

SENATE BILL REPORT

SHB 2488

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 22, 1994

**Brief Description:** Providing for child support enforcement operations.

**SPONSORS:** House Committee on Judiciary (originally sponsored by Representatives Appelwick, Forner and Karahalios; by request of Department of Social and Health Services)

**HOUSE COMMITTEE ON JUDICIARY**

**HOUSE COMMITTEE ON APPROPRIATIONS**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass as amended.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Niemi, Quigley, Roach, Schow and Spanel.

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** February 18, 1994; February 22, 1994

**BACKGROUND:**

Under current law, a parent under court order to provide health insurance coverage for a child must provide proof of the coverage within 20 days of entry of the order. If coverage is not available, the parent is not required to take any action. As a result, the Office of Support Enforcement (OSE) may initiate an enforcement action only to discover that the insurance is unavailable.

OSE must provide child support enforcement services in public assistance cases and when services are requested in non-assistance cases. All court orders which establish or modify a support obligation must include a statement that immediate wage withholding may be implemented to collect the support unless the court finds good cause not to require it, or the parties reach an alternate arrangement approved by the court. "Good cause" means a determination of why it would not be in the child's best interests to implement immediate income withholding, and in modification cases, proof of timely payment of support. In non-assistance cases where there has been no request for enforcement services, OSE provides "payment only services" and does not initiate any enforcement action against the responsible parent.

On April 5, 1993, the federal government notified states that based on the Family Support Act of 1988, immediate wage withholding must be implemented by OSE for all court orders

which authorize it, even if the parties have not requested OSE services. This new requirement applies to orders entered on or after January 1, 1994.

OSE's records are confidential and information may only be released to specified entities for child support enforcement services. Currently, federally recognized tribes are not included among the entities that may obtain the information.

The federal Omnibus Budget Reconciliation Act of 1993 mandates that states establish a presumption of paternity based upon genetic testing results. 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 appear in a paternity action.

When OSE appears in court hearings, it is limited by statute to representing only the best interests of the children and the state's financial interests. OSE's role in administrative proceedings is not defined by statute.

Current law requires OSE to attach a copy of a father's affidavit acknowledging paternity to the notice OSE serves the father for payment of support. OSE would like the option of providing a certification from the Center For Health Statistics of the existence of the paternity affidavit instead of a copy of the affidavit itself.

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. Also, it is recommended that procedures governing orders to withhold and deliver be amended to be more consistent with payroll deduction procedures.

**SUMMARY:**

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

Provisions relating to immediate income withholding are amended in regards to persons who are not on public assistance and who have not requested OSE services. In these cases, "good cause" for purposes of not ordering immediate income withholding means any reason that the court finds appropriate. If immediate income withholding is ordered by the court, payments must be made to the Washington State support registry. The parent receiving the transfer payment is responsible for serving the employer with the order. If immediate income withholding is not ordered, the court shall provide that it be delayed until a payment is past due. Support cases paid through the registry, where there has been no request for OSE services, are deemed payment-services-only cases, and the department must adopt rules determining the extent of services to be provided in those cases.

OSE records may be disclosed to federally recognized tribes if the disclosure is necessary for child support enforcement purposes.

The statutory list of presumptions upon which paternity may be based includes genetic testing indicating a 98 percent or greater probability of paternity. Any objection to the test results must be filed within 20 days of the hearing. In a paternity action, the court is required to enter a default if a party fails to appear and the requirements in court rules are met.

When OSE appears in an adjudicative proceeding, it must act in furtherance of the state's financial interest, act in the best interests of children, facilitate resolution of the controversy, and make independent recommendations to ensure the integrity of the process. OSE does not act on behalf 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.

Orders to withhold and deliver property belonging to an obligor may be issued to agencies of the federal government. These orders remain in effect until released by OSE, terminated by court order, or one year from the date of service, whichever is earliest.

**SUMMARY OF PROPOSED COMMITTEE AMENDMENT:**

Technical and clarifying amendments are made to the section on genetic testing and the section specifying when an order to withhold and deliver expires.

The provision authorizing DSHS to adopt rules regarding payment-services-only cases is stricken.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

The bill brings OSE procedures into compliance with federal requirements, and makes other technical and clarifying amendments to support enforcement statutes.

**TESTIMONY AGAINST:**

A genetic test result of 98 percent is not an adequate level on which to base a rebuttable presumption of paternity.

**TESTIFIED:** Mike Ricchio, Office of Support Enforcement (pro);  
Robert Taub, WA State Bar Association (concerns about Sec. 14)

