

1745

Sponsor(s): Representatives Lambert and Dickerson; by request of Department of Social and Health Services

Brief Description: Making child support technical amendments regarding medical support.

HB 1745.E - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Authorizes the division of child support to use the national medical support notice to take insurance enrollment actions under RCW 26.18.170.

Authorizes the department to specify by rule the responsibilities of employers and plan administrators to comply with the requirements of the national medical support notice. The division of child support must, where appropriate, send the national medical support notice with a notice of payroll deduction or income withholding order within two days after a noncustodial parent is reported to the Washington state support registry as a new hire.

Declares that the legislature's delegation of authority to an agency under this act is strictly limited to: (1) The minimum delegation necessary to administer the act's clear and unambiguous directives; and

(2) The administration of circumstances and behaviors foreseeable at the time of enactment.

Provides that agency actions or rules authorized by this act are subject to the following additional standards of judicial review, which supercede RCW 34.05.570 (1) and (2) to the extent of any conflict: (1) Agencies bear the burden of demonstrating that the agency action: (a) was authorized by law; and (b) was valid, when the interest of a party asserting invalidity arises from agency actions imposing a penalty on the asserting party;

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

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

VETO MESSAGE ON HB 1745

May 11, 2001

To the Honorable Speakers and Members,

The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed House Bill No. 1745 entitled:

"AN ACT Relating to child support technical amendments regarding medical support;"

Engrossed House Bill No. 1745 was intended to make changes to

state laws regarding National Medical Support Notice requirements. However, each of the bill's two sections contains unacceptable provisions.

Section 1 of the bill would have required the Division of Child Support within the Department of Social and Health Services (DSHS), where appropriate, to comply with a federal law requiring that a National Medical Support Notice be sent with payroll deduction notices or income withholding orders within two days of receiving new hire reporting information. DSHS can and must comply with the federal law without a state statute directing it to do so. Therefore, section 1 is unnecessary.

Section 2 would have placed unrealistic and inappropriate limits on the authority of the Division of Child Support to make new rules. It also would have changed the burden of proof in court proceedings for certain agency actions, reversing a long-standing legal principle governing the validity of agency actions. Additionally, section 2 would have limited the agency's authority to implement the law to circumstances and behaviors known at the time of the bill's enactment, subjecting the agency to an uncertain and ambiguous standard and inviting litigation.

These restrictions are different from the requirements and standards of the Administrative Procedure Act (APA), and would have subjected rules and actions adopted under this act to different, inconsistent standards. APA standards apply uniformly to all other rules adopted by the DSHS, and every other agency and division in state government. It is important that rules and actions of state agencies be implemented and enforced uniformly. It is also important that the APA not be amended in a piecemeal way. To do so would create administrative confusion, make rules harder for the public to understand, and invite litigation.

For these reasons I have vetoed Engrossed House Bill No. 1745 in its entirety.

Respectfully submitted,
Gary Locke
Governor