

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1864

Chapter 42, Laws of 2001

(partial veto)

57th Legislature
2001 Regular Legislative Session

FAMILY LAW COURT FILES

EFFECTIVE DATE: 10/1/01

Passed by the House March 9, 2001
Yeas 93 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 4, 2001
Yeas 48 Nays 0

ROSA FRANKLIN
President of the Senate

Approved April 17, 2001, with the
exception of section 6, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1864** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

April 17, 2001 - 9:06 a.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1864

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Representatives Dickerson, Casada and McIntire

Read first time 02/07/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to information requirements in family law court
2 files; amending RCW 26.09.020, 26.21.305, 26.23.050, 26.23.055, and
3 26.26.130; creating a new section; and providing an effective date.

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

5 **Sec. 1.** RCW 26.09.020 and 1997 c 58 s 945 are each amended to read
6 as follows:

7 (1) A petition in a proceeding for dissolution of marriage, legal
8 separation, or for a declaration concerning the validity of a
9 marriage(~~(7)~~) shall allege (~~(the following)~~):

10 (a) The last known state of residence of each party, and if a
11 party's last known state of residence is Washington, the last known
12 county of residence;

13 (b) (~~The social security number of each party;~~
14 ~~(c)~~) The date and place of the marriage;

15 (~~(d)~~) (c) If the parties are separated the date on which the
16 separation occurred;

17 (~~(e)~~) (d) The names(~~(7)~~) and ages(~~(7 and addresses)~~) of any child
18 dependent upon either or both spouses and whether the wife is pregnant;

1 (~~(f)~~) (e) Any arrangements as to the residential schedule of,
2 decision making for, dispute resolution for, and support of the
3 children and the maintenance of a spouse;

4 (~~(g)~~) (f) A statement specifying whether there is community or
5 separate property owned by the parties to be disposed of;

6 (~~(h)~~) (g) The relief sought.

7 (2) Either or both parties to the marriage may initiate the
8 proceeding.

9 (3) The petitioner shall complete and file with the petition a
10 certificate under RCW (~~(70.58.200)~~) 43.70.150 on the form provided by
11 the department of health and the confidential information form under
12 RCW 26.23.050.

13 **Sec. 2.** RCW 26.21.305 and 1993 c 318 s 311 are each amended to
14 read as follows:

15 (1) A petitioner seeking to establish or modify a support order or
16 to determine parentage in a proceeding under this chapter must verify
17 the petition. Unless otherwise ordered under RCW 26.21.315, the
18 petition or accompanying documents must provide, so far as known, the
19 name, residential address, and social security numbers of the obligor
20 and the obligee, and the name, sex, residential address, social
21 security number, and date of birth of each child for whom support is
22 sought. The petition must be accompanied by a certified copy of any
23 support order in effect. The petition may include any other
24 information that may assist in locating or identifying the respondent.

25 (2) The petition must specify the relief sought. The petition and
26 accompanying documents must conform substantially with the requirements
27 imposed by the forms mandated by federal law for use in cases filed by
28 a support enforcement agency.

29 (3) A petitioner seeking to establish or modify a support order or
30 to determine parentage in a proceeding under this chapter shall file a
31 properly completed confidential information form or equivalent as
32 described in RCW 26.23.050 to satisfy the requirements of subsection
33 (1) of this section. A completed confidential information form shall
34 be deemed an "accompanying document" under subsection (1) of this
35 section.

36 **Sec. 3.** RCW 26.23.050 and 1998 c 160 s 2 are each amended to read
37 as follows:

1 (1) If the division of child support is providing support
2 enforcement services under RCW 26.23.045, or if a party is applying for
3 support enforcement services by signing the application form on the
4 bottom of the support order, the superior court shall include in all
5 court orders that establish or modify a support obligation:

6 (a) A provision that orders and directs the responsible parent to
7 make all support payments to the Washington state support registry;

8 (b) A statement that withholding action may be taken against wages,
9 earnings, assets, or benefits, and liens enforced against real and
10 personal property under the child support statutes of this or any other
11 state, without further notice to the responsible parent at any time
12 after entry of the court order, unless:

13 (i) One of the parties demonstrates, and the court finds, that
14 there is good cause not to require immediate income withholding and
15 that withholding should be delayed until a payment is past due; or

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

18 (c) A statement that the receiving parent might be required to
19 submit an accounting of how the support is being spent to benefit the
20 child; and

21 (d) A statement that the responsible parent's privileges to obtain
22 and maintain a license, as defined in RCW 74.20A.320, may not be
23 renewed, or may be suspended if the parent is not in compliance with a
24 support order as provided in RCW 74.20A.320.

25 As used in this subsection and subsection (3) of this section,
26 "good cause not to require immediate income withholding" means a
27 written determination of why implementing immediate wage withholding
28 would not be in the child's best interests and, in modification cases,
29 proof of timely payment of previously ordered support.

30 (2) In all other cases not under subsection (1) of this section,
31 the court may order the responsible parent to make payments directly to
32 the person entitled to receive the payments, to the Washington state
33 support registry, or may order that payments be made in accordance with
34 an alternate arrangement agreed upon by the parties.

35 (a) The superior court shall include in all orders under this
36 subsection that establish or modify a support obligation:

37 (i) A statement that withholding action may be taken against wages,
38 earnings, assets, or benefits, and liens enforced against real and
39 personal property under the child support statutes of this or any other

1 state, without further notice to the responsible parent at any time
2 after entry of the court order, unless:

3 (A) One of the parties demonstrates, and the court finds, that
4 there is good cause not to require immediate income withholding and
5 that withholding should be delayed until a payment is past due; or

6 (B) The parties reach a written agreement that is approved by the
7 court that provides for an alternate arrangement; and

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

11 As used in this subsection, "good cause not to require immediate
12 income withholding" is any reason that the court finds appropriate.

13 (b) The superior court may order immediate or delayed income
14 withholding as follows:

15 (i) Immediate income withholding may be ordered if the responsible
16 parent has earnings. If immediate income withholding is ordered under
17 this subsection, all support payments shall be paid to the Washington
18 state support registry. The superior court shall issue a mandatory
19 wage assignment order as set forth in chapter 26.18 RCW when the
20 support order is signed by the court. The parent entitled to receive
21 the transfer payment is responsible for serving the employer with the
22 order and for its enforcement as set forth in chapter 26.18 RCW.

23 (ii) If immediate income withholding is not ordered, the court
24 shall require that income withholding be delayed until a payment is
25 past due. The support order shall contain a statement that withholding
26 action may be taken against wages, earnings, assets, or benefits, and
27 liens enforced against real and personal property under the child
28 support statutes of this or any other state, without further notice to
29 the responsible parent, after a payment is past due.

30 (c) If a mandatory wage withholding order under chapter 26.18 RCW
31 is issued under this subsection and the division of child support
32 provides support enforcement services under RCW 26.23.045, the existing
33 wage withholding assignment is prospectively superseded upon the
34 division of child support's subsequent service of an income withholding
35 notice.

36 (3) The office of administrative hearings and the department of
37 social and health services shall require that all support obligations
38 established as administrative orders include a provision which orders
39 and directs that the responsible parent shall make all support payments

1 to the Washington state support registry. All administrative orders
2 shall also state that the responsible parent's privileges to obtain and
3 maintain a license, as defined in RCW 74.20A.320, may not be renewed,
4 or may be suspended if the parent is not in compliance with a support
5 order as provided in RCW 74.20A.320. All administrative orders shall
6 also state that withholding action may be taken against wages,
7 earnings, assets, or benefits, and liens enforced against real and
8 personal property under the child support statutes of this or any other
9 state without further notice to the responsible parent at any time
10 after entry of the order, unless:

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

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

16 (4) If the support order does not include the provision ordering
17 and directing that all payments be made to the Washington state support
18 registry and a statement that withholding action may be taken against
19 wages, earnings, assets, or benefits if a support payment is past due
20 or at any time after the entry of the order, or that a parent's
21 licensing privileges may not be renewed, or may be suspended, the
22 division of child support may serve a notice on the responsible parent
23 stating such requirements and authorizations. Service may be by
24 personal service or any form of mail requiring a return receipt.

25 (5) Every support order shall state:

26 (a) The address where the support payment is to be sent;

27 (b) That withholding action may be taken against wages, earnings,
28 assets, or benefits, and liens enforced against real and personal
29 property under the child support statutes of this or any other state,
30 without further notice to the responsible parent at any time after
31 entry of a support order, unless:

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

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

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

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

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

1 (f) ~~((The social security number, residence address, date of birth,~~
2 ~~telephone number, driver's license number, and name and address of the~~
3 ~~employer of the responsible parent, except as provided under subsection~~
4 ~~(6) of this section;~~

5 (g) ~~The social security number and residence address of the~~
6 ~~physical custodian except as provided in subsection (6) or (7) of this~~
7 ~~section;~~

8 (h)) ~~The names~~~~(, dates of birth, and social security numbers, if~~
9 ~~any,))~~ and ages of the dependent children;

10 ((+i)) (g) A provision requiring the responsible parent to keep
11 the Washington state support registry informed of whether he or she has
12 access to health insurance coverage at reasonable cost and, if so, the
13 health insurance policy information;

14 ((+j)) (h) That any parent owing a duty of child support shall be
15 obligated to provide health insurance coverage for his or her child if
16 coverage that can be extended to cover the child is or becomes
17 available to that parent through employment or is union-related as
18 provided under RCW 26.09.105;

19 ((+k)) (i) That if proof of health insurance coverage or proof
20 that the coverage is unavailable is not provided within twenty days,
21 the obligee or the department may seek direct enforcement of the
22 coverage through the obligor's employer or union without further notice
23 to the obligor as provided under chapter 26.18 RCW;

24 ((+l)) (j) The reasons for not ordering health insurance coverage
25 if the order fails to require such coverage;

26 ((+m)) (k) That the responsible parent's privileges to obtain and
27 maintain a license, as defined in RCW 74.20A.320, may not be renewed,
28 or may be suspended if the parent is not in compliance with a support
29 order as provided in RCW 74.20A.320; ((and

30 (n)) (l) That each parent must:

31 (i) ~~((Provide the state case registry with the information))~~
32 Promptly file with the court and update as necessary the confidential
33 information form required by ((RCW 26.23.055)) subsection (7) of this
34 section; and

35 (ii) ~~((Update the information provided to))~~ Provide the state case
36 registry ((when)) and update as necessary the information ((changes))
37 required by subsection (7) of this section; and

38 (m) That parties to administrative support orders shall provide to
39 the state case registry and update as necessary their residential

1 addresses and the address of the responsible parent's employer. The
2 division of child support may adopt rules that govern the collection of
3 parties' current residence and mailing addresses, telephone numbers,
4 dates of birth, social security numbers, the names of the children,
5 social security numbers of the children, dates of birth of the
6 children, driver's license numbers, and the names, addresses, and
7 telephone numbers of the parties' employers to enforce an
8 administrative support order. The division of child support shall not
9 release this information if the division of child support determines
10 that there is reason to believe that release of the information may
11 result in physical or emotional harm to the party or to the child, or
12 a restraining order or protective order is in effect to protect one
13 party from the other party.

14 ~~(6) ((The address and employer's name and address of either party~~
15 ~~may be omitted from a support order if:~~

16 ~~(a) There is reason to believe that release of the address~~
17 ~~information may result in physical or emotional harm to the party or to~~
18 ~~the child; or~~

19 ~~(b) A restraining or protective order is in effect to protect one~~
20 ~~party from the other party.~~

21 ~~(7) The physical custodian's address shall be omitted from an order~~
22 ~~entered under the administrative procedure act.~~

23 ~~(8) When a party's employment or address is omitted from an order,~~
24 ~~the order shall state that the information is known to the division of~~
25 ~~child support, state case registry.~~

26 ~~(9))~~ After the responsible parent has been ordered or notified to
27 make payments to the Washington state support registry under this
28 section, the responsible parent shall be fully responsible for making
29 all payments to the Washington state support registry and shall be
30 subject to payroll deduction or other income-withholding action. The
31 responsible parent shall not be entitled to credit against a support
32 obligation for any payments made to a person or agency other than to
33 the Washington state support registry except as provided under RCW
34 74.20.101. A civil action may be brought by the payor to recover
35 payments made to persons or agencies who have received and retained
36 support moneys paid contrary to the provisions of this section.

37 (7) All petitioners and parties to all court actions under Chapters
38 26.09, 26.10, 26.12, 26.18, 26.21, 26.23, 26.26, and 26.27 RCW shall
39 complete to the best of their knowledge a verified and signed

1 confidential information form or equivalent that provides the parties'
2 current residence and mailing addresses, telephone numbers, dates of
3 birth, social security numbers, driver's license numbers, and the
4 names, addresses, and telephone numbers of the parties' employers. The
5 clerk of the court shall not accept petitions, except in parentage
6 actions initiated by the state, orders of child support, decrees of
7 dissolution, or paternity orders for filing in such actions unless
8 accompanied by the confidential information form or equivalent, or
9 unless the confidential information form or equivalent is already on
10 file with the court clerk. In lieu of or in addition to requiring the
11 parties to complete a separate confidential information form, the clerk
12 may collect the information in electronic form. The clerk of the court
13 shall transmit the confidential information form or its data to the
14 division of child support with a copy of the order of child support or
15 paternity order, and may provide copies of the confidential information
16 form or its data and any related findings, decrees, parenting plans,
17 orders, or other documents to the state administrative agency that
18 administers Title IV-A, IV-D, or IV-E of the federal social security
19 act. In state initiated paternity actions, the parties adjudicated the
20 parents of the child or children shall complete the confidential
21 information form or equivalent or the state's attorney of record may
22 complete that form to the best of the attorney's knowledge.

23 **Sec. 4.** RCW 26.23.055 and 1998 c 160 s 3 are each amended to read
24 as follows:

25 (1) Each party to a paternity or child support proceeding must
26 provide the court and the Washington state child support registry with
27 (~~his or her:~~

28 ~~(a) Social security number;~~

29 ~~(b) Current residential address;~~

30 ~~(c) Date of birth;~~

31 ~~(d) Telephone number;~~

32 ~~(e) Driver's license number; and~~

33 ~~(f) Employer's name, address, and telephone number))~~ the
34 confidential information form as required under RCW 26.23.050.

35 (2) Each party to an order entered in a child support or paternity
36 proceeding shall update the information required under subsection (1)
37 of this section promptly after any change in the information. The duty

1 established under this section continues as long as any monthly support
2 or support debt remains due under the support order.

3 (3) In any proceeding to establish, enforce, or modify the child
4 support order between the parties, a party may demonstrate to the
5 presiding officer that he or she has diligently attempted to locate the
6 other party. Upon a showing of diligent efforts to locate, the
7 presiding officer shall deem service of process for the action by
8 delivery of written notice to the address most recently provided by the
9 party under this section to be adequate notice of the action.

10 (4) All support orders shall contain notice to the parties of the
11 obligations established by this section and possibility of service of
12 process according to subsection (3) of this section.

13 **Sec. 5.** RCW 26.26.130 and 2000 c 119 s 10 are each amended to read
14 as follows:

15 (1) The judgment and order of the court determining the existence
16 or nonexistence of the parent and child relationship shall be
17 determinative for all purposes.

18 (2) If the judgment and order of the court is at variance with the
19 child's birth certificate, the court shall order that an amended birth
20 certificate be issued.

21 (3) The judgment and order shall contain other appropriate
22 provisions directed to the appropriate parties to the proceeding,
23 concerning the duty of current and future support, the extent of any
24 liability for past support furnished to the child if that issue is
25 before the court, the furnishing of bond or other security for the
26 payment of the judgment, or any other matter in the best interest of
27 the child. The judgment and order may direct the father to pay the
28 reasonable expenses of the mother's pregnancy and confinement. The
29 judgment and order may include a continuing restraining order or
30 injunction. In issuing the order, the court shall consider the
31 provisions of RCW 9.41.800.

32 (4) The judgment and order shall contain (~~the social security~~
33 ~~numbers of all parties to the order~~) a provision that each party must
34 file with the court and the Washington state child support registry and
35 update as necessary the information required in the confidential
36 information form required by RCW 26.23.050.

37 (5) Support judgment and orders shall be for periodic payments
38 which may vary in amount. The court may limit the father's liability

1 for the past support to the child to the proportion of the expenses
2 already incurred as the court deems just. The court shall not limit or
3 affect in any manner the right of nonparties including the state of
4 Washington to seek reimbursement for support and other services
5 previously furnished to the child.

6 (6) After considering all relevant factors, the court shall order
7 either or both parents to pay an amount determined pursuant to the
8 schedule and standards contained in chapter 26.19 RCW.

9 (7) On the same basis as provided in chapter 26.09 RCW, the court
10 shall make residential provisions with regard to minor children of the
11 parties, except that a parenting plan shall not be required unless
12 requested by a party.

13 (8) In any dispute between the natural parents of a child and a
14 person or persons who have (a) commenced adoption proceedings or who
15 have been granted an order of adoption, and (b) pursuant to a court
16 order, or placement by the department of social and health services or
17 by a licensed agency, have had actual custody of the child for a period
18 of one year or more before court action is commenced by the natural
19 parent or parents, the court shall consider the best welfare and
20 interests of the child, including the child's need for situation
21 stability, in determining the matter of custody, and the parent or
22 person who is more fit shall have the superior right to custody.

23 (9) In entering an order under this chapter, the court may issue
24 any necessary continuing restraining orders, including the restraint
25 provisions of domestic violence protection orders under chapter 26.50
26 RCW or antiharassment protection orders under chapter 10.14 RCW.

27 (10) Restraining orders issued under this section restraining or
28 enjoining the person from molesting or disturbing another party, from
29 going onto the grounds of or entering the home, workplace, or school of
30 the other party or the day care or school of any child, or prohibiting
31 the person from knowingly coming within, or knowingly remaining within,
32 a specified distance of a location, shall prominently bear on the front
33 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
34 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
35 WILL SUBJECT A VIOLATOR TO ARREST.

36 (11) The court shall order that any restraining order bearing a
37 criminal offense legend, any domestic violence protection order, or any
38 antiharassment protection order granted under this section be forwarded
39 by the clerk of the court on or before the next judicial day to the

1 appropriate law enforcement agency specified in the order. Upon
2 receipt of the order, the law enforcement agency shall forthwith enter
3 the order into any computer-based criminal intelligence information
4 system available in this state used by law enforcement agencies to list
5 outstanding warrants. The order is fully enforceable in any county in
6 the state.

7 (12) If a restraining order issued pursuant to this section is
8 modified or terminated, the clerk of the court shall notify the law
9 enforcement agency specified in the order on or before the next
10 judicial day. Upon receipt of notice that an order has been
11 terminated, the law enforcement agency shall remove the order from any
12 computer-based criminal intelligence system.

13 ***NEW SECTION.** *Sec. 6. (1) The legislature's delegation of*
14 *authority to an agency under this act is strictly limited to:*

15 *(a) The minimum delegation necessary to administer the act's clear*
16 *and unambiguous directives; and*

17 *(b) The administration of circumstances and behaviors foreseeable*
18 *at the time of enactment.*

19 *(2) Agency actions or rules authorized by this act are subject to*
20 *the following additional standards of judicial review, which supercede*
21 *RCW 34.05.570 (1) and (2) to the extent of any conflict:*

22 *(a) Agencies bear the burden of demonstrating that the agency*
23 *action:*

24 *(i) Was authorized by law; and*

25 *(ii) Was valid, when the interest of a party asserting invalidity*
26 *arises from agency actions imposing a penalty on the asserting party;*

27 *(b) The validity of a rule may be determined upon petition for*
28 *declaratory judgment addressed to any superior court in this state; and*

29 *(c) In determining whether, under RCW 34.05.570(2)(c), a rule*
30 *exceeds the agency's statutory authority, the court must also consider*
31 *whether the rule exceeds the limited delegation under subsection (1) of*
32 *this section.*

33 **Sec. 6 was vetoed. See message at end of chapter.*

34 **NEW SECTION.** *Sec. 7. This act takes effect October 1, 2001.*

35 **NEW SECTION.** *Sec. 8. If any provision of this act or its*
36 *application to any person or circumstance is held invalid, the*

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

Passed the House March 9, 2001.

Passed the Senate April 4, 2001.

Approved by the Governor April 17, 2001, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 17, 2001.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 6,
3 Engrossed House Bill No. 1864 entitled:

4 "AN ACT Relating to information requirements in family law court
5 files;"

6 Engrossed House Bill No. 1864 provides valuable privacy protections
7 for people involved in family court actions. It will help limit cases
8 of identity theft and misuse of private information, particularly as
9 court filings are made accessible on the Internet.

10 However, section 6 of EHB 1864 would place unrealistic and
11 inappropriate limits on the authority of the DSHS Division of Child
12 Support to make rules implementing the new privacy protection standards
13 for administrative orders granted pursuant to section 3 of the bill.
14 These restrictions are inconsistent with the requirements and standards
15 of Chapter 34.05 RCW, the Administrative Procedure Act (APA). APA
16 standards apply uniformly to all other rules adopted by the DSHS, and
17 every other agency and division in state government. The requirements
18 in section 6 of this bill would have subjected rules and actions
19 adopted under this act to different, inconsistent standards.

20 It is important that rules and actions of state agencies be
21 implemented and enforced uniformly. It is also important that the APA
22 not be amended in a piecemeal way. To do so would create
23 administrative confusion, make rules harder for the public to
24 understand, and invite litigation.

25 Additionally, section 6 of EHB 1864 would have changed the burden
26 of proof in court proceedings for certain agency actions. This would
27 have reversed a long-standing legal principle governing the validity of
28 agency actions, and could have created significant legal impediments
29 for implementation of the program covered by the bill.

30 Section 6 also would have limited the agency's authority to
31 implement the law to circumstances and behaviors known at the time of
32 the bill's enactment. That would also subject the agency to an
33 uncertain and ambiguous standard and invite litigation.

34 For these reasons, I have vetoed section 6 of Engrossed House Bill
35 No. 1864. With the exception of section 6, Engrossed House Bill No.
36 1864 is approved."