

HOUSE BILL REPORT

HB 2153

*As Reported By House Committee on:
Judiciary*

Title: An act relating to enforcement of child support.

Brief Description: Changing provisions relating to enforcement of child support.

Sponsor(s): Representative Appelwick.

Brief History:

Reported by House Committee on:
Judiciary, March 6, 1991, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *That Substitute House Bill No. 2153 be substituted therefor, and the substitute bill do pass.*
Signed by 19 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

Staff: Pat Shelledy (786-7149).

Background: Two separate acts apply to the collection of past due child support. One statutory scheme provides that a person entitled to receive the child support may obtain a mandatory wage assignment order requiring an employer to deduct child support amounts due from the employee's wages. Another statutory scheme created the Washington State Child Support Registry in the Office of Support Enforcement as the agency designated to administer the child support program under Title IV-D of the federal Social Security Act. The Office of Support Enforcement may be required to collect child support for cases that are not Title IV-D cases under certain circumstances. As the federal regulations have developed over time, the federal government has in general increased the Office of Support Enforcement's obligations involvement in non-Title IV-D cases.

Certain discrepancies between the acts create disparate treatment for cases that are not Title IV-D cases and those that are Title IV-D cases. Some of those discrepancies are

permissible under federal law, others over time will need to be corrected to merge with the federal law requirements, and some are simply inconsistent in state enforcement.

In wage assignment cases that are not Title IV-D cases, the obligee must wait for 15 days after the child support is past due to initiate a wage assignment petition. The 15-day requirement was eliminated in 1989 for cases that are under Title IV-D.

In cases that are not under Title IV-D, the employer must wait to send the first payment of the money withheld from the employee's wages until at least 20 days after service of the wage assignment order even if there is no dispute about the sum due. The 20-day limitation was eliminated in 1989 for cases that are under Title IV-D.

Currently, both schemes provide that the child support must be past due in an amount that is equal to or greater than the support payable for one month. The registry provisions make that provision applicable to orders entered on or after July 1, 1990. New federal regulations, if adopted, will require that the Office of Support Enforcement be able to initiate immediate withholding rather than wait for the arrearage to accumulate for Title IV-D cases.

The federal regulations allow the option to avoid a payroll deduction if the parties agree to an alternative payment plan or one of the parties demonstrates that there is good cause not to require immediate withholding. The federal regulations provide that for the cases that are not Title IV-D cases that the Office of Support Enforcement enforces, the withholding may commence at the earliest of the date on which arrearage is in an amount at least equal to the support payable for one month; that date on which the absent parent requests that the withholding begin; the date on which the custodial parent requests that withholding begin; or an earlier date selected by the state. Under the state's registry statute, a scheme exists to allow the court to enter an alternate payment plan in which the court can order the obligor to make the payments directly to the obligee if the parties agree and the court is satisfied that reasonable assurances exist that the payments will be timely and regular. A similar provision does not exist in the wage assignment statutes, even if the obligee agrees that direct payment by the obligor could result in faster payments than payments through the registry.

New federal regulations will require the Office of Support Enforcement to issue payroll deductions not only to employers but to persons or organizations, whether public or private, in possession of or owing earnings to the obligor.

The employer must continue to withhold wages under the wage assignment until the court notifies the employer that the wage assignment has been terminated or modified or the registry notifies the employer that the debt has been paid. The employer is required to give notice if the employee leaves the employment or returns to the employment, but no statutory provision exists regarding the effect of the wage assignment order upon the employee's termination or subsequent rehiring. The Office of Support Enforcement's practice is to require the employer to hold the wage assignment for a year and if the employee does not return within that year, then the wage assignment ceases to have effect.

The provisions governing sanctions for an employer who fails to comply with the wage assignment order or refuses to hire or fires a person whose wages are subject to a wage assignment order are more explicit in the chapter that governs the registry.

Summary of Substitute Bill: The chapter allowing an obligee to obtain a wage assignment order against an obligor who is delinquent in paying child support is amended to correspond, in part, to existing law governing payroll deductions under the chapter that governs the collection of past due support through the Washington State Support Registry. A number of technical and minor changes are made to create similar provisions under both chapters. Some federal requirements that apply to the Office of Support Enforcement's duties to collect child support monies for cases under Title IV-D of the Social Security Act but that do not apply to non-Title IV-D cases are not incorporated into the Wage Assignment Act's provisions.

An obligee no longer has to wait for more than 15 days before petitioning for a mandatory wage assignment order. The obligor still must be past due in an amount equal to or greater than the support payable for one month before the obligee may obtain a wage assignment order.

The law is clarified that the employer must deduct from the employee's wages to satisfy the wage assignment order immediately upon receipt of the wage assignment order.

The employer does not have to wait for 20 days after the receipt of the wage assignment order before making the first delivery of the money.

The court may delay, modify, or terminate the wage assignment order if the court approves an alternate payment plan. The alternate payment plan may provide that the obligor make the payments directly to the obligee. The

parties must agree to the alternate payment plan, and the plan must contain reasonable assurances that payments will be made in a regular and timely manner. If the order directs payment to the obligee instead of the support registry, the order must include a statement that the order may be submitted to the registry if the support payment is past due and that a wage withholding order may issue without further notice. These provisions do not apply to support enforcement orders for clients on aid to families with dependent children. The court may approve the plan at the time of the entry of the order or at a later date upon motion and agreement of the parties.

The law is clarified to advise employers of their duties when the employee terminates from employment. If the employee no longer works for the employer, the employer must keep the wage assignment order for one year after the employer has given notice that the employee has left the employment or that the employer is no longer in possession of any earnings owed to the employee. If the employee returns within the one-year period, the employer must comply with the wage assignment order. If the employee has not returned to the employment within one year of the date that the employer gave notice, the wage assignment order expires automatically.

The sanctions that apply in the support registry statute for failing to comply with the wage assignment order or for refusing to hire or for firing anyone subject to a wage assignment order are merged into the statute governing wage assignments for clarity and consistency of sanctions.

The support registry enforcement provisions are amended to comply with proposed federal regulations that require immediate withholding on Title IV-D cases and not delay the wage assignment until the employee is delinquent in an amount of equal to or greater than the support payable for one month. The provisions allowing the responsible parent to move to quash the payroll deduction are also amended to delete the requirement that the obligor be past due in an amount equal to or greater than the support payable for one month. The order must provide that the payroll deduction may be issued without further notice to the responsible parent at any time after the entry of the court order, for all orders, whether or not the order was entered prior to July 1, 1990, unless one of the parties demonstrates that good cause exists to not require immediate income withholding or that the parties reach an agreement approved by the court for an alternate payment plan. The Office of Support Enforcement may issue a notice of payroll deduction that complies with the withholding provisions. The Office of Support Enforcement must issue the notice not only to the

responsible parent's employer but also to a person or organization, whether public or private, in possession of earnings to the responsible parent.

Substitute Bill Compared to Original Bill: Technical and grammatical changes are made with substitute for consistency and clarity.

Fiscal Note: Not requested.

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

Testimony For: None.

Testimony Against: None.

Witnesses: None.