

HOUSE BILL REPORT

HB 2488

As Reported By House Committee On:
Judiciary
Appropriations

Title: An act relating to child support enforcement operations.

Brief Description: Providing for child support enforcement operations.

Sponsors: Representatives Appelwick, Forner and Karahalios; by request of Department of Social and Health Services.

Brief History:

Reported by House Committee on:
Judiciary, February 2, 1994, DPS;
Appropriations, February 6, 1994, DPS(JUD).

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Appelwick, Chair; Johanson, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Eide; Forner; J. Kohl; Long; Morris; H. Myers; Schmidt; Scott and Tate.

Staff: Pat Shelledy (786-7149).

Background:

Notice of health insurance coverage.

Under current law, a parent who is under a court order to provide health insurance coverage for a child must provide proof of the coverage within 20 days of entry of the court order. The proof must be provided to the child's physical custodian or to the Department of Social and Health Services if payments are made to the Washington State Support Registry. The parent is not under an obligation to inform the custodian or the department if health insurance is not available. According to the Office of Support Enforcement (OSE), parents frequently do not provide that information and consequently the department does not know that insurance

is unavailable until after the department initiates an enforcement action.

Immediate wage withholding.

OSE must provide child support services: (a) whenever public assistance is paid (Title IV-D cases); (b) whenever a request for non-assistance support enforcement services is received; (c) whenever a court order directs a parent to make payments to the support registry; (d) whenever a court order is forwarded to the registry; and (e) whenever an obligor submits a payment of support to the registry. When a parent is not receiving public assistance and has not requested enforcement assistance, the office provides "payment only services" and does not take any automatic enforcement action against the responsible parent. OSE implements immediate wage withholding actions only in those cases receiving OSE enforcement services.

Immediate wage withholding may be taken without the obligor failing to make payments, unless the parties reach a written agreement approved by the court that provides for an alternative payment plan, or the court finds good cause not to require immediate wage withholding. If the court approves an alternate payment plan in non-Title IV-D cases, the court may order the responsible parent to make payments directly to the person entitled to receive the payments rather than to the registry, and for orders entered on or after July 1, 1990, the court may also direct that issuance of an immediate wage withholding action be delayed until a support payment is past due.

In federal action transmittal (OCSE AT (93-06)) dated April 5, 1993, the federal government notified the states that the states must implement immediate wage withholding enforcement actions for all court orders which order it, even if the parties have not requested the office to enforce their orders. This new requirement applies to orders entered on or after January 1, 1994.

Miscellaneous provisions.

OSE's records are confidential. Information may be released to certain entities for child support enforcement services. Currently, federally recognized tribes are not listed among the entities entitled to obtain the information.

The federal Omnibus Reconciliation Act of 1993 mandates that states create a rebuttable or conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child. The act also requires states to establish

procedures for allowing a party to object to the results of genetic tests and to enter a default judgment when a party fails to object.

OSE is required to appear in adjudicative proceedings contesting child support if requested to attend those proceedings by either party. Some confusion may result about OSE's role in those proceedings.

Current law requires OSE to attach a copy of the father's affidavit acknowledging paternity to the notice OSE serves on the father for payment of support. According to OSE many of these affidavits filed with the state prior to 1988 have been sealed and archived. The Center for Health Statistics maintains a record of these archived paternity affidavits on their database. OSE would like to attach a certification from the Center for Health Statistics that the center has a paternity affidavit on file rather than attach the actual affidavit.

OSE may issue a notice to withhold and deliver property of an obligor to a variety of persons and entities believed to be in possession of property of an obligor owing child support. Agencies of the federal government are not on the list. Employers are currently required to respond to two different enforcement mechanisms available to OSE: an order to withhold and deliver and a notice of payroll deduction. Although the enforcement mechanisms are very similar, minor differences exist between the two, which can cause confusion for employers who have to respond to them. OSE recommends streamlining the procedures so that employer obligations are consistent under both procedures.

Summary of Substitute Bill:

Notice of the unavailability of health insurance coverage.

Within 20 days of entry of a court order ordering a parent to provide health insurance coverage, the parent must provide proof of the coverage or proof that the coverage is unavailable.

Immediate wage withholding.

If OSE is providing support enforcement services or a parent has applied for those services, the parent may request that immediate wage withholding not be ordered if the parent establishes good cause. Under those circumstances, a parent will have to initiate a wage withholding action on their own if the responsible parent does not pay, unless the parent later submits a request to OSE for enforcement services.

In cases in which OSE is not involved, the court must order immediate wage withholding unless the parties establish cause or the parties enter into an alternative payment plan. If the court orders immediate wage withholding, the payments must be made to the registry. However, the parent must serve and enforce the mandatory wage assignment order.

If parents do not actually request enforcement services, their cases will be treated as "payment only" cases. The department will establish rules for services provided in payment only cases.

Miscellaneous provisions.

Federally recognized tribes are included in the list of entities that may receive OSE's confidential information for child support enforcement services.

A man is presumed to be the father of a child if genetic testing indicates a 98 percent or greater probability of paternity. Any objection to the test must be filed within 20 days of the hearing. Other procedures are adopted to comply with federal law.

When OSE appears or participates in an adjudicative proceeding, it must act in furtherance of the state's financial interest in the matter; act in the best interest of the children of the state; facilitate resolution of the controversy; and make independent recommendations to ensure the integrity and proper application of the law and process. OSE does not act on behalf of or as an agent or representative of an individual.

OSE may attach to the notice and finding of financial responsibility a certification of birth record information from the Center for Health Statistics, advising of the existence of a filed affidavit acknowledging paternity.

OSE may send orders to withhold and deliver property belonging to an obligor to agencies of the federal government.

Provisions governing orders to withhold and deliver are amended to be more consistent with procedures governing payroll deduction notices.

Substitute Bill Compared to Original Bill: Procedures concerning objecting to genetic tests are adopted to comply with federal law. A provision allowing OSE to notify the obligor by regular mail instead of certified mail, when OSE issues an order to withhold and deliver, is stricken, restoring the requirement that notice must be given by

certified mail. A provision is stricken that would have authorized the address of the custodian to be omitted from Superior Court orders if OSE was providing services.

Fiscal Note: Requested January 27, 1994.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill brings the state into compliance with federal regulations and streamlines procedures.

Testimony Against: Obligors should receive notice of the order to withhold and deliver by certified mail. The address of the physical custodian should not be omitted from Superior Court orders.

Witnesses: Mike Ricchio, Department of Social and Health Services, Office of Support Enforcement (pro); and Bob Hoyden, Washington Families for Noncustodial Rights (with concerns).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Sommers, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dorn; Dunshee; G. Fisher; Foreman; Jacobsen; Lemmon; Linville; H. Myers; Peery; Rust; Sehlin; Sheahan; Stevens; Talcott; Wang; Wineberry and Wolfe.

Staff: Beth Redfield (786-7130).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Judiciary: No new changes were recommended.

Fiscal Note: Requested January 27, 1994.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Witnesses: None.