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SENATE BILL 6340

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State of Washington

59th Legislature

2006 Regular Session

By Senator McCaslin

Read first time 01/11/2006. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to license suspension and notice of noncompliance  
2 with a child support order; and amending RCW 74.20A.320.

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

4 **Sec. 1.** RCW 74.20A.320 and 1997 c 58 s 802 are each amended to  
5 read as follows:

6 (1)(a) The department may send notice to a responsible parent  
7 informing the responsible parent of the department's intent to submit  
8 the parent's name to the department of licensing and any appropriate  
9 licensing entity as a licensee who is not in compliance with a child  
10 support order. Notice of noncompliance may be sent by first class  
11 mail, appropriately addressed to the responsible parent's last known  
12 mailing address on file with the department, postage prepaid, or by  
13 personal service. Notice by mail is given upon deposit in the United  
14 States mail.

15 (b) If the support order establishing or modifying a child support  
16 obligation does not include a statement as required under RCW 26.23.050  
17 (1)(d) or (3) that the responsible parent's privileges to obtain and  
18 maintain a driver's license may not be renewed, or may be suspended if  
19 the parent is not in compliance with a support order, the department

1 must serve upon a responsible parent a notice informing the responsible  
2 parent of the department's intent to submit the parent's name to the  
3 department of licensing and any appropriate licensing entity as a  
4 licensee who is not in compliance with a child support order(~~(. The~~  
5 ~~department shall attach a copy of the responsible parent's child~~  
6 ~~support order to the notice)) before certifying the name of the parent  
7 to the department of licensing or any other licensing entity. Service  
8 of the notice must be by certified mail, return receipt requested. If  
9 service by certified mail is not successful, service shall be by  
10 personal service.~~

11 (c) The department shall provide a copy of the responsible parent's  
12 child support order, upon request.

13 (2) The notice of noncompliance must include the address and  
14 telephone number of the department's division of child support office  
15 that issues the notice and must inform the responsible parent that:

16 (a) The parent may request an adjudicative proceeding to contest  
17 the issue of compliance with the child support order. The only issues  
18 that may be considered at the adjudicative proceeding are whether the  
19 parent is required to pay child support under a child support order and  
20 whether the parent is in compliance with that order;

21 (b) A request for an adjudicative proceeding (~~(shall be in writing~~  
22 ~~and)) must be received by the department within twenty days of the date  
23 of service of the notice, or within twenty days from the date the  
24 notice was mailed to the parent if the department was not required to  
25 serve the notice under subsection (1)(b) of this section;~~

26 (c) If the parent requests an adjudicative proceeding within twenty  
27 days (~~(of service)) from the date the notice was mailed or served, the  
28 department will stay action to certify the parent to the department of  
29 licensing and any licensing entity for noncompliance with a child  
30 support order pending entry of a written adjudicative decision (~~(after~~  
31 ~~the adjudicative proceeding)) or order;~~~~

32 (d) If the parent does not request an adjudicative proceeding  
33 within twenty days of (~~(service)) the notice being mailed or served and  
34 remains in noncompliance with a child support order, the department  
35 will certify the parent's name to the department of licensing and any  
36 appropriate licensing entity for noncompliance with a child support  
37 order;~~

1 (e) The department will stay action to certify the parent to the  
2 department of licensing and any licensing entity for noncompliance if  
3 the parent agrees to make timely payments of current support and agrees  
4 to a reasonable payment schedule for payment of the arrears. It is the  
5 parent's responsibility to contact in person or by mail the  
6 department's division of child support office indicated on the notice  
7 within twenty days of (~~service of~~) the notice being mailed or served  
8 to arrange for a payment schedule. The department may stay  
9 certification for up to thirty days after contact from a parent to  
10 arrange for a payment schedule;

11 (f) If the department certifies the responsible parent to the  
12 department of licensing and a licensing entity for noncompliance with  
13 a child support order, the licensing entity will suspend or not renew  
14 the parent's license and the department of licensing will suspend or  
15 not renew any driver's license that the parent holds until the parent  
16 provides the department of licensing and the licensing entity with a  
17 release from the department stating that the responsible parent is in  
18 compliance with the child support order;

19 (g) If the department certifies the responsible parent as a person  
20 who is in noncompliance with a child support order, the department of  
21 fish and wildlife will suspend the fishing license, hunting license,  
22 commercial fishing license, or any other license issued under chapters  
23 77.32(~~, 77.28 75.28, and 75.25~~) and 77.65 RCW that the responsible  
24 parent may possess. Notice from the department of licensing that a  
25 responsible parent's driver's license has been suspended shall serve as  
26 notice of the suspension of a license issued under chapters 77.32 and  
27 (~~75.25~~) 77.65 RCW;

28 (h) Suspension of a license will affect insurability if the  
29 responsible parent's insurance policy excludes coverage for acts  
30 occurring after the suspension of a license;

31 (i) If, after (~~receiving~~) the notice of noncompliance with a  
32 child support order is mailed or served, the responsible parent files  
33 a motion to modify support with the court or requests the department to  
34 amend a support obligation established by an administrative decision or  
35 order, or if a motion for modification of a court or administrative  
36 order for child support is pending, the department or the court may  
37 stay action to certify the parent to the department of licensing and  
38 any licensing entity for noncompliance with a child support order. A

1 stay shall not exceed six months unless the department finds good  
2 cause. The responsible parent has the obligation to notify the  
3 department that a modification proceeding is pending and provide a copy  
4 of the motion or request for modification; and

5 (j) If the responsible parent subsequently becomes in compliance  
6 with the child support order, the department will promptly provide the  
7 parent with a release stating that the parent is in compliance with the  
8 order, and the parent may request that the licensing entity or the  
9 department of licensing reinstate the suspended license.

10 (3) Upon the mailing or serving of the notice described in  
11 subsection (1) of this section, a responsible parent may request an  
12 adjudicative proceeding upon service of the notice described in  
13 subsection (1) of this section. The request for an adjudicative  
14 proceeding must be received by the department within twenty days of  
15 service or mailing of the notice by the department. The request must  
16 (~~be in writing and~~) indicate the current mailing address and daytime  
17 phone number, if available, of the responsible parent. The proceedings  
18 under this subsection shall be conducted in accordance with the  
19 requirements of chapter 34.05 RCW. The issues that may be considered  
20 at the adjudicative proceeding are limited to whether:

21 (a) The person named as the responsible parent is the responsible  
22 parent;

23 (b) The responsible parent is required to pay child support under  
24 a child support order; and

25 (c) The responsible parent is in compliance with the order.

26 (4) The decision resulting from the adjudicative proceeding must be  
27 in writing and inform the responsible parent of his or her rights to  
28 review. The parent's copy of the decision may be sent by regular mail  
29 to the parent's most recent address of record.

30 (5) If a responsible parent contacts the department's division of  
31 child support office indicated on the notice of noncompliance within  
32 twenty days of (~~service of~~) the department mailing or serving the  
33 notice and requests arrangement of a payment schedule, the department  
34 shall stay the certification of noncompliance during negotiation of the  
35 schedule for payment of arrears. In no event shall the stay continue  
36 for more than thirty days from the date of contact by the parent. The  
37 department shall establish a schedule for payment of arrears that is  
38 fair and reasonable, and that considers the financial situation of the

1 responsible parent and the needs of all children who rely on the  
2 responsible parent for support. At the end of the thirty days, if no  
3 payment schedule has been agreed to in writing and the department has  
4 acted in good faith, the department shall proceed with certification of  
5 noncompliance.

6 (6) If a responsible parent timely requests an adjudicative  
7 proceeding pursuant to subsection (4) of this section, the department  
8 may not certify the name of the parent to the department of licensing  
9 or a licensing entity for noncompliance with a child support order  
10 unless the adjudicative proceeding results in a finding that the  
11 responsible parent is not in compliance with the order.

12 (7) The department may certify to the department of licensing and  
13 any appropriate licensing entity the name of a responsible parent who  
14 is not in compliance with a child support order (~~(or a residential or~~  
15 ~~visitation order)) if:~~

16 (a) The responsible parent does not timely request an adjudicative  
17 proceeding upon the mailing or service of a notice issued under  
18 subsection (1) of this section and is not in compliance with a child  
19 support order twenty-one days after the mailing or service of the  
20 notice;

21 (b) An adjudicative proceeding results in a decision or order that  
22 the responsible parent is not in compliance with a child support order;

23 (c) The court enters a judgment on a petition for judicial review  
24 that finds the responsible parent is not in compliance with a child  
25 support order;

26 (d) The department and the responsible parent have been unable to  
27 agree on a fair and reasonable schedule of payment of the arrears; or

28 (e) The responsible parent fails to comply with a payment schedule  
29 established pursuant to subsection (5) of this section(~~(+or)~~).

30 The department shall send by regular mail a copy of any  
31 certification of noncompliance filed with the department of licensing  
32 or a licensing entity to the responsible parent at the responsible  
33 parent's most recent address of record.

34 (8) The department of licensing and a licensing entity shall,  
35 without undue delay, notify a responsible parent certified by the  
36 department under subsection (7) of this section that the parent's  
37 driver's license or other license has been suspended because the

1 parent's name has been certified by the department as a responsible  
2 parent who is not in compliance with a child support order (~~or a~~  
3 ~~residential or visitation order~~)).

4 (9) When a responsible parent who is served notice under subsection  
5 (1) of this section subsequently complies with the child support order,  
6 (~~or when the department receives a court order under section 886 of~~  
7 ~~this act stating that the parent is in compliance with a residential or~~  
8 ~~visitation order,~~) the department shall promptly provide the parent  
9 with a release stating that the responsible parent is in compliance  
10 with the order. A copy of the release shall be transmitted by the  
11 department to the appropriate licensing entities.

12 (10) The department may adopt rules to implement and enforce the  
13 requirements of this section. The department shall deliver a copy of  
14 rules adopted to implement and enforce this section to the legislature  
15 by June 30, 1998.

16 (11) Nothing in this section prohibits a responsible parent from  
17 filing a motion to modify support with the court or from requesting the  
18 department to amend a support obligation established by an  
19 administrative decision. If there is a reasonable likelihood that a  
20 pending motion or request will significantly change the amount of the  
21 child support obligation, the department or the court may stay action  
22 to certify the responsible parent to the department of licensing and  
23 any licensing entity for noncompliance with a child support order. A  
24 stay shall not exceed six months unless the department finds good cause  
25 to extend the stay. The responsible parent has the obligation to  
26 notify the department that a modification proceeding is pending and  
27 provide a copy of the motion or request for modification.

28 (12) The department of licensing and a licensing entity may renew,  
29 reinstate, or otherwise extend a license in accordance with the  
30 licensing entity's or the department of licensing's rules after the  
31 licensing entity or the department of licensing receives a copy of the  
32 release specified in subsection (9) of this section. The department of  
33 licensing and a licensing entity may waive any applicable requirement  
34 for reissuance, renewal, or other extension if it determines that the  
35 imposition of that requirement places an undue burden on the person and  
36 that waiver of the requirement is consistent with the public interest.

37 (13) The procedures in chapter 58, Laws of 1997, constitute the

1 exclusive administrative remedy for contesting the establishment of  
2 noncompliance with a child support order and suspension of a license  
3 under this section, and satisfy the requirements of RCW 34.05.422.

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