
HOUSE BILL 1760

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By Representatives H. Myers, Brough, Appelwick, Miller, Johanson, Chappell, Ludwig, Scott and Mastin

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1 AN ACT Relating to obligations for child support and spousal
2 maintenance; and amending RCW 26.18.010, 26.18.020, 26.18.030,
3 26.18.040, 26.18.050, 26.18.070, 26.18.090, 26.18.100, 26.18.110,
4 26.18.120, 26.18.140, and 26.18.150.

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

6 **Sec. 1.** RCW 26.18.010 and 1984 c 260 s 1 are each amended to read
7 as follows:

8 The legislature finds that there is an urgent need for vigorous
9 enforcement of child support and spousal maintenance obligations, and
10 that stronger and more efficient statutory remedies need to be
11 established to supplement and complement the remedies provided in
12 chapters 26.09, 26.21, 26.26, 74.20, and 74.20A RCW.

13 **Sec. 2.** RCW 26.18.020 and 1989 c 416 s 2 are each amended to read
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Dependent child" means any child for whom a support order has
18 been established or for whom a duty of support is owed.

1 (2) "Duty of spousal maintenance" means the duty to provide for the
2 needs of a spouse or former spouse imposed under chapter 26.09 RCW.

3 (3) "Duty of support" means the duty to provide for the needs of a
4 dependent child, which may include necessary food, clothing, shelter,
5 education, and health care. The duty includes any obligation to make
6 monetary payments, to pay expenses, including spousal maintenance in
7 cases in which there is a dependent child, or to reimburse another
8 person or an agency for the cost of necessary support furnished a
9 dependent child. The duty may be imposed by court order, by operation
10 of law, or otherwise.

11 (~~(3)~~) (4) "Obligee" means the custodian of a dependent child, the
12 spouse or former spouse, or person or agency, to whom a duty of support
13 or duty of spousal maintenance is owed, or the person or agency to whom
14 the right to receive or collect support or spousal maintenance has been
15 assigned.

16 (~~(4)~~) (5) "Obligor" means the person owing a duty of support or
17 duty of spousal maintenance.

18 (~~(5)~~) (6) "Support or maintenance order" means any judgment,
19 decree, or order of support or spousal maintenance issued by the
20 superior court or authorized agency of the state of Washington; or a
21 judgment, decree, or other order of support or spousal maintenance
22 issued by a court or agency of competent jurisdiction in another state
23 or country, which has been registered or otherwise made enforceable in
24 this state.

25 (~~(6)~~) (7) "Employer" includes the United States government, a
26 state or local unit of government, and any person or entity who pays or
27 owes earnings or remuneration for employment to the obligor.

28 (~~(7)~~) (8) "Earnings" means compensation paid or payable for
29 personal services or remuneration for employment, whether denominated
30 as wages, salary, commission, bonus, or otherwise, and, notwithstanding
31 any other provision of law making the payments exempt from garnishment,
32 attachment, or other process to satisfy support or spousal maintenance
33 obligations, specifically includes periodic payments pursuant to
34 pension or retirement programs, or insurance policies of any type, but
35 does not include payments made under Title 50 RCW, except as provided
36 in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

37 (~~(8)~~) (9) "Disposable earnings" means that part of the earnings
38 of an individual remaining after the deduction from those earnings of
39 any amount required by law to be withheld.

1 (~~(9)~~) (10) "Department" means the department of social and health
2 services.

3 (~~(10)~~) (11) "Health insurance coverage" includes any coverage
4 under which medical services are provided by an employer or a union
5 whether that coverage is provided through a self-insurance program,
6 under the employee retirement income security act of 1974, a commercial
7 insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service
8 contractor pursuant to chapter 48.44 RCW, or a health maintenance
9 organization pursuant to chapter 48.46 RCW, and the state through
10 chapter 41.05 RCW.

11 (~~(11)~~) (12) "Insurer" means a commercial insurance company
12 providing disability insurance under chapter 48.20 or 48.21 RCW, a
13 health care service contractor providing health care coverage under
14 chapter 48.44 RCW, a health maintenance organization providing
15 comprehensive health care services under chapter 48.46 RCW, and shall
16 also include any employer or union which is providing health insurance
17 coverage on a self-insured basis.

18 (13) "Remuneration for employment" means moneys due from or
19 payable by the United States to an individual within the scope of 42
20 U.S.C. Sec. 659 and 42 U.S.C. Sec. 662(f).

21 **Sec. 3.** RCW 26.18.030 and 1984 c 260 s 3 are each amended to read
22 as follows:

23 (1) The remedies provided in this chapter are in addition to, and
24 not in substitution for, any other remedies provided by law.

25 (2) This chapter applies to any dependent child, whether born
26 before or after June 7, 1984, and regardless of the past or current
27 marital status of the parents, and to a spouse or former spouse.

28 (3) This chapter shall be liberally construed to assure that all
29 dependent children are adequately supported.

30 **Sec. 4.** RCW 26.18.040 and 1984 c 260 s 4 are each amended to read
31 as follows:

32 (1) A proceeding to enforce a duty of support or spousal
33 maintenance is commenced:

34 (a) By filing a petition for an original action; or

35 (b) By motion in an existing action or under an existing cause
36 number.

1 (2) Venue for the action is in the superior court of the county
2 where the dependent child resides or is present, where the obligor or
3 obligee resides, or where the prior support or maintenance order was
4 entered. The petition or motion may be filed by the obligee, the
5 state, or any agency providing care or support to the dependent child.
6 A filing fee shall not be assessed in cases brought on behalf of the
7 state of Washington.

8 (3) The court retains continuing jurisdiction under this chapter
9 until all duties of either support or spousal maintenance, or both, of
10 the obligor, including arrearages, with respect to the dependent child,
11 spouse, or former spouse have been satisfied.

12 **Sec. 5.** RCW 26.18.050 and 1989 c 373 s 22 are each amended to read
13 as follows:

14 (1) If an obligor fails to comply with a support or spousal
15 maintenance order, a petition or motion may be filed without notice
16 under RCW 26.18.040 to initiate a contempt action as provided in
17 chapter 7.21 RCW. If the court finds there is reasonable cause to
18 believe the obligor has failed to comply with a support or spousal
19 maintenance order, the court may issue an order to show cause requiring
20 the obligor to appear at a certain time and place for a hearing, at
21 which time the obligor may appear to show cause why the relief
22 requested should not be granted. A copy of the petition or motion
23 shall be served on the obligor along with the order to show cause.

24 (2) Service of the order to show cause shall be by personal
25 service, or in the manner provided in the civil rules of superior court
26 or applicable statute.

27 (3) If the order to show cause served upon the obligor included a
28 warning that an arrest warrant could be issued for failure to appear,
29 the court may issue a bench warrant for the arrest of the obligor if
30 the obligor fails to appear on the return date provided in the order.

31 (4) If the obligor contends at the hearing that he or she lacked
32 the means to comply with the support or spousal maintenance order, the
33 obligor shall establish that he or she exercised due diligence in
34 seeking employment, in conserving assets, or otherwise in rendering
35 himself or herself able to comply with the court's order.

36 **Sec. 6.** RCW 26.18.070 and 1987 c 435 s 18 are each amended to read
37 as follows:

1 (1) A petition or motion seeking a mandatory wage assignment in an
2 action under RCW 26.18.040 may be filed by an obligee if the obligor is
3 more than fifteen days past due in child support or spousal maintenance
4 payments in an amount equal to or greater than the ((support))
5 obligation payable for one month. The petition or motion shall include
6 a sworn statement by the obligee, stating the facts authorizing the
7 issuance of the wage assignment order, including:

8 (a) That the obligor, stating his or her name and residence, is
9 more than fifteen days past due in child support or spousal maintenance
10 payments in an amount equal to or greater than the ((support))
11 obligation payable for one month;

12 (b) A description of the terms of the ((support)) order requiring
13 payment of support or spousal maintenance, and the amount past due;

14 (c) The name and address of the obligor's employer;

15 (d) That notice by personal service or any form of mail requiring
16 a return receipt, has been provided to the obligor at least fifteen
17 days prior to the obligee seeking a mandatory wage assignment, unless
18 the order for support or maintenance states that the obligee may seek
19 a mandatory wage assignment without notice to the obligor; and

20 (e) In cases not filed by the state, whether the obligee has
21 received public assistance from any source and, if the obligee has
22 received public assistance, that the department of social and health
23 services has been notified in writing of the pending action.

24 (2) If the court in which a mandatory wage assignment is sought
25 does not already have a copy of the support or maintenance order in the
26 court file, then the obligee shall attach a copy of the support or
27 maintenance order to the petition or motion seeking the wage
28 assignment.

29 **Sec. 7.** RCW 26.18.090 and 1984 c 260 s 9 are each amended to read
30 as follows:

31 (1) The wage assignment order in RCW 26.18.080 shall include:

32 (a) The maximum amount of current support or spousal maintenance,
33 if any, to be withheld from the obligor's earnings each month, or from
34 each earnings disbursement; and

35 (b) The total amount of the arrearage or reimbursement judgment
36 previously entered by the court, if any, together with interest, if
37 any.

1 (2) The total amount to be withheld from the obligor's earnings
2 each month, or from each earnings disbursement, shall not exceed fifty
3 percent of the disposable earnings of the obligor. If the amounts to
4 be paid toward the arrearage are specified in the support or spousal
5 maintenance order, then the maximum amount to be withheld is the sum
6 of: Either the current support or spousal maintenance ordered, or
7 both; and the amount ordered to be paid toward the arrearage, or fifty
8 percent of the disposable earnings of the obligor, whichever is less.

9 (3) The provisions of RCW 6.27.150 do not apply to wage assignments
10 for child support or spousal maintenance authorized under this chapter,
11 but fifty percent of the disposable earnings of the obligor are exempt,
12 and may be disbursed to the obligor.

13 (4) If an obligor is subject to two or more attachments for either
14 child support or spousal maintenance, or both, on account of different
15 obligees, the employer shall, if the nonexempt portion of the obligor's
16 earnings is not sufficient to respond fully to all the attachments,
17 apportion the obligor's nonexempt disposable earnings between or among
18 the various obligees equally. Any obligee may seek a court order
19 reapportioning the obligor's nonexempt disposable earnings upon notice
20 to all interested obligees. Notice shall be by personal service, or in
21 the manner provided by the civil rules of superior court or applicable
22 statute.

23 **Sec. 8.** RCW 26.18.100 and 1991 c 367 s 20 are each amended to read
24 as follows:

25 The wage assignment order shall be substantially in the following
26 form:

27 IN THE SUPERIOR COURT OF THE
28 STATE OF WASHINGTON IN AND FOR THE
29 COUNTY OF
30 ,
31 Obligee No.
32 vs.
33 , WAGE ASSIGNMENT
34 Obligor ORDER
35 ,
36 Employer

1 THE STATE OF WASHINGTON TO:

2 Employer

3 AND TO:

4 Obligor

5 The above-named obligee claims that the above-named obligor is more
6 than fifteen days past due in either child support or spousal
7 maintenance payments, or both, in an amount equal to or greater than
8 the child support or spousal maintenance payable for one month. The
9 amount of the accrued child support or spousal maintenance debt as of
10 this date is dollars, the amount of arrearage payments
11 specified in the support or spousal maintenance order (if applicable)
12 is dollars per, and the amount of the current
13 and continuing support or spousal maintenance obligation under the
14 (~~support~~) order is dollars per

15 You are hereby commanded to answer this order by filling in the
16 attached form according to the instructions, and you must mail or
17 deliver the original of the answer to the court, one copy to the
18 Washington state support registry, one copy to the obligee or obligee's
19 attorney, and one copy to the obligor within twenty days after service
20 of this wage assignment order upon you.

21 If you possess any earnings or other remuneration for employment
22 due and owing to the obligor, then you shall do as follows:

23 (1) Withhold from the obligor's earnings or remuneration each
24 month, or from each regular earnings disbursement, the lesser of:

25 (a) The sum of the accrued support or spousal maintenance debt and
26 the current support or spousal maintenance obligation;

27 (b) The sum of the specified arrearage payment amount and the
28 current support or spousal maintenance obligation; or

29 (c) Fifty percent of the disposable earnings or remuneration of the
30 obligor.

31 (2) The total amount withheld above is subject to the wage
32 assignment order, and all other sums may be disbursed to the obligor.

33 (3) Upon receipt of this wage assignment order you shall make
34 immediate deductions from the obligor's earnings or remuneration and
35 remit to the Washington state support registry or other address
36 specified below the proper amounts at each regular pay interval.

37 You shall continue to withhold the ordered amounts from nonexempt
38 earnings or remuneration of the obligor until notified by:

1 (a) The court that the wage assignment has been modified or
2 terminated;

3 (b) The Washington state support registry, office of support
4 enforcement that the accrued child support debt has been paid; or

5 (c) The court that has entered an order delaying, modifying, or
6 terminating the wage assignment order and has approved an alternate
7 payment plan as provided in RCW 26.23.050(2).

8 You shall promptly notify the court and the Washington state
9 support registry if and when the employee is no longer employed by you,
10 or if the obligor no longer receives earnings or remuneration from you.
11 If you no longer employ the employee, the wage assignment order shall
12 remain in effect for one year after the employee has left your
13 employment or ((your-[you])) you are no longer in possession of any
14 earnings or remuneration owed to the employee, whichever is later. You
15 shall continue to hold the wage assignment order during that ((one-
16 year)) period. If the employee returns to your employment during the
17 one-year period you shall immediately begin to withhold the employee's
18 earnings according to the terms of the wage assignment order. If the
19 employee has not returned to your employment within one year, the wage
20 assignment will cease to have effect at the expiration of the one-year
21 period, unless you still owe the employee earnings or other
22 remuneration.

23 You shall deliver the withheld earnings or remuneration to the
24 Washington state support registry or other address stated below at each
25 regular pay interval.

26 You shall deliver a copy of this order to the obligor as soon as is
27 reasonably possible. This wage assignment order has priority over any
28 other wage assignment or garnishment, except for another wage
29 assignment or garnishment for child support or spousal maintenance, or
30 order to withhold or deliver under chapter 74.20A RCW.

31 WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO
32 ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED
33 SUPPORT OR SPOUSAL MAINTENANCE DEBT TO THE OBLIGEE OR SUBJECT
34 TO CONTEMPT OF COURT.

35 NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE
36 SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT
37 THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.

38 DATED THIS day of, 19. . . .

1
2 Obligee, Judge/Court Commissioner
3 or obligee's attorney
4 Send withheld payments to: _____
5 _____
6 _____
7 _____

8 **Sec. 9.** RCW 26.18.110 and 1991 c 367 s 21 are each amended to read
9 as follows:

10 (1) An employer upon whom service of a wage assignment order has
11 been made shall answer the order by sworn affidavit within twenty days
12 after the date of service. The answer shall state whether the obligor
13 is employed by or receives earnings or other remuneration from the
14 employer, whether the employer will honor the wage assignment order,
15 and whether there are either multiple child support or spousal
16 maintenance attachments, or both, against the obligor.

17 (2) If the employer possesses any earnings or remuneration due and
18 owing to the obligor, the earnings subject to the wage assignment order
19 shall be withheld immediately upon receipt of the wage assignment
20 order. The withheld earnings shall be delivered to the Washington
21 state support registry or other addressee specified in the assignment
22 at each regular pay interval.

23 (3) The employer shall continue to withhold the ordered amounts
24 from nonexempt earnings or remuneration of the obligor until notified
25 by:

26 (a) The court that the wage assignment has been modified or
27 terminated;

28 (b) The Washington state support registry or obligee that the
29 accrued child support or spousal maintenance debt has been paid,
30 provided the wage assignment order contains the language set forth
31 under RCW 26.18.100(~~((2)(b))~~) (3)(b). The employer shall promptly
32 notify the Washington state support registry when the employee is no
33 longer employed. If the employer no longer employs the employee, the
34 wage assignment order shall remain in effect for one year after the
35 employee has left the employment or the employer has been in possession
36 of any earnings or remuneration owed to the employee, whichever comes
37 first. The employer shall continue to hold the wage assignment order
38 during that (~~one-year~~) period. If the employee returns to the

1 employer's employment during the one-year period the employer shall
2 immediately begin to withhold the employee's earnings or remuneration
3 according to the terms of the wage assignment order. If the employee
4 has not returned within one year, the wage assignment shall cease to
5 have effect at the expiration of the one-year period, unless the
6 employer continues to owe remuneration for employment to the obligor;
7 or

8 (c) The court that has entered an order delaying, modifying, or
9 terminating the wage assignment order and has approved an alternate
10 payment plan as provided in RCW 26.23.050(2).

11 (4) The employer may deduct a processing fee from the remainder of
12 the employee's earnings after withholding under the wage assignment
13 order, even if the remainder is exempt under RCW 26.18.090. The
14 processing fee may not exceed (a) ten dollars for the first
15 disbursement made by the employer to the Washington state support
16 registry; and (b) one dollar for each subsequent disbursement to the
17 clerk.

18 (5) An order for wage assignment for support or spousal maintenance
19 entered under this chapter shall have priority over any other wage
20 assignment or garnishment, except for another wage assignment or
21 garnishment for child support or spousal maintenance, or order to
22 withhold and deliver under chapter 74.20A RCW.

23 (6) An employer who fails to withhold earnings as required by a
24 wage assignment issued under this chapter may be held liable to the
25 obligee for one hundred percent of the support or spousal maintenance
26 debt, or the amount of support or spousal maintenance moneys that
27 should have been withheld from the employee's earnings whichever is the
28 lesser amount, if the employer:

29 (a) Fails or refuses, after being served with a wage assignment
30 order, to deduct and promptly remit from the unpaid earnings the
31 amounts of money required in the order;

32 (b) Fails or refuses to submit an answer to the notice of wage
33 assignment after being served; or

34 (c) Is unwilling to comply with the other requirements of this
35 section.

36 Liability may be established in superior court. Awards in superior
37 court shall include costs, interest under RCW 19.52.020 and 4.56.110,
38 and reasonable attorneys' fees.

1 (7) No employer who complies with a wage assignment issued under
2 this chapter may be liable to the employee for wrongful withholding.

3 (8) No employer may discharge, discipline, or refuse to hire an
4 employee because of the entry or service of a wage assignment issued
5 and executed under this chapter. If an employer discharges,
6 disciplines, or refuses to hire an employee in violation of this
7 section, the employee or person shall have a cause of action against
8 the employer. The employer shall be liable for double the amount of
9 damages suffered as a result of the violation and for costs and
10 reasonable attorneys' fees, and shall be subject to a civil penalty of
11 not more than two thousand five hundred dollars for each violation.
12 The employer may also be ordered to hire, rehire, or reinstate the
13 aggrieved individual.

14 (9) For wage assignments payable to the Washington state support
15 registry, an employer may combine amounts withheld from various
16 employees into a single payment to the Washington state support
17 registry, if the payment includes a listing of the amounts attributable
18 to each employee and other information as required by the registry.

19 (10) An employer shall deliver a copy of the wage assignment order
20 to the obligor as soon as is reasonably possible.

21 **Sec. 10.** RCW 26.18.120 and 1984 c 260 s 12 are each amended to
22 read as follows:

23 The answer of the employer shall be made on forms, served on the
24 employer with the wage assignment order, substantially as follows:

25		IN THE SUPERIOR COURT OF THE
26		STATE OF WASHINGTON IN AND FOR THE
27		COUNTY OF
28	No.
29	Obligee	
30	vs.	ANSWER
31	TO WAGE
32	Obligor	ASSIGNMENT ORDER
33	
34	Employer	

1 1. At the time of the service of the wage assignment order on the
2 employer, was the above-named obligor employed by or receiving earnings
3 or other remuneration for employment from the employer?

4 Yes No (check one).

5 2. Are there any other attachments for child support or spousal
6 maintenance currently in effect against the obligor?

7 Yes No (check one).

8 3. If the answer to question one is yes and the employer cannot
9 comply with the wage assignment order, provide an explanation:

10 I declare under penalty of perjury under the laws of the state of
11 Washington that the foregoing is true and correct.

12

13 Signature of employer Date and place

14

15

16 Signature of person Address for future notice

17 answering for employer to employer

18

19 Connection with employer

20 **Sec. 11.** RCW 26.18.140 and 1991 c 367 s 22 are each amended to
21 read as follows:

22 (1) Except as provided in subsection (2) of this section, in a
23 hearing to quash, modify, or terminate the wage assignment order, the
24 court may grant relief only upon a showing that the wage assignment
25 order causes extreme hardship or substantial injustice. Satisfaction
26 by the obligor of all past due payments subsequent to the issuance of
27 the wage assignment order is not grounds to quash, modify, or terminate
28 the wage assignment order. If a wage assignment order has been in
29 operation for twelve consecutive months and the obligor's support or
30 spousal maintenance obligation is current, the court may terminate the
31 order upon motion of the obligor unless the obligee can show good cause
32 as to why the wage assignment order should remain in effect.

33 (2) The court may enter an order delaying, modifying, or
34 terminating the wage assignment order and order the obligor to make

1 payments directly to the obligee if the court approves an alternate
2 payment plan as provided in RCW 26.23.050(2).

3 **Sec. 12.** RCW 26.18.150 and 1984 c 260 s 15 are each amended to
4 read as follows:

5 (1) In any action to enforce a support or spousal maintenance order
6 under Title 26 RCW, the court may, in its discretion, order a parent
7 obligated to pay support for a minor child or person owing a duty of
8 spousal maintenance to post a bond or other security with the court.
9 The bond or other security shall be in the amount of support or spousal
10 maintenance due for a two-year period. The bond or other security is
11 subject to approval by the court. The bond shall include the name and
12 address of the issuer. If the bond is canceled, any person issuing a
13 bond under this section shall notify the court and the person entitled
14 to receive payment under the order.

15 (2) If the ((~~parent obligated to pay support~~)) obligor fails to
16 make payments as required under the court order, the person entitled to
17 receive payment may recover on the bond or other security in the
18 existing proceeding. The court may, after notice and hearing, increase
19 the amount of the bond or other security. Failure to comply with the
20 court's order to obtain and maintain a bond or other security may be
21 treated as contempt of court.

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