

HOUSE BILL REPORT

HB 1859

*As Reported By House Committee on:
Judiciary*

Title: An act relating to child support.

Brief Description: Changing support enforcement provisions.

Sponsor(s): Representative Appelwick; by request of
Department of Social and Health Services.

Brief History:

Reported by House Committee on:
Judiciary, March 6, 1991, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *That Substitute House Bill No. 1859 be substituted therefor, and the substitute bill do pass.*
Signed by 12 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Belcher; Broback; Forner; Inslee; Locke; R. Meyers; H. Myers; Riley; Scott; and Wineberry.

Minority Report: *Do not pass.* Signed by 7 members: Representatives Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Hargrove; Mielke; D. Sommers; Tate; and Vance.

Staff: Pat Shelledy (786-7149).

Background: The Office of Support Enforcement is responsible for administering the child support enforcement program that the states must have pursuant to Title IV-D of the federal Social Security Act if states want to obtain federal money under that act. The Office of Support Enforcement is responsible for providing necessary and mandated support enforcement services statewide.

The federal government issues regulations from time to time that the states must follow if the regulations are adopted. The general trend of the regulations has been to increase the Office of Support Enforcement's role in collecting child support not only for Title IV-D cases but for non-Title IV-D cases. Recent proposed federal regulations require certain changes in the state's plan for enforcement.

Summary of Substitute Bill: Numerous changes are made to enforcement of support provisions. Several of the changes are made to conform to the federal law requirements as enacted or proposed, and others are made to improve the operations of the Office of Support Enforcement.

To comply with the proposed federal regulations, the Office of Support Enforcement must issue a notice of payroll deduction without waiting for the obligor to be past due in child support in an amount equal to or greater than the support payment for one month. The office must obtain a payroll deduction not only against employers but persons or organizations, whether public or private, that are in possession of or owing any money to the obligor. The obligor may no longer quash a payroll deduction just because the obligor was not delinquent in payments. An express provision clarifies that a payroll deduction is effective for one year after the responsible parent has left the employment or the employer is no longer in possession of earnings owed the employee.

The prosecuting attorney as well as the attorney general may bring all necessary court actions for the Office of Support Enforcement. When appearing in any matter, the prosecutor or attorney general represents the financial interests and actions of the state of Washington, the best interests of the child relating to the parentage, and the best interests of the children of the state, and not any other party.

The attorney general or the prosecuting attorney functions as the child's guardian ad litem in a paternity action unless the interests of the child and the State conflict. The prosecutor and attorney general must notify the parents of their right to request that a guardian ad litem be appointed for the child.

An administrative procedure is created for the payee to set a fixed sum on a variable order as well as clarify existing provisions for the responsible parent to contest the amounts stated in the Office of Support Enforcement's notice. A party who objects to the notice of support owed must appear and show cause why the amounts stated in the notice are incorrect.

Some administrative hearing provisions are amended to clarify that child support is set by the child support schedule. The responsible parent who contests a notice of financial responsibility for child support may obtain a hearing on the setting of the support for up to a year after the notice, without requiring any justification for the delay in requesting the hearing.

Case law is codified which requires that the Office of Support Enforcement be given 20 calendar days prior notice of the entry of a final order and five calendar days notice of the entry of a temporary order in any child support proceeding in which the state of Washington has a financial interest.

The court may order an alternative payment plan to avoid immediate wage withholding if the parties enter into a written agreement or if the judge makes a finding that good cause exists not to order immediate wage withholding. A clarification is added that the court may order the obligor to pay the obligee directly under the alternative plan.

The existing statutory model for modifying court orders is modified and adopted for modifications of administrative orders.

Service of process of motions for modification must be served with work sheets in lieu of financial affidavits.

The Office of Support Enforcement may attach earnings or property of the obligor's that is located in the state even if the obligor is living out of the state.

The administrator for the courts must review the child support schedule every four years to determine if the application of the child support schedule results in appropriate support orders.

The obligee, prosecuting attorney, or the attorney general may register foreign support orders in this state for the purposes of modification and enforcement of the support provisions.

The Department of Social and Health Services must adopt rules for the distribution of support money collected by the Office of Support Enforcement. The rules must provide that the Office of Support Enforcement must: (1) distribute the money collected within eight days of receipt with certain exceptions; (2) provide for proportionate distribution of support payments if the responsible parent owes support to two or more families; and (3) distribute the money to the family before the state's debt is paid if the family is off public assistance.

Substitute Bill Compared to Original Bill: A provision is added requiring the prosecutor or attorney general to notify the parents that the parents may move the court for appointment of a guardian ad litem. A provision is added that a payroll deduction automatically expires one year after the employee has left the employment. The service of

process rules for service of notices of modifications is amended to restore current laws requirement that the petitioner file the motion with the court. A section is stricken that would have removed the requirement that the Office of Support Enforcement must mail by certified mail a copy of the wage withholding order to the obligor. A section is added that requires the Department of Social and Health Services to adopt rules for distribution of support moneys.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed, with the exception of section 11, which takes effect January 1, 1992.

Testimony For: Original Bill: The bill addresses requirements imposed by federal law and improves the operations of the Office of Support Enforcement.

Testimony Against: Original Bill: The bill will allow the Office of Support Enforcement to become involved in virtually every child support case between private parties. The Office of Support Enforcement should use certified mail.

Witnesses: Original Bill: Dave Hogan, Department of Social and Health Services (pro); Bob Hoyden, Parents Opposed to Punitive Support (con); Lonnie Johns-Brown, National Organization of Women (supports with a recommendation to require use of certified mail); Ann Simons, Washington Women United (pro); Alice Odiorne, Washington Association of Prosecuting Attorneys (pro); and Denise Reed, Evergreen Legal Services (pro with recommended change regarding certified mail).