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SENATE BILL 6509

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State of Washington

56th Legislature

2000 Regular Session

By Senators Winsley and Fairley; by request of Department of Social and Health Services

Read first time . Referred to Committee on .

1 AN ACT Relating to jurisdiction in child support matters; amending  
2 RCW 26.09.175, 26.23.130, 74.20A.055, and 74.20A.056; adding a new  
3 section to chapter 26.23 RCW; adding a new section to chapter 74.20A  
4 RCW; and repealing RCW 74.20A.058.

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

6 **Sec. 1.** RCW 26.09.175 and 1992 c 229 s 3 are each amended to read  
7 as follows:

8 (1) A proceeding for the modification of an order of child support  
9 shall commence with the filing of a petition and worksheets. The  
10 petition shall be in the form prescribed by the administrator for the  
11 courts. There shall be a fee of twenty dollars for the filing of a  
12 petition for modification of dissolution.

13 (2) The petitioner shall serve upon the other party the summons, a  
14 copy of the petition, and the worksheets in the form prescribed by the  
15 administrator for the courts. If the modification proceeding is the  
16 first action filed in this state, service shall be made by personal  
17 service. If the decree to be modified was entered in this state,  
18 service shall be by personal service or by any form of mail requiring  
19 a return receipt. If the support obligation has been assigned to the

1 state pursuant to RCW 74.20.330 or the state has a subrogated interest  
2 under RCW 74.20A.030, the summons, petition, and worksheets shall also  
3 be served on the attorney general; except that notice shall be given to  
4 the office of the prosecuting attorney for the county in which the  
5 action is filed in lieu of the office of the attorney general in those  
6 counties and in the types of cases as designated by the office of the  
7 attorney general by letter sent to the presiding superior court judge  
8 of that county. Proof of service shall be filed with the court.

9 (3) The responding party's answer and worksheets shall be served  
10 and the answer filed within twenty days after service of the petition  
11 or sixty days if served out of state. The responding party's failure  
12 to file an answer within the time required shall result in entry of a  
13 default judgment for the petitioner.

14 (4) At any time after responsive pleadings are filed, either party  
15 may schedule the matter for hearing.

16 (5) Unless both parties stipulate to arbitration or the presiding  
17 judge authorizes oral testimony pursuant to subsection (6) of this  
18 section, a petition for modification of an order of child support shall  
19 be heard by the court on affidavits, the petition, answer, and  
20 worksheets only.

21 (6) A party seeking authority to present oral testimony on the  
22 petition to modify a support order shall file an appropriate motion not  
23 later than ten days after the time of notice of hearing. Affidavits  
24 and exhibits setting forth the reasons oral testimony is necessary to  
25 a just adjudication of the issues shall accompany the petition. The  
26 affidavits and exhibits must demonstrate the extraordinary features of  
27 the case. Factors which may be considered include, but are not limited  
28 to: (a) Substantial questions of credibility on a major issue; (b)  
29 insufficient or inconsistent discovery materials not correctable by  
30 further discovery; or (c) particularly complex circumstances requiring  
31 expert testimony.

32 **Sec. 2.** RCW 26.23.130 and 1991 c 367 s 43 are each amended to read  
33 as follows:

34 The department shall be given twenty calendar days prior notice of  
35 the entry of any final order and five days prior notice of the entry of  
36 any temporary order in any proceeding involving child support or  
37 maintenance if the department has a financial interest based on an  
38 assignment of support rights under RCW 74.20.330 or the state has a

1 subrogated interest under RCW 74.20A.030. Service of this notice upon  
2 the department shall be by personal service on, or mailing by any form  
3 of mail requiring a return receipt to, the office of the attorney  
4 general; except that notice shall be given to the office of the  
5 prosecuting attorney for the county in which the action is filed in  
6 lieu of the office of the attorney general in those counties and in the  
7 types of cases as designated by the office of the attorney general by  
8 letter sent to the presiding superior court judge of that county. The  
9 department shall not be entitled to terms for a party's failure to  
10 serve the department within the time requirements for this section,  
11 unless the department proves that the party knew that the department  
12 had an assignment of support rights or a subrogated interest and that  
13 the failure to serve the department was intentional.

14 **Sec. 3.** RCW 74.20A.055 and 1997 c 58 s 940 are each amended to  
15 read as follows:

16 (1) The secretary may, in the absence of a superior court order, or  
17 pursuant to an establishment of paternity under chapter 26.26 RCW,  
18 serve on the responsible parent or parents and custodial parent a  
19 notice and finding of financial responsibility requiring ((a  
20 ~~responsible parent or~~) the parents to appear and show cause in an  
21 adjudicative proceeding why the finding of responsibility and/or the  
22 amount thereof is incorrect, should not be finally ordered, but should  
23 be rescinded or modified. This notice and finding shall relate to the  
24 support debt accrued and/or accruing under this chapter and/or RCW  
25 26.16.205, including periodic payments to be made in the future. The  
26 hearing shall be held pursuant to this section, chapter 34.05 RCW, the  
27 Administrative Procedure Act, and the rules of the department. A  
28 custodian who has lawful physical custody of a child has the same  
29 rights that a custodial parent has under this section.

30 (2) The notice and finding of financial responsibility shall be  
31 served in the same manner prescribed for the service of a summons in a  
32 civil action or may be served on the responsible parent by certified  
33 mail, return receipt requested. The receipt shall be prima facie  
34 evidence of service. The notice shall be served upon the debtor within  
35 sixty days from the date the state assumes responsibility for the  
36 support of the dependent child or children on whose behalf support is  
37 sought. If the notice is not served within sixty days from such date,  
38 the department shall lose the right to reimbursement of payments made

1 after the sixty-day period and before the date of notification:  
2 PROVIDED, That if the department exercises reasonable efforts to locate  
3 the debtor and is unable to do so the entire sixty-day period is tolled  
4 until such time as the debtor can be located. The notice may be served  
5 upon the custodial parent, who is the nonassistance applicant or public  
6 assistance recipient, by first class mail to the last known address.  
7 If the custodial parent is not the nonassistance applicant or public  
8 assistance recipient, service shall be in the same manner as for the  
9 responsible parent.

10 (3) The notice and finding of financial responsibility shall set  
11 forth the amount the department has determined the responsible parent  
12 owes, the support debt accrued and/or accruing, and periodic payments  
13 to be made in the future. The notice and finding shall also include:

14 (a) A statement of the name of the (~~recipient or custodian~~)  
15 custodial parent and the name of the child or children for whom support  
16 is sought;

17 (b) A statement of the amount of periodic future support payments  
18 as to which financial responsibility is alleged;

19 (c) A statement that the responsible parent or custodial parent may  
20 object to all or any part of the notice and finding, and file an  
21 application for an adjudicative proceeding to show cause why (~~said~~  
22 ~~responsible parent should not be determined to be liable for any or all~~  
23 ~~of the debt, past and future~~) the terms set forth in the notice should  
24 not be ordered;

25 (d) A statement that, if neither the responsible parent (~~fails~~)  
26 nor the custodial parent files in a timely fashion (~~to file~~) an  
27 application for an adjudicative proceeding, the support debt and  
28 payments stated in the notice and finding, including periodic support  
29 payments in the future, shall be assessed and determined and ordered by  
30 the department and that this debt and amounts due under the notice  
31 shall be subject to collection action;

32 (e) A statement that the property of the debtor, without further  
33 advance notice or hearing, will be subject to lien and foreclosure,  
34 distraint, seizure and sale, order to withhold and deliver, notice of  
35 payroll deduction or other collection action to satisfy the debt and  
36 enforce the support obligation established under the notice.

37 (4) A responsible parent or custodial parent who objects to the  
38 notice and finding of financial responsibility may file an application  
39 for an adjudicative proceeding within twenty days of the date of

1 service of the notice or thereafter as provided under this subsection.  
2 ((An adjudicative proceeding shall be held in the county of residence  
3 or other place convenient to the responsible parent.))

4 (a) If the responsible parent or custodial parent files the  
5 application within twenty days, the ((department)) office of  
6 administrative hearings shall schedule an adjudicative proceeding to  
7 hear the parent's or parents' objection and determine the ((parents'))  
8 support obligation for the entire period covered by the notice and  
9 finding of financial responsibility. The filing of the application  
10 stays collection action pending the entry of a final administrative  
11 order;

12 (b) If both the responsible parent and the custodial parent  
13 fail((s)) to file an application within twenty days, the notice and  
14 finding shall become a final administrative order. The amounts for  
15 current and future support and the support debt stated in the notice  
16 are final and subject to collection, except as provided under (c) and  
17 (d) of this subsection;

18 (c) If the responsible parent or custodial parent files the  
19 application more than twenty days after, but within one year of the  
20 date of service, the department shall schedule an adjudicative  
21 proceeding to hear the parent's or parents' objection and determine the  
22 ((parent's)) support obligation for the entire period covered by the  
23 notice and finding of financial responsibility. The filing of the  
24 application does not stay further collection action, pending the entry  
25 of a final administrative order, and does not affect any prior  
26 collection action;

27 (d) If the responsible parent or custodial parent files the  
28 application more than one year after the date of service, the  
29 ((department)) office of administrative hearings shall schedule an  
30 adjudicative proceeding at which the ((responsible)) parent who  
31 requested the late hearing must show good cause for failure to file a  
32 timely application. The filing of the application does not stay future  
33 collection action and does not affect prior collection action:

34 (i) If the presiding officer finds that good cause exists, the  
35 presiding officer shall proceed to hear the parent's objection to the  
36 notice and determine the ((parent's)) support obligation;

37 (ii) If the presiding officer finds that good cause does not exist,  
38 the presiding officer shall treat the application as a petition for  
39 prospective modification of the amount for current and future support

1 established under the notice and finding. In the modification  
2 proceeding, the presiding officer shall set current and future support  
3 under chapter 26.19 RCW. The ((responsible)) petitioning parent need  
4 show neither good cause nor a substantial change of circumstances to  
5 justify modification of current and future support;

6 (e) The department shall retain and/or shall not refund support  
7 money collected more than twenty days after the date of service of the  
8 notice. Money withheld as the result of collection action shall be  
9 delivered to the department. The department shall distribute such  
10 money, as provided in published rules.

11 (5) If an application for an adjudicative proceeding is filed, the  
12 presiding or reviewing officer shall determine the past liability and  
13 responsibility, if any, of the alleged responsible parent and shall  
14 also determine the amount of periodic payments to be made in the  
15 future, which amount is not limited by the amount of any public  
16 assistance payment made to or for the benefit of the child. If  
17 deviating from the child support schedule in making these  
18 determinations, the presiding or reviewing officer shall apply the  
19 standards contained in the child support schedule and enter written  
20 findings of fact supporting the deviation.

21 (6) If either the responsible parent or the custodial parent fails  
22 to attend or participate in the hearing or other stage of an  
23 adjudicative proceeding, upon a showing of valid service, the presiding  
24 officer shall enter an order of default against each party who did not  
25 appear, and may enter an administrative order declaring the support  
26 debt and payment provisions stated in the notice and finding of  
27 financial responsibility to be assessed and determined and subject to  
28 collection action. The parties who appear may enter an agreed  
29 settlement or consent order, which may be different than the terms of  
30 the department's notice, without further notice to any party who did  
31 not appear. Any party who appears may choose to proceed to the  
32 hearing, after the conclusion of which the presiding officer or  
33 reviewing officer may enter an order that is different than the terms  
34 stated in the notice, if the obligation is supported by credible  
35 evidence presented by any party at the hearing, without further notice  
36 to any party who did not appear.

37 (7) The final administrative order establishing liability and/or  
38 future periodic support payments shall be superseded upon entry of a

1 superior court order for support to the extent the superior court order  
2 is inconsistent with the administrative order.

3 (8) Debts determined pursuant to this section, accrued and not  
4 paid, are subject to collection action under this chapter without  
5 further necessity of action by a presiding or reviewing officer.

6 **Sec. 4.** RCW 74.20A.056 and 1997 c 58 s 941 are each amended to  
7 read as follows:

8 (1) If an alleged father has signed an affidavit acknowledging  
9 paternity which has been filed with the state registrar of vital  
10 statistics before July 1, 1997, the division of child support may serve  
11 a notice and finding of parental responsibility on him and the  
12 custodial parent. Procedures for and responsibility resulting from  
13 acknowledgments filed after July 1, 1997, are in subsections (8) and  
14 (9) of this section. Service of the notice shall be in the same manner  
15 as a summons in a civil action or by certified mail, return receipt  
16 requested on the alleged father. The custodial parent shall be served  
17 by first class mail to the last known address, if the custodial parent  
18 is the nonassistance applicant or public assistance recipient. If the  
19 custodial parent is not the nonassistance applicant or public  
20 assistance recipient, service shall be in the same manner as for the  
21 responsible parent. The notice shall have attached to it a copy of the  
22 affidavit or certification of birth record information advising of the  
23 existence of a filed affidavit, provided by the state registrar of  
24 vital statistics, and shall state that:

25 (a) The alleged father or custodial parent may file an application  
26 for an adjudicative proceeding at which ((he)) they both will be  
27 required to appear and show cause why the amount stated in the finding  
28 of financial responsibility as to support is incorrect and should not  
29 be ordered;

30 (b) An alleged father or the mother, if she is also the custodial  
31 parent, may request that a blood or genetic test be administered to  
32 determine whether such test would exclude him from being a natural  
33 parent and, if not excluded, may subsequently request that the division  
34 of child support initiate an action in superior court to determine the  
35 existence of the parent-child relationship; and

36 (c) If neither the alleged father ((does not request)) nor the  
37 custodial parent requests that a blood or genetic test be administered  
38 or files an application for an adjudicative proceeding, the amount of

1 support stated in the notice and finding of parental responsibility  
2 shall become final, subject only to a subsequent determination under  
3 RCW 26.26.060 that the parent-child relationship does not exist.

4 (2) An alleged father or custodial parent who objects to the amount  
5 of support requested in the notice may file an application for an  
6 adjudicative proceeding up to twenty days after the date the notice was  
7 served. An application for an adjudicative proceeding may be filed  
8 within one year of service of the notice and finding of parental  
9 responsibility without the necessity for a showing of good cause or  
10 upon a showing of good cause thereafter. An adjudicative proceeding  
11 under this section shall be pursuant to RCW 74.20A.055. The only  
12 issues shall be the amount of the accrued debt, the amount of the  
13 current and future support obligation, and the reimbursement of the  
14 costs of blood or genetic tests if advanced by the department. A  
15 custodian who has lawful physical custody of a child has the same  
16 rights that a custodial parent has under this section.

17 (3) If the application for an adjudicative proceeding is filed  
18 within twenty days of service of the notice, collection action shall be  
19 stayed pending a final decision by the department. If no application  
20 is filed within twenty days:

21 (a) The amounts in the notice shall become final and the debt  
22 created therein shall be subject to collection action; and

23 (b) Any amounts so collected shall neither be refunded nor returned  
24 if the alleged father is later found not to be a responsible parent.

25 (4) An alleged father (~~((who denies being a responsible parent))~~) or  
26 the mother, if she is also the custodial parent, may request that a  
27 blood or genetic test be administered at any time. The request for  
28 testing shall be in writing or as the department may specify by rule  
29 and served on the division of child support (~~((personally or by~~  
30 ~~registered or certified mail))~~). If a request for testing is made, the  
31 department shall arrange for the test and, pursuant to rules adopted by  
32 the department, may advance the cost of such testing. The department  
33 shall mail a copy of the test results by certified mail, return receipt  
34 requested, to the alleged father's and the mother's, if she is also the  
35 custodial parent, last known address.

36 (5) If the test excludes the alleged father from being a natural  
37 parent, the division of child support shall file a copy of the results  
38 with the state registrar of vital statistics and shall dismiss any  
39 pending administrative collection proceedings based upon the affidavit



1 in issue. The state registrar of vital statistics shall remove the  
2 alleged father's name from the birth certificate and change the child's  
3 surname to be the same as the mother's maiden name as stated on the  
4 birth certificate, or any other name which the mother may select.

5 (6) The alleged father or the mother, if she is also the custodial  
6 parent, may, within twenty days after the date of receipt of the test  
7 results, request the division of child support to initiate an action  
8 under RCW 26.26.060 to determine the existence of the parent-child  
9 relationship. If the division of child support initiates a superior  
10 court action at the request of the alleged father or the mother and the  
11 decision of the court is that the alleged father is a natural parent,  
12 the ~~((alleged father))~~ parent who requested the test shall be liable  
13 for court costs incurred.

14 (7) If the alleged father or the mother, if she is also the  
15 custodial parent, does not request the division of child support to  
16 initiate a superior court action, or ~~((if the alleged father))~~ fails to  
17 appear and cooperate with blood or genetic testing, the notice of  
18 parental responsibility shall become final for all intents and purposes  
19 and may be overturned only by a subsequent superior court order entered  
20 under RCW 26.26.060.

21 (8)(a) If an alleged father has signed an affidavit acknowledging  
22 paternity that has been filed with the state registrar of vital  
23 statistics after July 1, 1997, within sixty days from the date of  
24 filing of the acknowledgment:

25 (i) The division of child support may serve a notice and finding of  
26 parental responsibility on him and the custodial parent as set forth  
27 under this section; and

28 (ii) The alleged father or any other signatory may rescind ~~((his))~~  
29 the acknowledgment of paternity. The rescission shall be notarized and  
30 delivered to the state registrar of vital statistics personally or by  
31 registered or certified mail. The state registrar shall remove the  
32 father's name from the birth certificate and change the child's surname  
33 to be the same as the mother's maiden name as stated on the birth  
34 certificate or any other name that the mother may select. The state  
35 registrar shall file rescission notices in a sealed file. All future  
36 paternity actions on behalf of the child in question shall be performed  
37 under court order.

38 (b) If neither the alleged father ~~((does not))~~ nor the custodial  
39 parent files an application for an adjudicative proceeding or ~~((rescind~~

1 his)) rescinds the acknowledgment of paternity, the amount of support  
2 stated in the notice and finding of parental responsibility becomes  
3 final, subject only to a subsequent determination under RCW 26.26.060  
4 that the parent-child relationship does not exist.

5 (c) An alleged father or custodial parent who objects to the amount  
6 of support requested in the notice may file an application for an  
7 adjudicative proceeding up to twenty days after the date the notice was  
8 served. An application for an adjudicative proceeding may be filed  
9 within one year of service of the notice and finding of parental  
10 responsibility without the necessity for a showing of good cause or  
11 upon a showing of good cause thereafter. An adjudicative proceeding  
12 under this section shall be pursuant to RCW 74.20A.055. The only  
13 issues shall be the amount of the accrued debt and the amount of the  
14 current and future support obligation.

15 (i) If the application for an adjudicative proceeding is filed  
16 within twenty days of service of the notice, collection action shall be  
17 stayed pending a final decision by the department.

18 (ii) If the application for an adjudicative proceeding is not filed  
19 within twenty days of the service of the notice, any amounts collected  
20 under the notice shall be neither refunded nor returned if the alleged  
21 father is later found not to be a responsible parent.

22 (d) If an alleged father or the mother, if she is also the  
23 custodial parent, makes a request for genetic testing, the department  
24 shall proceed as set forth under RCW 74.20.360.

25 (e) If neither the alleged father (~~((does not))~~) nor the custodial  
26 parent requests an adjudicative proceeding, or if neither the alleged  
27 father (~~((fails to rescind his))~~) nor the mother rescinds the filed  
28 acknowledgment of paternity, the notice of parental responsibility  
29 becomes final for all intents and purposes and may be overturned only  
30 by a subsequent superior court order entered under RCW 26.26.060.

31 (9) Affidavits acknowledging paternity that are filed after July 1,  
32 1997, are subject to requirements of chapters 26.26 and 70.58 RCW.

33 (10) The department and the department of health may adopt rules to  
34 implement the requirements under this section.

35 NEW SECTION. Sec. 5. A new section is added to chapter 26.23 RCW  
36 to read as follows:

37 If this chapter requires service in the manner prescribed for  
38 service of a summons in a civil action or by certified mail, valid

1 service also includes delivery by a parcel delivery service that  
2 returns the signature of the addressee on a return receipt.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.20A RCW  
4 to read as follows:

5 If this chapter requires service in the manner prescribed for  
6 service of a summons in a civil action or by certified mail, valid  
7 service also includes delivery by a parcel delivery service that  
8 returns the signature of the addressee on a return receipt.

9 NEW SECTION. **Sec. 7.** RCW 74.20A.058 (Adjudicative proceeding  
10 contesting parental responsibility--Notice to mother) and 1989 c 55 s  
11 5 are each repealed.

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