

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5369

Chapter 199, Laws of 2002

57th Legislature
2002 Regular Session

CHILD SUPPORT MATTERS

EFFECTIVE DATE: 6/13/02

Passed by the Senate March 11, 2002
YEAS 44 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House March 5, 2002
YEAS 96 NAYS 0

FRANK CHOPP
**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5369** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

Approved March 27, 2002

FILED

March 27, 2002 - 9:19 a.m.

GARY LOCKE
Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5369

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Long and Costa; by request of Department of Social and Health Services)

READ FIRST TIME 02/07/01.

1 AN ACT Relating to jurisdiction in child support matters; amending
2 RCW 26.09.170, 26.09.175, 26.23.130, 74.20.065, 74.20A.055, 74.20A.056,
3 and 74.20A.080; and repealing RCW 74.20A.058.

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

5 **Sec. 1.** RCW 26.09.170 and 1997 c 58 s 910 are each amended to read
6 as follows:

7 (1) Except as otherwise provided in subsection (7) of RCW
8 26.09.070, the provisions of any decree respecting maintenance or
9 support may be modified: (a) Only as to installments accruing
10 subsequent to the petition for modification or motion for adjustment
11 except motions to compel court-ordered adjustments, which shall be
12 effective as of the first date specified in the decree for implementing
13 the adjustment; and, (b) except as otherwise provided in subsections
14 (~~((4), (5), (8), and (9))~~) (5), (6), (9), and (10) of this section,
15 only upon a showing of a substantial change of circumstances. The
16 provisions as to property disposition may not be revoked or modified,
17 unless the court finds the existence of conditions that justify the
18 reopening of a judgment under the laws of this state.

1 (2) Unless otherwise agreed in writing or expressly provided in the
2 decree the obligation to pay future maintenance is terminated upon the
3 death of either party or the remarriage of the party receiving
4 maintenance.

5 (3) Unless otherwise agreed in writing or expressly provided in the
6 decree, provisions for the support of a child are terminated by
7 emancipation of the child or by the death of the parent obligated to
8 support the child.

9 (4) Unless expressly provided by an order of the superior court or
10 a court of comparable jurisdiction, the support provisions of the order
11 are terminated upon the marriage to each other of parties to a
12 paternity order, or upon remarriage to each other of parties to a
13 decree of dissolution. The remaining provisions of the order,
14 including provisions establishing paternity, remain in effect.

15 (5) An order of child support may be modified one year or more
16 after it has been entered without showing a substantial change of
17 circumstances:

18 (a) If the order in practice works a severe economic hardship on
19 either party or the child;

20 (b) If a party requests an adjustment in an order for child support
21 which was based on guidelines which determined the amount of support
22 according to the child's age, and the child is no longer in the age
23 category on which the current support amount was based;

24 (c) If a child is still in high school, upon a finding that there
25 is a need to extend support beyond the eighteenth birthday to complete
26 high school; or

27 (d) To add an automatic adjustment of support provision consistent
28 with RCW 26.09.100.

29 ~~((+5))~~ (6) An order or decree entered prior to June 7, 1984, may
30 be modified without showing a substantial change of circumstances if
31 the requested modification is to:

32 (a) Require health insurance coverage for a child named therein; or

33 (b) Modify an existing order for health insurance coverage.

34 ~~((+6))~~ (7) An obligor's voluntary unemployment or voluntary
35 underemployment, by itself, is not a substantial change of
36 circumstances.

37 ~~((+7))~~ (8) The department of social and health services may file
38 an action to modify an order of child support if public assistance
39 money is being paid to or for the benefit of the child and the child

1 support order is twenty-five percent or more below the appropriate
2 child support amount set forth in the standard calculation as defined
3 in RCW 26.19.011 and reasons for the deviation are not set forth in the
4 findings of fact or order. The determination of twenty-five percent or
5 more shall be based on the current income of the parties and the
6 department shall not be required to show a substantial change of
7 circumstances if the reasons for the deviations were not set forth in
8 the findings of fact or order.

9 ~~((+8))~~ (9)(a) All child support decrees may be adjusted once every
10 twenty-four months based upon changes in the income of the parents
11 without a showing of substantially changed circumstances. Either party
12 may initiate the adjustment by filing a motion and child support
13 worksheets.

14 (b) A party may petition for modification in cases of substantially
15 changed circumstances under subsection (1) of this section at any time.
16 However, if relief is granted under subsection (1) of this section,
17 twenty-four months must pass before a motion for an adjustment under
18 (a) of this subsection may be filed.

19 (c) If, pursuant to (a) of this subsection or subsection ~~((+9))~~
20 (10) of this section, the court adjusts or modifies a child support
21 obligation by more than thirty percent and the change would cause
22 significant hardship, the court may implement the change in two equal
23 increments, one at the time of the entry of the order and the second
24 six months from the entry of the order. Twenty-four months must pass
25 following the second change before a motion for an adjustment under (a)
26 of this subsection may be filed.

27 (d) A parent who is receiving transfer payments who receives a wage
28 or salary increase may not bring a modification action pursuant to
29 subsection (1) of this section alleging that increase constitutes a
30 substantial change of circumstances.

31 (e) The department of social and health services may file an action
32 at any time to modify an order of child support in cases of
33 substantially changed circumstances if public assistance money is being
34 paid to or for the benefit of the child. The determination of the
35 existence of substantially changed circumstances by the department that
36 lead to the filing of an action to modify the order of child support is
37 not binding upon the court.

38 ~~((+9))~~ (10) An order of child support may be adjusted twenty-four
39 months from the date of the entry of the decree or the last adjustment

1 or modification, whichever is later, based upon changes in the economic
2 table or standards in chapter 26.19 RCW.

3 **Sec. 2.** RCW 26.09.175 and 1992 c 229 s 3 are each amended to read
4 as follows:

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

10 (2) The petitioner shall serve upon the other party the summons, a
11 copy of the petition, and the worksheets in the form prescribed by the
12 administrator for the courts. If the modification proceeding is the
13 first action filed in this state, service shall be made by personal
14 service. If the decree to be modified was entered in this state,
15 service shall be by personal service or by any form of mail requiring
16 a return receipt. If the support obligation has been assigned to the
17 state pursuant to RCW 74.20.330 or the state has a subrogated interest
18 under RCW 74.20A.030, the summons, petition, and worksheets shall also
19 be served on the attorney general; except that notice shall be given to
20 the office of the prosecuting attorney for the county in which the
21 action is filed in lieu of the office of the attorney general in those
22 counties and in the types of cases as designated by the office of the
23 attorney general by letter sent to the presiding superior court judge
24 of that county. Proof of service shall be filed with the court.

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

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

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

37 (6) A party seeking authority to present oral testimony on the
38 petition to modify a support order shall file an appropriate motion not

1 later than ten days after the time of notice of hearing. Affidavits
2 and exhibits setting forth the reasons oral testimony is necessary to
3 a just adjudication of the issues shall accompany the petition. The
4 affidavits and exhibits must demonstrate the extraordinary features of
5 the case. Factors which may be considered include, but are not limited
6 to: (a) Substantial questions of credibility on a major issue; (b)
7 insufficient or inconsistent discovery materials not correctable by
8 further discovery; or (c) particularly complex circumstances requiring
9 expert testimony.

10 **Sec. 3.** RCW 26.23.130 and 1991 c 367 s 43 are each amended to read
11 as follows:

12 The department shall be given twenty calendar days prior notice of
13 the entry of any final order and five days prior notice of the entry of
14 any temporary order in any proceeding involving child support or
15 maintenance if the department has a financial interest based on an
16 assignment of support rights under RCW 74.20.330 or the state has a
17 subrogated interest under RCW 74.20A.030. Service of this notice upon
18 the department shall be by personal service on, or mailing by any form
19 of mail requiring a return receipt to, the office of the attorney
20 general; except that notice shall be given to the office of the
21 prosecuting attorney for the county in which the action is filed in
22 lieu of the office of the attorney general in those counties and in the
23 types of cases as designated by the office of the attorney general by
24 letter sent to the presiding superior court judge of that county. The
25 department shall not be entitled to terms for a party's failure to
26 serve the department within the time requirements for this section,
27 unless the department proves that the party knew that the department
28 had an assignment of support rights or a subrogated interest and that
29 the failure to serve the department was intentional.

30 **Sec. 4.** RCW 74.20.065 and 1983 1st ex.s. c 41 s 31 are each
31 amended to read as follows:

32 If the legal custodian has been wrongfully deprived of physical
33 custody, the department is authorized to excuse the custodian from
34 support payments for a child or children receiving or on whose behalf
35 public assistance was provided under chapter 74.12 RCW, or for a child
36 or children on behalf of whom the department is providing nonassistance
37 support enforcement services.

1 **Sec. 5.** RCW 74.20A.055 and 1997 c 58 s 940 are each amended to
2 read as follows:

3 (1) The secretary may, (~~in the absence of a superior court~~) if
4 there is no order((7)) that establishes the responsible parent's
5 support obligation or specifically relieves the responsible parent of
6 a support obligation or pursuant to an establishment of paternity under
7 chapter 26.26 RCW, serve on the responsible parent or parents and
8 custodial parent a notice and finding of financial responsibility
9 requiring (~~a responsible parent or~~) the parents to appear and show
10 cause in an adjudicative proceeding why the finding of responsibility
11 and/or the amount thereof is incorrect, should not be finally ordered,
12 but should be rescinded or modified. This notice and finding shall
13 relate to the support debt accrued and/or accruing under this chapter
14 and/or RCW 26.16.205, including periodic payments to be made in the
15 future. The hearing shall be held pursuant to this section, chapter
16 34.05 RCW, the Administrative Procedure Act, and the rules of the
17 department. A custodian who has physical custody of a child has the
18 same rights that a custodial parent has under this section.

19 (2) The notice and finding of financial responsibility shall be
20 served in the same manner prescribed for the service of a summons in a
21 civil action or may be served on the responsible parent by certified
22 mail, return receipt requested. The receipt shall be prima facie
23 evidence of service. The notice shall be served upon the debtor within
24 sixty days from the date the state assumes responsibility for the
25 support of the dependent child or children on whose behalf support is
26 sought. If the notice is not served within sixty days from such date,
27 the department shall lose the right to reimbursement of payments made
28 after the sixty-day period and before the date of notification:
29 PROVIDED, That if the department exercises reasonable efforts to locate
30 the debtor and is unable to do so the entire sixty-day period is tolled
31 until such time as the debtor can be located. The notice may be served
32 upon the custodial parent who is the nonassistance applicant or public
33 assistance recipient by first class mail to the last known address. If
34 the custodial parent is not the nonassistance applicant or public
35 assistance recipient, service shall be in the same manner as for the
36 responsible parent.

37 (3) The notice and finding of financial responsibility shall set
38 forth the amount the department has determined the responsible parent

1 owes, the support debt accrued and/or accruing, and periodic payments
2 to be made in the future. The notice and finding shall also include:
3 (a) A statement of the name of the ~~((recipient or custodian))~~
4 custodial parent and the name of the child or children for whom support
5 is sought;
6 (b) A statement of the amount of periodic future support payments
7 as to which financial responsibility is alleged;
8 (c) A statement that the responsible parent or custodial parent may
9 object to all or any part of the notice and finding, and file an
10 application for an adjudicative proceeding to show cause why ~~((said~~
11 ~~responsible parent should not be determined to be liable for any or all~~
12 ~~of the debt, past and future))~~ the terms set forth in the notice should
13 not be ordered;
14 (d) A statement that, if neither the responsible parent ~~((fails))~~
15 nor the custodial parent files in a timely fashion ~~((to file))~~ an
16 application for an adjudicative proceeding, the support debt and
17 payments stated in the notice and finding, including periodic support
18 payments in the future, shall be assessed and determined and ordered by
19 the department and that this debt and amounts due under the notice
20 shall be subject to collection action;
21 (e) A statement that the property of the debtor, without further
22 advance notice or hearing, will be subject to lien and foreclosure,
23 distraint, seizure and sale, order to withhold and deliver, notice of
24 payroll deduction or other collection action to satisfy the debt and
25 enforce the support obligation established under the notice.
26 (4) A responsible parent or custodial parent who objects to the
27 notice and finding of financial responsibility may file an application
28 for an adjudicative proceeding within twenty days of the date of
29 service of the notice or thereafter as provided under this subsection.
30 ~~((An adjudicative proceeding shall be held in the county of residence~~
31 ~~or other place convenient to the responsible parent.))~~
32 (a) If the responsible parent or custodial parent files the
33 application within twenty days, the ~~((department))~~ office of
34 administrative hearings shall schedule an adjudicative proceeding to
35 hear the parent's or parents' objection and determine the ~~((parents'))~~
36 support obligation for the entire period covered by the notice and
37 finding of financial responsibility. The filing of the application
38 stays collection action pending the entry of a final administrative
39 order;

1 (b) If both the responsible parent (~~((fails))~~) and the custodial
2 parent fail to file an application within twenty days, the notice and
3 finding shall become a final administrative order. The amounts for
4 current and future support and the support debt stated in the notice
5 are final and subject to collection, except as provided under (c) and
6 (d) of this subsection;

7 (c) If the responsible parent or custodial parent files the
8 application more than twenty days after, but within one year of the
9 date of service, the (~~((department))~~) office of administrative hearings
10 shall schedule an adjudicative proceeding to hear the parent's or
11 parents' objection and determine the (~~((parent's))~~) support obligation
12 for the entire period covered by the notice and finding of financial
13 responsibility. The filing of the application does not stay further
14 collection action, pending the entry of a final administrative order,
15 and does not affect any prior collection action;

16 (d) If the responsible parent or custodial parent files the
17 application more than one year after the date of service, the
18 (~~((department))~~) office of administrative hearings shall schedule an
19 adjudicative proceeding at which the (~~((responsible))~~) parent who
20 requested the late hearing must show good cause for failure to file a
21 timely application. The filing of the application does not stay future
22 collection action and does not affect prior collection action:

23 (i) If the presiding officer finds that good cause exists, the
24 presiding officer shall proceed to hear the parent's objection to the
25 notice and determine the (~~((parent's))~~) support obligation;

26 (ii) If the presiding officer finds that good cause does not exist,
27 the presiding officer shall treat the application as a petition for
28 prospective modification of the amount for current and future support
29 established under the notice and finding. In the modification
30 proceeding, the presiding officer shall set current and future support
31 under chapter 26.19 RCW. The (~~((responsible))~~) petitioning parent need
32 show neither good cause nor a substantial change of circumstances to
33 justify modification of current and future support;

34 (e) If the responsible parent's support obligation was based upon
35 imputed median net income, the grant standard, or the family need
36 standard, the division of child support may file an application for
37 adjudicative proceeding more than twenty days after the date of service
38 of the notice. The office of administrative hearings shall schedule an
39 adjudicative proceeding and provide notice of the hearing to the

1 responsible parent and the custodial parent. The presiding officer
2 shall determine the support obligation for the entire period covered by
3 the notice, based upon credible evidence presented by the division of
4 child support, the responsible parent, or the custodial parent, or may
5 determine that the support obligation set forth in the notice is
6 correct. The division of child support demonstrates good cause by
7 showing that the responsible parent's support obligation was based upon
8 imputed median net income, the grant standard, or the family need
9 standard. The filing of the application by the division of child
10 support does not stay further collection action, pending the entry of
11 a final administrative order, and does not affect any prior collection
12 action.

13 (f) The department shall retain and/or shall not refund support
14 money collected more than twenty days after the date of service of the
15 notice. Money withheld as the result of collection action shall be
16 delivered to the department. The department shall distribute such
17 money, as provided in published rules.

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

28 (6) If either the responsible parent or the custodial parent fails
29 to attend or participate in the hearing or other stage of an
30 adjudicative proceeding, upon a showing of valid service, the presiding
31 officer shall enter an order of default against each party who did not
32 appear and may enter an administrative order declaring the support debt
33 and payment provisions stated in the notice and finding of financial
34 responsibility to be assessed and determined and subject to collection
35 action. The parties who appear may enter an agreed settlement or
36 consent order, which may be different than the terms of the
37 department's notice. Any party who appears may choose to proceed to
38 the hearing, after the conclusion of which the presiding officer or
39 reviewing officer may enter an order that is different than the terms

1 stated in the notice, if the obligation is supported by credible
2 evidence presented by any party at the hearing.

3 (7) The final administrative order establishing liability and/or
4 future periodic support payments shall be superseded upon entry of a
5 superior court order for support to the extent the superior court order
6 is inconsistent with the administrative order.

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

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

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

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

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

1 (c) If neither the alleged father (~~((does not request))~~) nor the
2 custodial parent requests that a blood or genetic test be administered
3 or file an application for an adjudicative proceeding, the amount of
4 support stated in the notice and finding of parental responsibility
5 shall become final, subject only to a subsequent determination under
6 RCW 26.26.060 that the parent-child relationship does not exist.

7 (2) An alleged father or custodial parent who objects to the amount
8 of support requested in the notice may file an application for an
9 adjudicative proceeding up to twenty days after the date the notice was
10 served. An application for an adjudicative proceeding may be filed
11 within one year of service of the notice and finding of parental
12 responsibility without the necessity for a showing of good cause or
13 upon a showing of good cause thereafter. An adjudicative proceeding
14 under this section shall be pursuant to RCW 74.20A.055. The only
15 issues shall be the amount of the accrued debt, the amount of the
16 current and future support obligation, and the reimbursement of the
17 costs of blood or genetic tests if advanced by the department. A
18 custodian who is not the parent of a child and who has physical custody
19 of a child has the same notice and hearing rights that a custodial
20 parent has under this section.

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

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

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

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

1 (5) If the test excludes the alleged father from being a natural
2 parent, the division of child support shall file a copy of the results
3 with the state registrar of vital statistics and shall dismiss any
4 pending administrative collection proceedings based upon the affidavit
5 in issue. The state registrar of vital statistics shall remove the
6 alleged father's name from the birth certificate and change the child's
7 surname to be the same as the mother's maiden name as stated on the
8 birth certificate, or any other name which the mother may select.

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

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

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

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

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

1 paternity actions on behalf of the child in question shall be performed
2 under court order.

3 (b) If neither the alleged father (~~((does not))~~) nor the custodial
4 parent files an application for an adjudicative proceeding or (~~rescind~~
5 ~~his~~) rescinds the acknowledgment of paternity, the amount of support
6 stated in the notice and finding of parental responsibility becomes
7 final, subject only to a subsequent determination under RCW 26.26.060
8 that the parent-child relationship does not exist.

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

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

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

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

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

35 (9) Affidavits acknowledging paternity that are filed after July 1,
36 1997, are subject to requirements of chapters 26.26 and 70.58 RCW.

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

1 **Sec. 7.** RCW 74.20A.080 and 2000 c 86 s 8 are each amended to read
2 as follows:

3 (1) The secretary may issue to any person, firm, corporation,
4 association, political subdivision, department of the state, or agency,
5 subdivision, or instrumentality of the United States, an order to
6 withhold and deliver property of any kind, including but not restricted
7 to earnings which are or might become due, owing, or belonging to the
8 debtor, when the secretary has reason to believe that there is in the
9 possession of such person, firm, corporation, association, political
10 subdivision, department of the state, or agency, subdivision, or
11 instrumentality of the United States property which is or might become
12 due, owing, or belonging to said debtor. Such order to withhold and
13 deliver may be issued:

14 (a) At any time, if a responsible parent's support order:

15 (i) Contains notice that withholding action may be taken against
16 earnings, wages, or assets without further notice to the parent; or

17 (ii) Includes a statement that other income-withholding action
18 under this chapter may be taken without further notice to the
19 responsible parent;

20 (b) Twenty-one days after service of a notice of support debt under
21 RCW 74.20A.040;

22 (c) Twenty-one days after service of a notice and finding of
23 parental responsibility under RCW 74.20A.056;

24 (d) Twenty-one days after service of a notice of support owed under
25 RCW 26.23.110;

26 (e) Twenty-one days after service of a notice and finding of
27 financial responsibility under RCW 74.20A.055; or

28 (f) When appropriate under RCW 74.20A.270.

29 (2) The order to withhold and deliver shall:

30 (a) State the amount to be withheld on a periodic basis if the
31 order to withhold and deliver is being served to secure payment of
32 monthly current support;

33 (b) State the amount of the support debt accrued;

34 (c) State in summary the terms of RCW 74.20A.090 and 74.20A.100;

35 (d) Be served:

36 (i) In the manner prescribed for the service of a summons in a
37 civil action;

38 (ii) By certified mail, return receipt requested;

1 (iii) By electronic means if there is an agreement between the
2 secretary and the person, firm, corporation, association, political
3 subdivision, department of the state, or agency, subdivision, or
4 instrumentality of the United States to accept service by electronic
5 means; ~~((or))~~

6 (iv) By regular mail to a responsible parent's employer unless the
7 division of child support reasonably believes that service of process
8 in the manner prescribed in (d)(i) or (ii) of this subsection is
9 required for initiating an action to ensure employer compliance with
10 the withholding requirement; or

11 (v) By regular mail to an address if designated by the financial
12 institution as a central levy or garnishment address, and if the notice
13 is clearly identified as a levy or garnishment order. Before the
14 division of child support may initiate an action for noncompliance with
15 a withholding action against a financial institution, the division of
16 child support must serve the order to withhold and deliver on the
17 financial institution in the manner described in (d)(i) or (ii) of this
18 subsection.

19 (3) The division of child support may use uniform interstate
20 withholding forms adopted by the United States department of health and
21 human services to take withholding actions under this section when the
22 responsible parent is owed money or property that is located in this
23 state or in another state.

24 (4) Any person, firm, corporation, association, political
25 subdivision, department of the state, or agency, subdivision, or
26 instrumentality of the United States upon whom service has been made is
27 hereby required to:

28 (a) Answer said order to withhold and deliver within twenty days,
29 exclusive of the day of service, under oath and in writing, and shall
30 make true answers to the matters inquired of therein; and

31 (b) Provide further and additional answers when requested by the
32 secretary.

33 (5) The returned answer or a payment remitted to the division of
34 child support by the employer constitutes proof of service of the order
35 to withhold and deliver in the case where the order was served by
36 regular mail.

37 (6) Any such person, firm, corporation, association, political
38 subdivision, department of the state, or agency, subdivision, or

1 instrumentality of the United States in possession of any property
2 which may be subject to the claim of the department shall:

3 (a)(i) Immediately withhold such property upon receipt of the order
4 to withhold and deliver; and

5 (ii) Within seven working days deliver the property to the
6 secretary;

7 (iii) Continue to withhold earnings payable to the debtor at each
8 succeeding disbursement interval as provided for in RCW 74.20A.090, and
9 deliver amounts withheld from earnings to the secretary within seven
10 working days of the date earnings are payable to the debtor;

11 (iv) Deliver amounts withheld from periodic payments to the
12 secretary within seven working days of the date the payments are
13 payable to the debtor;

14 (v) Inform the secretary of the date the amounts were withheld as
15 requested under this section; or

16 (b) Furnish to the secretary a good and sufficient bond,
17 satisfactory to the secretary, conditioned upon final determination of
18 liability.

19 (7) An order to withhold and deliver served under this section
20 shall not expire until:

21 (a) Released in writing by the division of child support;

22 (b) Terminated by court order;

23 (c) A person or entity, other than an employer as defined in Title
24 50 RCW, who has received the order to withhold and deliver does not
25 possess property of or owe money to the debtor; or

26 (d) An employer who has received the order to withhold and deliver
27 no longer employs, contracts, or owes money to the debtor under a
28 contract of employment, express or implied.

29 (8) Where money is due and owing under any contract of employment,
30 express or implied, or is held by any person, firm, corporation, or
31 association, political subdivision, or department of the state, or
32 agency, subdivision, or instrumentality of the United States subject to
33 withdrawal by the debtor, such money shall be delivered by remittance
34 payable to the order of the secretary.

35 (9) Delivery to the secretary of the money or other property held
36 or claimed shall satisfy the requirement and serve as full acquittance
37 of the order to withhold and deliver.

38 (10) A person, firm, corporation, or association, political
39 subdivision, department of the state, or agency, subdivision, or

1 instrumentality of the United States that complies with the order to
2 withhold and deliver under this chapter is not civilly liable to the
3 debtor for complying with the order to withhold and deliver under this
4 chapter.

5 (11) The secretary may hold the money or property delivered under
6 this section in trust for application on the indebtedness involved or
7 for return, without interest, in accordance with final determination of
8 liability or nonliability.

9 (12) Exemptions contained in RCW 74.20A.090 apply to orders to
10 withhold and deliver issued under this section.

11 (13) The secretary shall also, on or before the date of service of
12 the order to withhold and deliver, mail or cause to be mailed a copy of
13 the order to withhold and deliver to the debtor at the debtor's last
14 known post office address, or, in the alternative, a copy of the order
15 to withhold and deliver shall be served on the debtor in the same
16 manner as a summons in a civil action on or before the date of service
17 of the order or within two days thereafter. The copy of the order
18 shall be mailed or served together with a concise explanation of the
19 right to petition for judicial review. This requirement is not
20 jurisdictional, but, if the copy is not mailed or served as in this
21 section provided, or if any irregularity appears with respect to the
22 mailing or service, the superior court, in its discretion on motion of
23 the debtor promptly made and supported by affidavit showing that the
24 debtor has suffered substantial injury due to the failure to mail the
25 copy, may set aside the order to withhold and deliver and award to the
26 debtor an amount equal to the damages resulting from the secretary's
27 failure to serve on or mail to the debtor the copy.

28 (14) An order to withhold and deliver issued in accordance with
29 this section has priority over any other wage assignment, garnishment,
30 attachment, or other legal process.

31 (15) The division of child support shall notify any person, firm,
32 corporation, association, or political subdivision, department of the
33 state, or agency, subdivision, or instrumentality of the United States
34 required to withhold and deliver the earnings of a debtor under this
35 action that they may deduct a processing fee from the remainder of the
36 debtor's earnings, even if the remainder would otherwise be exempt
37 under RCW 74.20A.090. The processing fee shall not exceed ten dollars
38 for the first disbursement to the department and one dollar for each
39 subsequent disbursement under the order to withhold and deliver.

1 NEW SECTION. **Sec. 8.** RCW 74.20A.058 (Adjudicative proceeding
2 contesting parental responsibility--Notice to mother) and 1989 c 55 s
3 5 are each repealed.

 Passed the Senate March 11, 2002.

 Passed the House March 5, 2002.

 Approved by the Governor March 27, 2002.

 Filed in Office of Secretary of State March 27, 2002.