RCW 67.16.260 shall participate in the gambling  
22 payment intercept program as required by section 3 of this act.

23 (2) A licensee who fails to comply with section 3 of this act may  
24 be subject to penalties as provided in RCW 67.16.270.

25 NEW SECTION. **Sec. 6.** This act takes effect August 1, 2014.

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