Z-0770.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 6343**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2020 Regular Session**

**By** Senators Nguyen, Darneille, and Wilson, C.; by request of Department of Social and Health Services

AN ACT Relating to the abatement of child support for incarcerated obligors; amending RCW 26.23.050, 74.20A.055, 74.20A.056, 74.20A.059, and 26.09.170; reenacting and amending RCW 74.20A.056; adding new sections to chapter 26.09 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that a large number of justice-involved individuals owe significant child support debts when they are released from incarceration.

(2) The legislature finds that these child support debts are often uncollectible and unduly burdensome on a recently released justice-involved individual, and that such debts severely impact the ability of the person required to pay support to have a successful reentry and reintegration into society.

(3) The legislature finds that there is case law in Washington, *In re Marriage of Blickenstaff*, 71 Wn. App. 489, 859 P.2d 646 (1993), providing that incarceration does not equate to voluntary unemployment or voluntary underemployment.

(4) The legislature finds that there is a statewide movement to assist justice-involved individuals reenter and reintegrate into society, and to reduce state-caused pressures which tend to lead to recidivism and a return to jail or prison.

(5) The legislature finds that, although there is currently a statutory process for modification of child support orders, it is in the best interests of the children of the state of Washington to create an automatic process of abatement instead of making it the sole responsibility of the justice-involved person to take action to deal with his or her child support obligation while incarcerated.

(6) The legislature intends, therefore, to create a remedy whereby court or administrative orders for child support entered in Washington state may be automatically abated when the person required to pay support is incarcerated for at least six months and has no income or assets available to pay support.

NEW SECTION. **Sec.**  A new section is added to chapter 26.09 RCW to read as follows:

(1) When a child support order contains language providing for automatic abatement based on incarceration of the person required to pay child support, there is a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. Unless the presumption is rebutted, the provisions of subsection (3) of this section apply.

(2)(a) If the child support order does not contain language providing for automatic abatement based on incarceration, the department, the person required to pay support, the payee under the order, or the person entitled to receive support may commence an action in the appropriate forum to:

(i) Modify the support order to contain abatement language; and

(ii) Abate the person's child support obligation due to current incarceration for at least six months.

(b) In a proceeding brought under this subsection, there is a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. The department, the payee under the order, or the person entitled to receive support, may rebut the presumption by demonstrating that the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated.

(c) Unless the presumption is rebutted, the provisions of subsection (3) of this section apply.

(3) If the court or administrative forum determines that abatement of support is appropriate:

(a) The child support obligation under that order will be automatically abated to ten dollars per month, without regard to the number of children covered by that order, while the person required to pay support is confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility. Either the department, the payee under the order, or the person entitled to receive support may rebut the presumption by demonstrating the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated.

(b) If the incarcerated person's support obligation under the order is abated as provided in (a) of this subsection, the obligation will remain abated to ten dollars per month through the last day of the third month after the person is released from confinement.

(c) After abatement, the support obligation of the person required to pay support under the order is automatically reinstated at fifty percent of the support amount provided in the underlying order, but may not be less than the presumptive minimum obligation of fifty dollars per month per child, effective the first day of the fourth month after the person's release from confinement.

(i) Upon a showing of good cause by a party that the circumstances of the case allow it, the court or administrative forum may add specific provisions to the order abating the child support obligation regarding when and how the abatement may terminate.

(ii) During the period of abatement, the department, the person required to pay support, the payee under the order, or the person entitled to receive support may commence an action to modify the child support order under RCW 26.09.170 or 74.20A.059, in which case the provision regarding reinstatement of the support amount at fifty percent does not apply.

NEW SECTION. **Sec.**  A new section is added to chapter 26.09 RCW to read as follows:

Either the department, the person required to pay support, the payee under the order, or the person entitled to receive support may make a request for abatement of child support to ten dollars per month under an order for child support when the person required to pay support is currently confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(1) A request for the abatement of child support owed under one child support order does not automatically qualify as a request for abatement of support owed under every order that may exist requiring that person to pay support. However, the request applies to any support order which is being enforced by the department at the time of the request.

(2) If there are multiple orders requiring the incarcerated person to pay child support, the issue of whether abatement of support due to incarceration is appropriate must be considered for each order.

(a) The payee or person entitled to receive support under each support order is entitled to notice and an opportunity to be heard regarding the potential abatement of support under that order.

(b) If the child or children covered by a support order are not residing with the payee under the order, any other person entitled to receive support for the child or children must be provided notice and an opportunity to be heard regarding the potential abatement of support under that order.

NEW SECTION. **Sec.**  A new section is added to chapter 26.09 RCW to read as follows:

(1) When a child support order contains language regarding abatement to ten dollars per month per order based on incarceration of the person required to pay support, and that person is currently confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility, the department must:

(a) Review the support order for abatement once the department receives notice from the person required to pay support or someone acting on his or her behalf that the person may qualify for automatic abatement of support;

(b) Review its records and other available information to determine if the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated; and

(c) Decide whether abatement of the person's support obligation is appropriate.

(2) If the department decides that abatement of the person's support obligation is appropriate, the department must notify the person required to pay support, and the payee under the order or the person entitled to receive support, that the incarcerated person's support obligation has been abated and that the abatement will continue until the first day of the fourth month after the person is released from confinement. The notification must include the following information:

(a) The payee under the order or the person entitled to receive support may object to the abatement of support due to incarceration;

(i) An objection must be received within twenty days of the notification of abatement;

(ii) Any objection will be forwarded to the office of administrative hearings for an adjudicative proceeding under chapter 34.05 RCW;

(iii) The department, the person required to pay support, and the payee under the order or the person entitled to receive support, all have the right to participate in the administrative hearing as parties; and

(iv) The burden of proof is on the party objecting to the abatement of support to show that the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated;

(b) The effective date of the abatement of support;

(c) The estimated date of release;

(d) The estimated date that the abatement will end; and

(e) That, if the abated obligation was established by a court order, the department will file a copy of the notification in the court file.

(3) If the department decides that abatement of the incarcerated person's support obligation is not appropriate, the department must notify the person required to pay support and the payee under the order or the person entitled to receive support, that the department does not believe that abatement of the support obligation should occur. The notification must include the following information:

(a) The reasons why the department decided that abatement of the support obligation is not appropriate;

(b) The person required to pay support and the payee under the order or the person entitled to receive support may object to the department's decision not to abate the support obligation;

(i) An objection must be received within twenty days of the notification of abatement;

(ii) Any objection will be forwarded to the office of administrative hearings for an adjudicative proceeding under chapter 34.05 RCW; and

(iii) The department, the incarcerated person, and the payee under the order or the person entitled to receive support all have the right to participate in the administrative hearing as parties;

(c) That, if the administrative law judge enters an order providing that abatement is appropriate, the department will take appropriate steps to document the abatement and will advise the parties of:

(i) The effective date of the abatement of support;

(ii) The estimated date of release;

(iii) The estimated date that the abatement will end; and

(iv) That, if the abated obligation was established by a court order, the department will file a copy of the notification in the court file.

NEW SECTION. **Sec.**  A new section is added to chapter 26.09 RCW to read as follows:

(1) When a court or administrative order does not contain language regarding automatic abatement based on incarceration of the person required to pay support and the department receives notice that the person is currently confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility, the department must refer the case to the appropriate forum for a determination of whether the order should be modified to:

(a) Contain abatement language as provided in this act; and

(b) Abate the person's child support obligation due to current incarceration.

(2) In a proceeding brought under this section, there is a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. The department, the payee under the order, or the person entitled to receive support may rebut the presumption by demonstrating that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(3) Unless the presumption is rebutted, the court or administrative forum must enter an order providing that the child support obligation under the order is abated to ten dollars per month, without regard to the number of children covered by the order, if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(4) The order must:

(a) Include the appropriate language required by this act in order to provide for a rebuttable presumption of automatic abatement to ten dollars per month per order; and

(b) Provide that the order must be reinstated at fifty percent of the previously ordered support amount but not less than the presumptive minimum obligation of fifty dollars per month per child, effective on the first day of the fourth month after the person's release from confinement.

NEW SECTION. **Sec.**  A new section is added to chapter 26.09 RCW to read as follows:

The effective date of abatement of a child support obligation based on incarceration to ten dollars per month per order under this act is the date on which the person required to pay support is confined in a jail, prison, or correctional facility for at least six months or begins serving a sentence greater than six months in a jail, prison, or correctional facility, regardless of when the department is notified of the incarceration. However:

(1) The person required to pay support is not entitled to a refund of any support collections or payments that were received by the department prior to the date on which the department is notified of the incarceration; and

(2) The department, the payee under the order, or the person entitled to receive support is not required to refund any support collections or payments that were received by the department prior to the date on which the department is notified of the incarceration.

NEW SECTION. **Sec.**  A new section is added to chapter 26.09 RCW to read as follows:

(1) At any time during the period of incarceration, the department, the payee under the order, or the person entitled to receive support may file a request to reverse or terminate the abatement of support by demonstrating that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(a) A request for reversal or termination of the abatement may be filed with the department or with the office of administrative hearings.

(b) The request must include documents or other evidence showing that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(c) If the request for a hearing does not include documents or evidence showing that the incarcerated person has possession of, or access to, income or assets, the department may file a motion asking that the request for a hearing be dismissed before a hearing is scheduled or held.

(d) The party seeking to reverse or terminate the abatement may seek to vacate the dismissal order by filing a motion which includes the required proof.

(e) Depending on the type of evidence provided at the hearing, the administrative law judge may order that the abatement of the support obligation be:

(i) Reversed, meaning that the determination that support should be abated is vacated and all amounts owed under the support order are reinstated; or

(ii) Terminated, meaning that the abatement of support ends as of the date specified in the order.

(2) At any time during the period of incarceration, the person required to pay support may file a request to reverse or terminate the abatement of support.

(a) The request for reversal or termination of the abatement may be filed with the department or with the office of administrative hearings.

(b) The person required to pay support is not required to provide any documents or other evidence to support the request.

(3) Abatement of a support obligation under this act does not constitute modification or adjustment of the order.

**Sec.**  RCW 26.23.050 and 2019 c 46 s 5026 are each amended to read as follows:

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

(a) A provision that orders and directs the ((~~responsible parent~~)) person required to pay support to make all support payments to the Washington state support registry;

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

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

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

(c) A statement that the ((~~receiving parent~~)) payee under the order or the person entitled to receive support might be required to submit an accounting of how the support, including any cash medical support, is being spent to benefit the child;

(d) A statement that any ((~~parent~~)) person required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other ((~~parent~~)) party to the support order when the coverage terminates; ((~~and~~))

(e) A statement that ((~~the responsible parent's privileges~~)) any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the ((~~parent~~)) person is not in compliance with a support order as provided in RCW 74.20A.320; and

(f) A statement that the support obligation under the order may be automatically abated as provided in section 2 of this act if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

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

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

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

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

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

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

(ii) A statement that the ((~~receiving parent~~)) payee under the order or the person entitled to receive support may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any ((~~parent~~)) person required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other ((~~parent~~)) party when the coverage terminates; and

(iv) A statement that a ((~~parent~~)) person seeking to enforce the obligation to provide health care coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

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

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

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

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

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

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the ((~~responsible parent~~)) person required to pay support shall make all support payments to the Washington state support registry. All administrative orders shall also state that ((~~the responsible parent's privileges~~)) any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the ((~~parent~~)) person is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the ((~~responsible parent~~)) person required to pay support at any time after entry of the order, unless:

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

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

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

(5) Every support order shall state:

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

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

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

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

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

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

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

(f) The names and ages of the dependent children;

(g) A provision requiring both the ((~~responsible parent~~)) person required to pay support and the ((~~custodial parent~~)) payee under the order or the person entitled to receive support to keep the Washington state support registry informed of whether he or she has access to health care coverage at reasonable cost and, if so, the health care coverage information;

(h) That either or both the ((~~responsible parent~~)) person required to pay support and the ((~~custodial parent~~)) payee under the order or the person entitled to receive support shall be obligated to provide medical support for ((~~his or her~~)) a child or children covered by the order through health care coverage if:

(i) The obligated ((~~parent~~)) person provides accessible coverage for the child or children through private or public health care coverage; or

(ii) Coverage that can be extended to cover the child or children is or becomes available to the ((~~parent~~)) person through employment or is union-related; or

(iii) In the absence of such coverage, through an additional sum certain amount, as that ((~~parent's~~)) obligated person's monthly payment toward the premium as provided under RCW 26.09.105;

(i) That a ((~~parent~~)) person providing health care coverage must notify both the division of child support and the other ((~~parent~~)) party to the order when coverage terminates;

(j) That if proof of health care coverage or proof that the coverage is unavailable is not provided within twenty days, the ((~~parent~~)) person seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the ((~~parent~~)) person required to provide medical support without further notice to the ((~~parent~~)) person as provided under chapter 26.18 RCW;

(k) The reasons for not ordering health care coverage if the order fails to require such coverage;

(l) That ((~~the responsible parent's privileges~~)) any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the ((~~parent~~)) person is not in compliance with a support order as provided in RCW 74.20A.320;

(m) That each ((~~parent~~)) party to the support order must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

(n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the ((~~responsible parent's~~)) employer of the person required to pay support. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

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

(7) All petitioners and parties to all court actions under chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, 26.26A, 26.26B, and 26.27 RCW shall complete to the best of their knowledge a verified and signed confidential information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or parentage orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or parentage order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV‑A, IV‑D, IV‑E, or XIX of the federal social security act. In state initiated parentage actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

**Sec.**  RCW 74.20A.055 and 2019 c 46 s 5052 are each amended to read as follows:

(1) The secretary may, if there is no order that establishes ((~~the responsible parent's~~)) a person's support obligation or specifically relieves the ((~~responsible parent~~)) person required to pay support of a support obligation or pursuant to an establishment of parentage under chapter 26.26A or 26.26B RCW, serve on the ((~~responsible parent or parents~~)) person or persons required to pay support and ((~~custodial parent~~)) the person entitled to receive support a notice and finding of financial responsibility requiring ((~~the parents~~)) those persons to appear and show cause in an adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26.16.205, including periodic payments to be made in the future. The hearing shall be held pursuant to this section, chapter 34.05 RCW, the Administrative Procedure Act, and the rules of the department. A ((~~custodian~~)) person who has physical custody of a child has the same rights ((~~that a custodial parent has~~)) under this section as a parent with whom the child resides.

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

(3) The notice and finding of financial responsibility shall set forth the amount the department has determined the ((~~responsible parent~~)) person required to pay support owes, the support debt accrued and/or accruing, and periodic payments to be made in the future. The notice and finding shall also include:

(a) A statement of the name of the ((~~custodial parent~~)) person entitled to receive support and the name of the child or children for whom support is sought;

(b) A statement of the amount of periodic future support payments as to which financial responsibility is alleged;

(c) A statement that the ((~~responsible parent~~)) person required to pay support or ((~~custodial parent~~)) the person entitled to receive support may object to all or any part of the notice and finding, and file an application for an adjudicative proceeding to show cause why the terms set forth in the notice should not be ordered;

(d) A statement that, if neither the ((~~responsible parent~~)) person required to pay support nor the ((~~custodial parent~~)) person entitled to receive support files in a timely fashion an application for an adjudicative proceeding, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt and amounts due under the notice shall be subject to collection action;

(e) A statement that the property of the ((~~debtor~~)) person required to pay support, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, notice of payroll deduction or other collection action to satisfy the debt and enforce the support obligation established under the notice;

(f) A statement that one or both ((~~parents~~)) parties to the support order are responsible for either:

(i) Providing health care coverage for the child if accessible coverage that can cover the child:

(A) Is available through health insurance or public health care coverage; or

(B) Is or becomes available to the ((~~parent~~)) person through that ((~~parent's~~)) person's employment or union; or

(ii) Paying a monthly payment toward the premium if no such coverage is available, as provided under RCW 26.09.105; and

(g) A statement that the support obligation under the order may be automatically abated to ten dollars per month per order as provided in section 2 of this act if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(4) A ((~~responsible parent~~)) person required to pay support or ((~~custodial parent~~)) a person entitled to receive support who objects to the notice and finding of financial responsibility may file an application for an adjudicative proceeding within twenty days of the date of service of the notice or thereafter as provided under this subsection.

(a) If the ((~~responsible parent~~)) person required to pay support or ((~~custodial parent~~)) the person entitled to receive support files the application within twenty days, the office of administrative hearings shall schedule an adjudicative proceeding to hear the ((~~parent's~~)) party's or ((~~parents'~~)) parties' objection and determine the support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application stays collection action pending the entry of a final administrative order;

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

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

(d) If the ((~~responsible parent~~)) person required to pay support or ((~~custodial parent~~)) the person entitled to receive support files the application more than one year after the date of service, the office of administrative hearings shall schedule an adjudicative proceeding at which the ((~~parent~~)) party who requested the late hearing must show good cause for failure to file a timely application. The filing of the application does not stay future collection action and does not affect prior collection action:

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

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

(e) If the ((~~responsible parent's~~)) support obligation was based upon imputed median net income, the grant standard, or the family need standard, the division of child support may file an application for adjudicative proceeding more than twenty days after the date of service of the notice. The office of administrative hearings shall schedule an adjudicative proceeding and provide notice of the hearing to the ((~~responsible parent~~)) person required to pay support and the ((~~custodial parent~~)) person entitled to receive support. The presiding officer shall determine the support obligation for the entire period covered by the notice, based upon credible evidence presented by the division of child support, the ((~~responsible parent~~)) person required to pay support, or the ((~~custodial parent~~)) person entitled to receive support, or may determine that the support obligation set forth in the notice is correct. The division of child support demonstrates good cause by showing that the ((~~responsible parent's~~)) support obligation was based upon imputed median net income, the grant standard, or the family need standard. The filing of the application by the division of child support does not stay further collection action, pending the entry of a final administrative order, and does not affect any prior collection action.

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

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

(6) If either the ((~~responsible parent~~)) person required to pay support or the ((~~custodial parent~~)) person entitled to receive support fails to attend or participate in the hearing or other stage of an adjudicative proceeding, upon a showing of valid service, the presiding officer shall enter an order of default against each party who did not appear and may enter an administrative order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. The parties who appear may enter an agreed settlement or consent order, which may be different than the terms of the department's notice. Any party who appears may choose to proceed to the hearing, after the conclusion of which the presiding officer or reviewing officer may enter an order that is different than the terms stated in the notice, if the obligation is supported by credible evidence presented by any party at the hearing.

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

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

(9) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

**Sec.**  RCW 74.20A.056 and 2019 c 46 s 5053 are each amended to read as follows:

(1)(a) If an acknowledged parent has signed an acknowledgment of parentage that has been filed with the state registrar of vital statistics:

(i) The division of child support may serve a notice and finding of financial responsibility under RCW 74.20A.055 based on the acknowledgment. The division of child support shall attach a copy of the acknowledgment or certification of the birth record information advising of the existence of a filed acknowledgment of parentage to the notice;

(ii) The notice shall include a statement that the acknowledged parent or any other signatory may commence a proceeding in court to rescind or challenge the acknowledgment or denial of parentage under RCW 26.26A.235 and 26.26A.240;

(iii) A statement that either ((~~or both parents~~)) the person required to pay support or the person entitled to receive support are responsible for providing health care coverage for the child if accessible coverage that can be extended to cover the child is or becomes available to the ((~~parent~~)) person through employment or is union-related as provided under RCW 26.09.105; ((~~and~~))

(iv) The party commencing the action to rescind or challenge the acknowledgment or denial must serve notice on the division of child support and the office of the prosecuting attorney in the county in which the proceeding is commenced. Commencement of a proceeding to rescind or challenge the acknowledgment or denial stays the establishment of the notice and finding of financial responsibility, if the notice has not yet become a final order; and

(v) A statement that the support obligation under the order may be automatically abated to ten dollars per month per order as provided in section 2 of this act if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(b) If neither ((~~the acknowledged parent nor the other~~)) party to the notice files an application for an adjudicative proceeding or the signatories to the acknowledgment or denial do not commence a proceeding to rescind or challenge the acknowledgment of parentage, the amount of support stated in the notice and finding of financial responsibility becomes final, subject only to a subsequent determination under RCW 26.26A.400 through 26.26A.515 that the parent-child relationship does not exist. The division of child support does not refund nor return any amounts collected under a notice that becomes final under this section or RCW 74.20A.055, even if a court later determines that the acknowledgment is void.

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

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

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the ((~~alleged genetic parent~~)) person required to pay support under the notice is later found not to be ((~~a responsible parent~~)) required to pay support.

(d) If neither ((~~the acknowledged parent nor the custodial parent~~)) party to the notice requests an adjudicative proceeding, or if no timely action is brought to rescind or challenge the acknowledgment or denial after service of the notice, the notice of financial responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26A.400 through 26.26A.515.

(2) Acknowledgments of parentage are subject to requirements of chapters 26.26A, 26.26B, and 70.58 RCW.

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

(4) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

**Sec.**  RCW 74.20A.056 and 2019 c 148 s 38 and 2019 c 46 s 5053 are each reenacted and amended to read as follows:

(1)(a) If an acknowledged parent has signed an acknowledgment of parentage that has been filed with the state registrar of vital statistics:

(i) The division of child support may serve a notice and finding of financial responsibility under RCW 74.20A.055 based on the acknowledgment. The division of child support shall attach a copy of the acknowledgment or certification of the birth record information advising of the existence of a filed acknowledgment of parentage to the notice;

(ii) The notice shall include a statement that the acknowledged parent or any other signatory may commence a proceeding in court to rescind or challenge the acknowledgment or denial of parentage under RCW 26.26A.235 and 26.26A.240;

(iii) A statement that either or both ((~~parents~~)) the person required to pay support or the person entitled to receive support are responsible for providing health care coverage for the child if accessible coverage that can be extended to cover the child is or becomes available to the ((~~parent~~)) person through employment or is union-related as provided under RCW 26.09.105; ((~~and~~))

(iv) The party commencing the action to rescind or challenge the acknowledgment or denial must serve notice on the division of child support and the office of the prosecuting attorney in the county in which the proceeding is commenced. Commencement of a proceeding to rescind or challenge the acknowledgment or denial stays the establishment of the notice and finding of financial responsibility, if the notice has not yet become a final order; and

(v) A statement that the support obligation under the order may be automatically abated to ten dollars per month per order as provided in section 2 of this act if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(b) If neither ((~~the acknowledged parent nor the other~~)) party to the notice files an application for an adjudicative proceeding or the signatories to the acknowledgment or denial do not commence a proceeding to rescind or challenge the acknowledgment of parentage, the amount of support stated in the notice and finding of financial responsibility becomes final, subject only to a subsequent determination under RCW 26.26A.400 through 26.26A.515 that the parent-child relationship does not exist. The division of child support does not refund nor return any amounts collected under a notice that becomes final under this section or RCW 74.20A.055, even if a court later determines that the acknowledgment is void.

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

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

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the ((~~alleged genetic parent~~)) person required to pay support under the notice is later found not to be ((~~a responsible parent~~)) required to pay support.

(d) If neither the acknowledged parent nor the ((~~custodial parent~~)) person entitled to receive support requests an adjudicative proceeding, or if no timely action is brought to rescind or challenge the acknowledgment or denial after service of the notice, the notice of financial responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26A.400 through 26.26A.515.

(2) Acknowledgments of parentage are subject to requirements of chapters 26.26A, 26.26B, and 70.58A RCW.

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

(4) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

**Sec.**  RCW 74.20A.059 and 2019 c 275 s 3 are each amended to read as follows:

(1) The department, the ((~~physical custodian~~)) payee under the order or the person entitled to receive support, or the ((~~responsible parent~~)) person required to pay support may petition for a prospective modification of a final administrative order if:

(a) The administrative order has not been superseded by a superior court order; and

(b) There has been a substantial change of circumstances, except as provided under RCW 74.20A.055(4)(d) or subsection (2) of this section.

(2) The department, the person entitled to receive support, the payee under the order, or the person required to pay support may petition for a prospective modification of a final administrative order if the person required to pay support is currently confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility, and the support order does not contain language regarding automatic abatement due to incarceration.

(a) The petition may be filed at any time after the administrative support order became a final order, as long as the person required to pay support is currently incarcerated.

(b) As part of the petition for modification, the petitioner may also request that the support obligation be abated to ten dollars per month per order due to incarceration, as provided in section 2 of this act.

(3) An order of child support may be modified at any time without a showing of substantially changed circumstances if incarceration of the ((~~parent who is obligated~~)) person required to pay support is the basis for the inconsistency between the existing child support order amount and the amount of support determined as a result of a review.

((~~(3)~~)) (4) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

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

(b) If a child is a full-time student and reasonably expected to complete secondary school or the equivalent level of vocational or technical training before the child becomes nineteen years of age upon a finding that there is a need to extend support beyond the eighteenth birthday.

((~~(4)~~)) (5) An order may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require medical support under RCW 26.09.105 for a child covered by the order; or

(b) Modify an existing order for health care coverage.

((~~(5)~~)) (6) Support orders may be adjusted once every twenty-four months based upon changes in the income of the ((~~parents~~)) parties to the order without a showing of substantially changed circumstances.

((~~(6)~~)) (7)(a) All administrative orders entered on, before, or after September 1, 1991, may be modified based upon changes in the child support schedule established in chapter 26.19 RCW without a substantial change of circumstances. The petition may be filed based on changes in the child support schedule after twelve months has expired from the entry of the administrative order or the most recent modification order setting child support, whichever is later. However, if a party is granted relief under this provision, twenty-four months must pass before another petition for modification may be filed pursuant to subsection ((~~(5)~~)) (6) of this section.

(b) If, pursuant to subsection ((~~(5)~~)) (6) of this section or (a) of this subsection, the order modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the change may be implemented in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a petition for modification under subsection ((~~(5)~~)) (6) of this section may be filed.

((~~(7)~~)) (8) An increase in the wage or salary of the ((~~parent or custodian who is receiving~~)) person entitled to receive the support transfer payments is not a substantial change in circumstances for purposes of modification under subsection (1)(b) of this section. ((~~An obligor's~~)) The voluntary unemployment or voluntary underemployment of the person required to pay support, by itself, is not a substantial change of circumstances.

((~~(8)~~)) (9) The department shall file the petition and a supporting affidavit with the secretary or the secretary's designee when the department petitions for modification.

((~~(9)~~)) (10) The ((~~responsible parent~~)) person required to pay support or the ((~~physical custodian~~)) payee under the order or the person entitled to receive support shall follow the procedures in this chapter for filing an application for an adjudicative proceeding to petition for modification.

((~~(10)~~)) (11) Upon the filing of a proper petition or application, the secretary or the secretary's designee shall issue an order directing each party to appear and show cause why the order should not be modified.

((~~(11)~~)) (12) If the presiding or reviewing officer finds a modification is appropriate, the officer shall modify the order and set current and future support under chapter 26.19 RCW.

**Sec.**  RCW 26.09.170 and 2019 c 275 s 2 are each amended to read as follows:

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

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance or registration of a new domestic partnership of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the ((~~parent obligated to~~)) person required to pay support for the child.

(4) Unless expressly provided by an order of the superior court or a court of comparable jurisdiction, provisions for the support of a child are terminated upon the marriage or registration of a domestic partnership to each other of parties to a paternity or parentage order, or upon the remarriage or registration of a domestic partnership to each other of parties to a decree of dissolution. The remaining provisions of the order, including provisions establishing ((~~paternity~~)) parentage, remain in effect.

(5)(a) A party to an order of child support may petition for a modification based upon a showing of substantially changed circumstances at any time.

(b) ((~~An obligor's~~)) The voluntary unemployment or voluntary underemployment of the person required to pay support, by itself, is not a substantial change of circumstances.

(6) An order of child support may be modified at any time to add language regarding automatic abatement to ten dollars per month per order due to the incarceration of the person required to pay support, as provided in section 2 of this act.

(a) The department of social and health services, the person entitled to receive support or the payee under the order, or the person required to pay support may petition for a prospective modification of a child support order if the person required to pay support is currently confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility, and the support order does not contain language regarding automatic abatement due to incarceration.

(b) The petition may only be filed if the person required to pay support is currently incarcerated.

(c) As part of the petition for modification, the petitioner may also request that the support obligation be abated to ten dollars per month per order due to incarceration, as provided in section 2 of this act.

(7) An order of child support may be modified one year or more after it has been entered without a showing of substantially changed circumstances:

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

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

(c) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

((~~(7)~~)) (8)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

(i) Changes in the income of the ((~~parents~~)) parties to the order; or

(ii) Changes in the economic table or standards in chapter 26.19 RCW.

(b) Either party may initiate the adjustment by filing a motion and child support worksheets.

(c) If the court adjusts or modifies a child support obligation pursuant to this subsection by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for another adjustment under this subsection may be filed.

((~~(8)~~)) (9)(a) The department of social and health services may file an action to modify or adjust an order of child support if public assistance money is being paid to or for the benefit of the child and the department has determined that the child support order is at least fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011.

(b) The department of social and health services may file an action to modify or adjust an order of child support in a nonassistance case if:

(i) The department has determined that the child support order is at least fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011;

(ii) The department has determined the case meets the department's review criteria; and

(iii) A party to the order or another state or jurisdiction has requested a review.

(c) If incarceration of the ((~~parent who is obligated~~)) person required to pay support is the basis for the difference between the existing child support order amount and the proposed amount of support determined as a result of a review, the department may file an action to modify or adjust an order of child support even if:

(i) There is no other change of circumstances; and

(ii) The change in support does not meet the fifteen percent threshold.

(d) The determination of whether the child support order is at least fifteen percent above or below the appropriate child support amount must be based on the current income of the parties.

((~~(9)~~)) (10) The department of social and health services may file an action to modify or adjust an order of child support under subsections (5) through ((~~(7)~~)) (8) of this section if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

((~~(10)~~)) (11) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

NEW SECTION. **Sec.**  A new section is added to chapter 26.09 RCW to read as follows:

The department is granted rule-making authority to adopt rules necessary for the implementation of this act.

NEW SECTION. **Sec.**  Section 10 of this act expires January 1, 2021.

NEW SECTION. **Sec.**  Section 11 of this act takes effect January 1, 2021.

**--- END ---**