

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5166

Chapter 408, Laws of 2009

61st Legislature
2009 Regular Session

LICENSE SUSPENSION--FAILURE TO PAY CHILD SUPPORT

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 22, 2009
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 9, 2009
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 7, 2009, 3:00 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5166** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 8, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5166

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Regala, Stevens, and Kline)

READ FIRST TIME 02/02/09.

1 AN ACT Relating to license suspension for the failure to pay child
2 support; amending RCW 74.20A.320; adding new sections to chapter 74.20A
3 RCW; and prescribing penalties.

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

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

7 (1) The department may serve upon a responsible parent a notice
8 informing the responsible parent of the department's intent to submit
9 the parent's name to the department of licensing and any appropriate
10 licensing entity as a licensee who is not in compliance with a child
11 support order. The department shall attach a copy of the responsible
12 parent's child support order to the notice. Service of the notice must
13 be by certified mail, return receipt requested. If service by
14 certified mail is not successful, service shall be by personal service.

15 (2) The notice of noncompliance must include the ~~((address and
16 telephone number of the department's division of child support office
17 that issues the notice and must inform the responsible parent that))~~
18 following information:

1 ~~((a) The parent may request an adjudicative proceeding to contest~~
2 ~~the issue of compliance with the child support order. The only issues~~
3 ~~that may be considered at the adjudicative proceeding are whether the~~
4 ~~parent is required to pay child support under a child support order and~~
5 ~~whether the parent is in compliance with that order;~~

6 ~~(b) A request for an adjudicative proceeding shall be in writing~~
7 ~~and must be received by the department within twenty days of the date~~
8 ~~of service of the notice;~~

9 ~~(c) If the parent requests an adjudicative proceeding within twenty~~
10 ~~days of service, the department will stay action to certify the parent~~
11 ~~to the department of licensing and any licensing entity for~~
12 ~~noncompliance with a child support order pending entry of a written~~
13 ~~decision after the adjudicative proceeding;~~

14 ~~(d) If the parent does not request an adjudicative proceeding~~
15 ~~within twenty days of service and remains in noncompliance with a child~~
16 ~~support order, the department will certify the parent's name to the~~
17 ~~department of licensing and any appropriate licensing entity for~~
18 ~~noncompliance with a child support order;~~

19 ~~(e) The department will stay action to certify the parent to the~~
20 ~~department of licensing and any licensing entity for noncompliance if~~
21 ~~the parent agrees to make timely payments of current support and agrees~~
22 ~~to a reasonable payment schedule for payment of the arrears. It is the~~
23 ~~parent's responsibility to contact in person or by mail the~~
24 ~~department's division of child support office indicated on the notice~~
25 ~~within twenty days of service of the notice to arrange for a payment~~
26 ~~schedule. The department may stay certification for up to thirty days~~
27 ~~after contact from a parent to arrange for a payment schedule;~~

28 ~~(f) If the department certifies the responsible parent to the~~
29 ~~department of licensing and a licensing entity for noncompliance with~~
30 ~~a child support order, the licensing entity will suspend or not renew~~
31 ~~the parent's license and the department of licensing will suspend or~~
32 ~~not renew any driver's license that the parent holds until the parent~~
33 ~~provides the department of licensing and the licensing entity with a~~
34 ~~release from the department stating that the responsible parent is in~~
35 ~~compliance with the child support order;~~

36 ~~(g) If the department certifies the responsible parent as a person~~
37 ~~who is in noncompliance with a child support order, the department of~~
38 ~~fish and wildlife will suspend the fishing license, hunting license,~~

1 commercial fishing license, or any other license issued under chapters
2 77.32, 77.28 [75.28], and 75.25 RCW that the responsible parent may
3 possess. Notice from the department of licensing that a responsible
4 parent's driver's license has been suspended shall serve as notice of
5 the suspension of a license issued under chapters 77.32 and 75.25 RCW;

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

9 (i) If after receiving the notice of noncompliance with a child
10 support order, the responsible parent files a motion to modify support
11 with the court or requests the department to amend a support obligation
12 established by an administrative decision, or if a motion for
13 modification of a court or administrative order for child support is
14 pending, the department or the court may stay action to certify the
15 parent to the department of licensing and any licensing entity for
16 noncompliance with a child support order. A stay shall not exceed six
17 months unless the department finds good cause. The responsible parent
18 has the obligation to notify the department that a modification
19 proceeding is pending and provide a copy of the motion or request for
20 modification; and

21 (j)) (a) The address and telephone number of the department's
22 division of child support office that issued the notice;

23 (b) That in order to prevent the department from certifying the
24 parent's name to the department of licensing or any other licensing
25 entity, the parent has twenty days from receipt of the notice to
26 contact the department and:

27 (i) Pay the overdue support amount in full;

28 (ii) Request an adjudicative proceeding as provided in section 2 of
29 this act;

30 (iii) Agree to a payment schedule with the department as provided
31 in section 4 of this act; or

32 (iv) File an action to modify the child support order with the
33 appropriate court or administrative forum, in which case the department
34 will stay the certification process up to six months;

35 (c) That failure to contact the department within twenty days of
36 receipt of the notice will result in certification of the responsible
37 parent's name to the department of licensing and any other appropriate

1 licensing entity for noncompliance with a child support order. Upon
2 receipt of the notice:

3 (i) The licensing entity will suspend or not renew the parent's
4 license and the department of licensing will suspend or not renew any
5 driver's license that the parent holds until the parent provides the
6 department of licensing and the licensing entity with a release from
7 the department stating that the responsible parent is in compliance
8 with the child support order;

9 (ii) The department of fish and wildlife will suspend a fishing
10 license, hunting license, occupational licenses, such as a commercial
11 fishing license, or any other license issued under chapter 77.32 RCW
12 that the responsible parent may possess, and suspension of a license by
13 the department of fish and wildlife may also affect the parent's
14 ability to obtain permits, such as special hunting permits, issued by
15 the department. Notice from the department of licensing that a
16 responsible parent's driver's license has been suspended shall serve as
17 notice of the suspension of a license issued under chapter 77.32 RCW;

18 (d) That suspension of a license will affect insurability if the
19 responsible parent's insurance policy excludes coverage for acts
20 occurring after the suspension of a license;

21 (e) If the responsible parent subsequently ((becomes-in)) comes
22 into compliance with the child support order, the department will
23 promptly provide the parent and the appropriate licensing entities with
24 a release stating that the parent is in compliance with the order((,
25 and the parent may request that the licensing entity or the department
26 of licensing reinstate the suspended license)).

27 ~~(3) ((A responsible parent may request an adjudicative proceeding~~
28 ~~upon service of the notice described in subsection (1) of this section.~~
29 ~~The request for an adjudicative proceeding must be received by the~~
30 ~~department within twenty days of service. The request must be in~~
31 ~~writing and indicate the current mailing address and daytime phone~~
32 ~~number, if available, of the responsible parent. The proceedings under~~
33 ~~this subsection shall be conducted in accordance with the requirements~~
34 ~~of chapter 34.05 RCW. The issues that may be considered at the~~
35 ~~adjudicative proceeding are limited to whether:~~

36 ~~(a) The person named as the responsible parent is the responsible~~
37 ~~parent;~~

1 ~~(b) The responsible parent is required to pay child support under~~
2 ~~a child support order; and~~

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

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

8 ~~(5) If a responsible parent contacts the department's division of~~
9 ~~child support office indicated on the notice of noncompliance within~~
10 ~~twenty days of service of the notice and requests arrangement of a~~
11 ~~payment schedule, the department shall stay the certification of~~
12 ~~noncompliance during negotiation of the schedule for payment of~~
13 ~~arrears. In no event shall the stay continue for more than thirty days~~
14 ~~from the date of contact by the parent. The department shall establish~~
15 ~~a schedule for payment of arrears that is fair and reasonable, and that~~
16 ~~considers the financial situation of the responsible parent and the~~
17 ~~needs of all children who rely on the responsible parent for support.~~
18 ~~At the end of the thirty days, if no payment schedule has been agreed~~
19 ~~to in writing and the department has acted in good faith, the~~
20 ~~department shall proceed with certification of noncompliance.~~

21 ~~(6) If a responsible parent timely requests an adjudicative~~
22 ~~proceeding pursuant to subsection (4) of this section, the department~~
23 ~~may not certify the name of the parent to the department of licensing~~
24 ~~or a licensing entity for noncompliance with a child support order~~
25 ~~unless the adjudicative proceeding results in a finding that the~~
26 ~~responsible parent is not in compliance with the order.~~

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

31 ~~(a) The responsible parent does not timely request an adjudicative~~
32 ~~proceeding upon service of a notice issued under subsection (1) of this~~
33 ~~section and is not in compliance with a child support order twenty one~~
34 ~~days after service of the notice;~~

35 ~~(b) An adjudicative proceeding results in a decision that the~~
36 ~~responsible parent is not in compliance with a child support order;~~

37 ~~(c) The court enters a judgment on a petition for judicial review~~

1 ~~that finds the responsible parent is not in compliance with a child~~
2 ~~support order;~~

3 ~~(d) The department and the responsible parent have been unable to~~
4 ~~agree on a fair and reasonable schedule of payment of the arrears;~~

5 ~~(e) The responsible parent fails to comply with a payment schedule~~
6 ~~established pursuant to subsection (5) of this section; or~~

7 ~~The department shall send by regular mail a copy of any~~
8 ~~certification of noncompliance filed with the department of licensing~~
9 ~~or a licensing entity to the responsible parent at the responsible~~
10 ~~parent's most recent address of record.~~

11 ~~(8) The department of licensing and a licensing entity shall,~~
12 ~~without undue delay, notify a responsible parent certified by the~~
13 ~~department under subsection (7) of this section that the parent's~~
14 ~~driver's license or other license has been suspended because the~~
15 ~~parent's name has been certified by the department as a responsible~~
16 ~~parent who is not in compliance with a child support order or a~~
17 ~~residential or visitation order.~~

18 ~~(9))~~ When a responsible parent who is served notice under
19 subsection (1) of this section subsequently complies with the child
20 support order, ~~((or when the department receives a court order under~~
21 ~~section 886 of this act stating that the parent is in compliance with~~
22 ~~a residential or visitation order, the department shall promptly~~
23 ~~provide the parent with))~~ a copy of a release stating that the
24 responsible parent is in compliance with the order ~~((A copy of the~~
25 ~~release))~~ shall be transmitted by the department to the appropriate
26 licensing entities.

27 ~~((10) The department may adopt rules to implement and enforce the~~
28 ~~requirements of this section. The department shall deliver a copy of~~
29 ~~rules adopted to implement and enforce this section to the legislature~~
30 ~~by June 30, 1998.~~

31 ~~(11) Nothing in this section prohibits a responsible parent from~~
32 ~~filing a motion to modify support with the court or from requesting the~~
33 ~~department to amend a support obligation established by an~~
34 ~~administrative decision. If there is a reasonable likelihood that a~~
35 ~~pending motion or request will significantly change the amount of the~~
36 ~~child support obligation, the department or the court may stay action~~
37 ~~to certify the responsible 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 cause~~
2 ~~to extend the stay. The responsible parent has the obligation to~~
3 ~~notify the department that a modification proceeding is pending and~~
4 ~~provide a copy of the motion or request for modification.~~

5 ~~(12))~~ (4) The department of licensing and a licensing entity may
6 renew, reinstate, or otherwise extend a license in accordance with the
7 licensing entity's or the department of licensing's rules after the
8 licensing entity or the department of licensing receives a copy of the
9 release specified in subsection ~~((9))~~ (3) of this section. The
10 department of licensing and a licensing entity may waive any applicable
11 requirement for reissuance, renewal, or other extension if it
12 determines that the imposition of that requirement places an undue
13 burden on the person and that waiver of the requirement is consistent
14 with the public interest.

15 ~~((13) The procedures in chapter 58, Laws of 1997, constitute the~~
16 ~~exclusive administrative remedy for contesting the establishment of~~
17 ~~noncompliance with a child support order and suspension of a license~~
18 ~~under this section, and satisfy the requirements of RCW 34.05.422.))~~

19 NEW SECTION. **Sec. 2.** (1) A responsible parent may request an
20 adjudicative proceeding upon service of the notice described in RCW
21 74.20A.320. The request for an adjudicative proceeding must be
22 received by the department within twenty days of service. The request
23 must be in writing and indicate the current mailing address and daytime
24 phone number, if available, of the responsible parent.

25 (2) If a responsible parent timely requests an adjudicative
26 proceeding, the department may not certify the name of the parent to
27 the department of licensing or a licensing entity for noncompliance
28 with a child support order unless the adjudicative proceeding results
29 in a finding that the responsible parent is not in compliance with the
30 order and has not made a good faith effort to comply.

31 (3) The issues that may be considered at the adjudicative
32 proceeding are limited to whether:

33 (a) The person named as the responsible parent is the responsible
34 parent;

35 (b) The responsible parent is required to pay child support under
36 a child support order;

37 (c) The responsible parent is in compliance with the order; and

1 (d) The responsible parent has made a good faith effort to comply
2 with the order.

3 (4) If the administrative law judge finds that the parent is not in
4 compliance with the support order, but has made a good faith effort to
5 comply, the administrative law judge shall formulate a payment schedule
6 as provided in section 4 of this act.

7 (5) The decision resulting from the adjudicative proceeding must be
8 in writing and inform the responsible parent of his or her rights to
9 review. The parent's copy of the decision may be sent by regular mail
10 to the parent's most recent address of record.

11 (6) The proceedings under this subsection shall be conducted in
12 accordance with the requirements of chapter 34.05 RCW, the
13 administrative procedure act.

14 (7) The procedures of this section constitute the exclusive
15 administrative remedy for contesting the establishment of noncompliance
16 with a child support order and suspension of a license under this
17 section, and satisfy the requirements of RCW 34.05.422.

18 (8) For the purposes of this section, "good faith effort to comply"
19 is a factual determination to be made by the administrative law judge
20 based on the responsible parent's payment history, ability to pay, and
21 efforts to find and maintain gainful employment.

22 NEW SECTION. **Sec. 3.** (1) The department may certify to the
23 department of licensing and any appropriate licensing entity the name
24 of a responsible parent who is not in compliance with a child support
25 order if:

26 (a) Within twenty-one days after service of a notice issued under
27 RCW 74.20A.320, the responsible parent does not request an adjudicative
28 proceeding or file a motion with the appropriate court or
29 administrative forum to modify the child support obligation;

30 (b) An adjudicative proceeding results in a decision that the
31 responsible parent is not in compliance with a child support order and
32 has not made a good faith effort to comply;

33 (c) The court enters a judgment on a petition for judicial review
34 that finds the responsible parent is not in compliance with a child
35 support order and has not made a good faith effort to comply; or

36 (d) The responsible parent fails to comply with a payment schedule
37 established pursuant to section 4 of this act.

1 (2) The department shall send by regular mail a copy of any
2 certification of noncompliance filed with the department of licensing
3 or a licensing entity to the responsible parent at the responsible
4 parent's most recent address of record along with information as to how
5 the parent may get his or her license reinstated.

6 (3) The department of licensing and a licensing entity shall,
7 without undue delay, notify a responsible parent certified by the
8 department under subsection (1) of this section that the parent's
9 driver's license or other license has been suspended because the
10 parent's name has been certified by the department as a responsible
11 parent who is not in compliance with a child support order.

12 NEW SECTION. **Sec. 4.** (1) If a responsible parent contacts the
13 department's division of child support office indicated on the notice
14 of noncompliance within twenty days of service of the notice provided
15 in RCW 74.20A.320 and requests arrangement of a payment schedule, the
16 department shall stay the certification of noncompliance during
17 negotiation of the schedule for payment of arrears up to thirty days
18 from the date of contact by the responsible parent.

19 (2) In proposing or approving a written payment schedule, the
20 department or the administrative law judge shall take into
21 consideration the amount of the arrearages, the amount of the current
22 support order, the earnings of the responsible parent, and the needs of
23 all children who rely on the responsible parent for support. The
24 department or administrative law judge shall consider the individual
25 financial circumstances of each responsible parent in evaluating the
26 parent's ability to pay any proposed payment schedule and shall propose
27 a fair and reasonable payment schedule tailored to the individual
28 financial circumstances of the responsible parent. A payment schedule
29 may include a graduated payment plan and may require a responsible
30 parent to engage in employment-enhancing activities to attain a
31 satisfactory payment level.

32 (3) A payment schedule may be for the payment of less than current
33 monthly support for a reasonable time and is not required to include a
34 lump sum payment for the amount of arrears.

35 NEW SECTION. **Sec. 5.** The department may adopt rules to implement

1 and enforce the requirements of RCW 74.20A.320 and sections 2 through
2 4 of this act.

3 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each
4 added to chapter 74.20A RCW.

Passed by the Senate April 22, 2009.

Passed by the House April 9, 2009.

Approved by the Governor May 7, 2009.

Filed in Office of Secretary of State May 8, 2009.