
SUBSTITUTE SENATE BILL 6278

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Long and Costa; by request of Department of Social and Health Services)

Read first time 01/29/2002. Referred to Committee on .

1 AN ACT Relating to service of orders to withhold and deliver on
2 financial institutions; and amending RCW 74.20A.080.

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

4 **Sec. 1.** RCW 74.20A.080 and 2000 c 86 s 8 are each amended to read
5 as follows:

6 (1) The secretary may issue to any person, firm, corporation,
7 association, political subdivision, department of the state, or agency,
8 subdivision, or instrumentality of the United States, an order to
9 withhold and deliver property of any kind, including but not restricted
10 to earnings which are or might become due, owing, or belonging to the
11 debtor, when the secretary has reason to believe that there is in the
12 possession of such person, firm, corporation, association, political
13 subdivision, department of the state, or agency, subdivision, or
14 instrumentality of the United States property which is or might become
15 due, owing, or belonging to said debtor. Such order to withhold and
16 deliver may be issued:

17 (a) At any time, if a responsible parent's support order:

18 (i) Contains notice that withholding action may be taken against
19 earnings, wages, or assets without further notice to the parent; or

1 (ii) Includes a statement that other income-withholding action
2 under this chapter may be taken without further notice to the
3 responsible parent;

4 (b) Twenty-one days after service of a notice of support debt under
5 RCW 74.20A.040;

6 (c) Twenty-one days after service of a notice and finding of
7 parental responsibility under RCW 74.20A.056;

8 (d) Twenty-one days after service of a notice of support owed under
9 RCW 26.23.110;

10 (e) Twenty-one days after service of a notice and finding of
11 financial responsibility under RCW 74.20A.055; or

12 (f) When appropriate under RCW 74.20A.270.

13 (2) The order to withhold and deliver shall:

14 (a) State the amount to be withheld on a periodic basis if the
15 order to withhold and deliver is being served to secure payment of
16 monthly current support;

17 (b) State the amount of the support debt accrued;

18 (c) State in summary the terms of RCW 74.20A.090 and 74.20A.100;

19 (d) Be served:

20 (i) In the manner prescribed for the service of a summons in a
21 civil action;

22 (ii) By certified mail, return receipt requested;

23 (iii) By electronic means if there is an agreement between the
24 secretary and the person, firm, corporation, association, political
25 subdivision, department of the state, or agency, subdivision, or
26 instrumentality of the United States to accept service by electronic
27 means; ~~((or))~~

28 (iv) By regular mail to a responsible parent's employer unless the
29 division of child support reasonably believes that service of process
30 in the manner prescribed in (d)(i) or (ii) of this subsection is
31 required for initiating an action to ensure employer compliance with
32 the withholding requirement; or

33 (v) By regular mail to an address if designated by the financial
34 institution as a central levy or garnishment address, and if the notice
35 is clearly identified as a levy or garnishment order. Before the
36 division of child support may initiate an action for noncompliance with
37 a withholding action against a financial institution, the division of
38 child support must serve the order to withhold and deliver on the

1 financial institution in the manner described in (d)(i) or (ii) of this
2 subsection.

3 (3) The division of child support may use uniform interstate
4 withholding forms adopted by the United States department of health and
5 human services to take withholding actions under this section when the
6 responsible parent is owed money or property that is located in this
7 state or in another state.

8 (4) Any person, firm, corporation, association, political
9 subdivision, department of the state, or agency, subdivision, or
10 instrumentality of the United States upon whom service has been made is
11 hereby required to:

12 (a) Answer said order to withhold and deliver within twenty days,
13 exclusive of the day of service, under oath and in writing, and shall
14 make true answers to the matters inquired of therein; and

15 (b) Provide further and additional answers when requested by the
16 secretary.

17 (5) The returned answer or a payment remitted to the division of
18 child support by the employer constitutes proof of service of the order
19 to withhold and deliver in the case where the order was served by
20 regular mail.

21 (6) Any such person, firm, corporation, association, political
22 subdivision, department of the state, or agency, subdivision, or
23 instrumentality of the United States in possession of any property
24 which may be subject to the claim of the department shall:

25 (a)(i) Immediately withhold such property upon receipt of the order
26 to withhold and deliver; and

27 (ii) Within seven working days deliver the property to the
28 secretary;

29 (iii) Continue to withhold earnings payable to the debtor at each
30 succeeding disbursement interval as provided for in RCW 74.20A.090, and
31 deliver amounts withheld from earnings to the secretary within seven
32 working days of the date earnings are payable to the debtor;

33 (iv) Deliver amounts withheld from periodic payments to the
34 secretary within seven working days of the date the payments are
35 payable to the debtor;

36 (v) Inform the secretary of the date the amounts were withheld as
37 requested under this section; or

1 (b) Furnish to the secretary a good and sufficient bond,
2 satisfactory to the secretary, conditioned upon final determination of
3 liability.

4 (7) An order to withhold and deliver served under this section
5 shall not expire until:

6 (a) Released in writing by the division of child support;

7 (b) Terminated by court order;

8 (c) A person or entity, other than an employer as defined in Title
9 50 RCW, who has received the order to withhold and deliver does not
10 possess property of or owe money to the debtor; or

11 (d) An employer who has received the order to withhold and deliver
12 no longer employs, contracts, or owes money to the debtor under a
13 contract of employment, express or implied.

14 (8) Where money is due and owing under any contract of employment,
15 express or implied, or is held by any person, firm, corporation, or
16 association, political subdivision, or department of the state, or
17 agency, subdivision, or instrumentality of the United States subject to
18 withdrawal by the debtor, such money shall be delivered by remittance
19 payable to the order of the secretary.

20 (9) Delivery to the secretary of the money or other property held
21 or claimed shall satisfy the requirement and serve as full acquittance
22 of the order to withhold and deliver.

23 (10) A person, firm, corporation, or association, political
24 subdivision, department of the state, or agency, subdivision, or
25 instrumentality of the United States that complies with the order to
26 withhold and deliver under this chapter is not civilly liable to the
27 debtor for complying with the order to withhold and deliver under this
28 chapter.

29 (11) The secretary may hold the money or property delivered under
30 this section in trust for application on the indebtedness involved or
31 for return, without interest, in accordance with final determination of
32 liability or nonliability.

33 (12) Exemptions contained in RCW 74.20A.090 apply to orders to
34 withhold and deliver issued under this section.

35 (13) The secretary shall also, on or before the date of service of
36 the order to withhold and deliver, mail or cause to be mailed a copy of
37 the order to withhold and deliver to the debtor at the debtor's last
38 known post office address, or, in the alternative, a copy of the order
39 to withhold and deliver shall be served on the debtor in the same

1 manner as a summons in a civil action on or before the date of service
2 of the order or within two days thereafter. The copy of the order
3 shall be mailed or served together with a concise explanation of the
4 right to petition for judicial review. This requirement is not
5 jurisdictional, but, if the copy is not mailed or served as in this
6 section provided, or if any irregularity appears with respect to the
7 mailing or service, the superior court, in its discretion on motion of
8 the debtor promptly made and supported by affidavit showing that the
9 debtor has suffered substantial injury due to the failure to mail the
10 copy, may set aside the order to withhold and deliver and award to the
11 debtor an amount equal to the damages resulting from the secretary's
12 failure to serve on or mail to the debtor the copy.

13 (14) An order to withhold and deliver issued in accordance with
14 this section has priority over any other wage assignment, garnishment,
15 attachment, or other legal process.

16 (15) The division of child support shall notify any person, firm,
17 corporation, association, or political subdivision, department of the
18 state, or agency, subdivision, or instrumentality of the United States
19 required to withhold and deliver the earnings of a debtor under this
20 action that they may deduct a processing fee from the remainder of the
21 debtor's earnings, even if the remainder would otherwise be exempt
22 under RCW 74.20A.090. The processing fee shall not exceed ten dollars
23 for the first disbursement to the department and one dollar for each
24 subsequent disbursement under the order to withhold and deliver.

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