
Civil Rights & Judiciary Committee

HB 1297

Brief Description: Reporting self-employed workers to the division of child support.

Sponsors: Representatives Walen, Ormsby, Fey, Simmons and Hill; by request of Department of Social and Health Services.

Brief Summary of Bill

- Requires a business to report specified information to the Division of Child Support within 20 days of hiring or using a service provider who is not an employee of the business.
- Requires a business that hires or uses a nonemployee service provider to honor an income withholding order or order to withhold and deliver in the same manner as an employer.

Hearing Date: 1/22/25

Staff: Yelena Baker (786-7301).

Background:

Child support obligations are established in the context of dissolution of marriage or parentage proceedings through the court or an administrative process with the Department of Social and Health Services (DSHS). The DSHS Division of Child Support (DCS) is responsible for administering the state's child support enforcement program and provides support enforcement services to parents receiving public assistance and to nonassistance parents who request support enforcement services.

The DCS maintains the Washington State Support Registry, which serves as a central unit for collection of support payments made to the agency and disbursement of support payments

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received by the agency. The DCS also maintains the necessary records on child support orders, support debts, the date and amount of support due and payments made, as well as the names, Social Security numbers, and addresses of the parties.

Reporting Requirements for Employers.

Federal and state law require all employers doing business in the state to report all newly hired and rehired employees to the DCS within 20 days of hire or rehire. The report must include the employee's name, address, Social Security number, and date of birth, as well as the employer's name, address, and identifying tax information.

The DCS may issue a notice of noncompliance to any person or entity that the DCS believes is not complying with the duty to report newly hired or rehired employees. An employer who fails to report as required is subject to a civil penalty of \$25 per month per employee or \$500 if failure to report is the result of a conspiracy between the employer and the employee not to supply the required report, or to supply a false report.

The DCS retains the information for a particular employee only if the agency is responsible for establishing, enforcing, or collecting a support debt of the employee. The DCS may, however, retain information for a particular employee for as long as may be necessary to:

- transmit the information to the national directory of new hires as required under federal law; or
- provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law.

Information that is not permitted to be retained must be promptly destroyed. Agencies that obtain information from the DSHS under this provision must maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities.

Enforcement of Child Support Obligations Owed by Employees.

Both federal and state law authorizes the DCS to enforce child support obligations through various means, including by issuing an income withholding order and an order to withhold and deliver.

Upon service of an income withholding order, the employer must make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings and remit proper amounts to the DCS within seven working days of the date the earnings are payable to the responsible parent. Similarly, when served with an order to withhold and deliver, any person or entity in possession of any property which may be subject to the claim by the DCS must immediately withhold such property and deliver the property to the DCS within seven working days.

The DCS may issue a notice of noncompliance to any person or entity that the DCS believes is not complying with an income withholding order or an order to withhold and deliver. Liability for noncompliance may include the amount that should have been withheld, together with costs, interest, and reasonable attorneys' fees and staff costs.

Noncustodial Parents and the Gig Economy.

In May 2022 the federal Office of Child Support Enforcement issued a brief presenting a finding that about one in seven working noncustodial parents has an alternative work arrangement associated with gig work as their main job. These alternative work arrangements include independent contractors, on-call workers and day laborers, and those working for a temporary agency or a contract company. Gig work for noncustodial parents is highly concentrated in two sectors of the economy—construction, and professional and business services.

According to the brief, gig work makes it difficult to enforce child support orders because it is often conducted outside of the traditional employee-employer relationship and in most states the new hire reporting requirements do not extend to nonemployees. Additionally, gig work tends to be short-term, which makes issuing income withholding orders more labor intensive and costly for the child support program.

Summary of Bill:

New reporting requirements and child support enforcement obligations are created and apply to "service recipients" and "service providers."

"Service recipient" is defined as:

- a business that enters into a contract for services or receives services from a service provider; or
- a company that maintains a digital network to facilitate services by transportation network company drivers delivering food, goods, or services, or by others who meet the definition of a service provider.

"Service provider" is defined as any person who is not an employee of the service recipient and who:

- contracts or provides services for compensation to a service recipient in an amount of \$600 or more in the calendar year;
- logs in as a driver to the digital network of a transportation network company that facilitates delivery of food, goods, or services; or
- logs in as a service provider to a digital platform company that operates a network to facilitate the performance of services to persons seeking those services.

Reporting Requirements for Service Recipients.

A service recipient must report to the Washington State Support Registry the hiring or use of a service provider to whom the service recipient pays \$600 or more in a calendar year or with whom the service recipient enters into a contract for \$600 or more in a calendar year. The report is not required if the service recipient has previously reported the service provider to the registry and has paid the service provider within the previous 60 calendar days.

The report must be submitted to the registry within 20 days of the earlier of: paying or

anticipating paying \$600 or more to the service provider in a calendar year, or entering into a contract with the service provider for \$600 or more in calendar year.

The report must contain the service provider's name, address, date of birth, and Social Security number, as well as the service recipient's name, address, and identifying tax information. The report must indicate that the person is being reported as a service provider and not as an employee and include the date on which the service provider first performed or is anticipated to perform services for pay for the service recipient.

The DCS may issue a notice of noncompliance to any person or entity the DCS believes is not complying with the duty to report the hiring or use of a service provider. A service recipient who fails to report as required is subject to a civil penalty of \$25 per month per service provider or \$500 if failure to report is the result of a conspiracy between the service recipient and the service provider not to supply the required report, or to supply a false report.

The DCS must retain the information for a particular service provider only if the agency is responsible for establishing, enforcing, or collecting a support debt of the service provider. The DCS may also retain information for a particular service provider for as long as may be necessary to:

- transmit the information to the national directory of new hires as required under federal law; or
- provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law.

Information that is not permitted to be retained must be promptly destroyed. Agencies that obtain information from the DSHS under these provisions must maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities.

Enforcement of Child Support Obligations Owed by Service Providers.

If the DCS sends an income withholding order or an order to withhold and deliver to the service recipient regarding a child support obligation owed by the service provider, the service recipient must:

- withhold from the payment due to the service provider according to the terms of the notice or order issued by the DCS; and
- remit amounts withheld from the payment to the DCS within seven days.

Service recipients must honor an income withholding order or order to withhold and deliver in the same manner as an employer. The actions of withholding and remitting do not, by themselves, create an employer-employee relationship between a service provider and service recipient.

Appropriation: None.

Fiscal Note: Requested on January 17, 2025.

Effective Date: The bill takes effect on January 1, 2027.