

---

ENGROSSED SUBSTITUTE SENATE BILL 6418

---

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Fairley, Wood and Winsley; by request of Department of Social and Health Services)

Read first time 02/06/98.

1 AN ACT Relating to implementing amendments relating to child  
2 support contained in the federal personal responsibility and work  
3 opportunity reconciliation act of 1996; amending RCW 26.23.050,  
4 26.23.055, 26.23.120, 26.23.040, and 26.23.060; reenacting and amending  
5 RCW 74.20A.080; adding a new section to chapter 26.23 RCW; prescribing  
6 penalties; and providing an effective date.

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

8 **Sec. 1.** RCW 74.20A.080 and 1997 c 130 s 7 and 1997 c 58 s 907 are  
9 each reenacted and amended to read as follows:

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

1 due, owing, or belonging to said debtor. Such order to withhold and  
2 deliver may be issued:

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) Be served:

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

27 (ii) By certified mail, return receipt requested; ~~((or))~~

28 (iii) By electronic means if there is an agreement between the  
29 secretary and the person, firm, corporation, association, political  
30 subdivision, department of the state, or agency, subdivision, or  
31 instrumentality of the United States to accept service by electronic  
32 means; or

33 (iv) By regular mail to a responsible parent's employer unless the  
34 division of child support reasonably believes that service of process  
35 in the manner prescribed in (a)(i) or (ii) of this subsection is  
36 required for initiating an action to ensure employer compliance with  
37 the withholding requirement.

38 (3) The division of child support may use uniform interstate  
39 withholding forms adopted by the United States department of health and

1 human services to take withholding actions under this section when the  
2 responsible parent is owed money or property that is located in another  
3 state.

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

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

11 (b) Provide further and additional answers when requested by the  
12 secretary.

13 (5) The returned answer or a payment remitted to the division of  
14 child support by the employer constitutes proof of service of the  
15 notice of payroll deduction in the case where the notice was served by  
16 regular mail.

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

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

23 (ii) (~~Immediately~~) Within seven working days deliver the property  
24 to the secretary (~~as soon as the twenty-day answer period expires~~);

25 (iii) Continue to withhold earnings payable to the debtor at each  
26 succeeding disbursement interval as provided for in RCW 74.20A.090, and  
27 deliver amounts withheld from earnings to the secretary (~~on~~) within  
28 seven working days of the date earnings are payable to the debtor;

29 (iv) Deliver amounts withheld from periodic payments to the  
30 secretary (~~on~~) within seven working days of the date the payments are  
31 payable to the debtor;

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

34 (b) Furnish to the secretary a good and sufficient bond,  
35 satisfactory to the secretary, conditioned upon final determination of  
36 liability.

37 (~~(6)~~) (7) An order to withhold and deliver served under this  
38 section shall not expire until:

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

1 (b) Terminated by court order; or

2 (c) The person or entity receiving the order to withhold and  
3 deliver does not possess property of or owe money to the debtor (~~for~~  
4 ~~any period of twelve consecutive months following the date of service~~  
5 ~~of the order to withhold and deliver~~)).

6 ~~((+7))~~ (8) Where money is due and owing under any contract of  
7 employment, express or implied, or is held by any person, firm,  
8 corporation, or association, political subdivision, or department of  
9 the state, or agency, subdivision, or instrumentality of the United  
10 States subject to withdrawal by the debtor, such money shall be  
11 delivered by remittance payable to the order of the secretary.

12 ~~((+8))~~ (9) Delivery to the secretary of the money or other  
13 property held or claimed shall satisfy the requirement and serve as  
14 full acquittance of the order to withhold and deliver.

15 ~~((+9))~~ (10) A person, firm, corporation, or association, political  
16 subdivision, department of the state, or agency, subdivision, or  
17 instrumentality of the United States that complies with the order to  
18 withhold and deliver under this chapter is not civilly liable to the  
19 debtor for complying with the order to withhold and deliver under this  
20 chapter.

21 ~~((+10))~~ (11) The secretary may hold the money or property  
22 delivered under this section in trust for application on the  
23 indebtedness involved or for return, without interest, in accordance  
24 with final determination of liability or nonliability.

25 ~~((+11))~~ (12) Exemptions contained in RCW 74.20A.090 apply to  
26 orders to withhold and deliver issued under this section.

27 ~~((+12))~~ (13) The secretary shall also, on or before the date of  
28 service of the order to withhold and deliver, mail or cause to be  
29 mailed a copy of the order to withhold and deliver to the debtor at the  
30 debtor's last known post office address, or, in the alternative, a copy  
31 of the order to withhold and deliver shall be served on the debtor in  
32 the same manner as a summons in a civil action on or before the date of  
33 service of the order or within two days thereafter. The copy of the  
34 order shall be mailed or served together with a concise explanation of  
35 the right to petition for judicial review. This requirement is not  
36 jurisdictional, but, if the copy is not mailed or served as in this  
37 section provided, or if any irregularity appears with respect to the  
38 mailing or service, the superior court, in its discretion on motion of  
39 the debtor promptly made and supported by affidavit showing that the

1 debtor has suffered substantial injury due to the failure to mail the  
2 copy, may set aside the order to withhold and deliver and award to the  
3 debtor an amount equal to the damages resulting from the secretary's  
4 failure to serve on or mail to the debtor the copy.

5 ~~((13))~~ (14) An order to withhold and deliver issued in accordance  
6 with this section has priority over any other wage assignment,  
7 garnishment, attachment, or other legal process.

8 ~~((14))~~ (15) The division of child support shall notify any  
9 person, firm, corporation, association, or political subdivision,  
10 department of the state, or agency, subdivision, or instrumentality of  
11 the United States required to withhold and deliver the earnings of a  
12 debtor under this action that they may deduct a processing fee from the  
13 remainder of the debtor's earnings, even if the remainder would  
14 otherwise be exempt under RCW 74.20A.090. The processing fee shall not  
15 exceed ten dollars for the first disbursement to the department and one  
16 dollar for each subsequent disbursement under the order to withhold and  
17 deliver.

18 **Sec. 2.** RCW 26.23.050 and 1997 c 58 s 888 are each amended to read  
19 as follows:

20 (1) If the division of child support is providing support  
21 enforcement services under RCW 26.23.045, or if a party is applying for  
22 support enforcement services by signing the application form on the  
23 bottom of the support order, the superior court shall include in all  
24 court orders that establish or modify a support obligation:

25 (a) A provision that orders and directs the responsible parent to  
26 make all support payments to the Washington state support registry;

27 (b) A statement that withholding action may be taken against wages,  
28 earnings, assets, or benefits, and liens enforced against real and  
29 personal property under the child support statutes of this or any other  
30 state, without further notice to the responsible parent at any time  
31 after entry of the court order, unless:

32 (i) One of the parties demonstrates, and the court finds, that  
33 there is good cause not to require immediate income withholding and  
34 that withholding should be delayed until a payment is past due; or

35 (ii) The parties reach a written agreement that is approved by the  
36 court that provides for an alternate arrangement;

1 (c) A statement that the receiving parent might be required to  
2 submit an accounting of how the support is being spent to benefit the  
3 child; and

4 (d) A statement that the responsible parent's privileges to obtain  
5 and maintain a license, as defined in RCW 74.20A.320, may not be  
6 renewed, or may be suspended if the parent is not in compliance with a  
7 support order as provided in RCW 74.20A.320.

8 As used in this subsection and subsection (3) of this section,  
9 "good cause not to require immediate income withholding" means a  
10 written determination of why implementing immediate wage withholding  
11 would not be in the child's best interests and, in modification cases,  
12 proof of timely payment of previously ordered support.

13 (2) In all other cases not under subsection (1) of this section,  
14 the court may order the responsible parent to make payments directly to  
15 the person entitled to receive the payments, to the Washington state  
16 support registry, or may order that payments be made in accordance with  
17 an alternate arrangement agreed upon by the parties.

18 (a) The superior court shall include in all orders under this  
19 subsection that establish or modify a support obligation:

20 (i) A statement that withholding action may be taken against wages,  
21 earnings, assets, or benefits, and liens enforced against real and  
22 personal property under the child support statutes of this or any other  
23 state, without further notice to the responsible parent at any time  
24 after entry of the court order, unless:

25 (A) One of the parties demonstrates, and the court finds, that  
26 there is good cause not to require immediate income withholding and  
27 that withholding should be delayed until a payment is past due; or

28 (B) The parties reach a written agreement that is approved by the  
29 court that provides for an alternate arrangement; and

30 (ii) A statement that the receiving parent may be required to  
31 submit an accounting of how the support is being spent to benefit the  
32 child.

33 As used in this subsection, "good cause not to require immediate  
34 income withholding" is any reason that the court finds appropriate.

35 (b) The superior court may order immediate or delayed income  
36 withholding as follows:

37 (i) Immediate income withholding may be ordered if the responsible  
38 parent has earnings. If immediate income withholding is ordered under  
39 this subsection, all support payments shall be paid to the Washington

1 state support registry. The superior court shall issue a mandatory  
2 wage assignment order as set forth in chapter 26.18 RCW when the  
3 support order is signed by the court. The parent entitled to receive  
4 the transfer payment is responsible for serving the employer with the  
5 order and for its enforcement as set forth in chapter 26.18 RCW.

6 (ii) If immediate income withholding is not ordered, the court  
7 shall require that income withholding be delayed until a payment is  
8 past due. The support order shall contain a statement that withholding  
9 action may be taken against wages, earnings, assets, or benefits, and  
10 liens enforced against real and personal property under the child  
11 support statutes of this or any other state, without further notice to  
12 the responsible parent, after a payment is past due.

13 (c) If a mandatory wage withholding order under chapter 26.18 RCW  
14 is issued under this subsection and the division of child support  
15 provides support enforcement services under RCW 26.23.045, the existing  
16 wage withholding assignment is prospectively superseded upon the  
17 division of child support's subsequent service of an income withholding  
18 notice.

19 (3) The office of administrative hearings and the department of  
20 social and health services shall require that all support obligations  
21 established as administrative orders include a provision which orders  
22 and directs that the responsible parent shall make all support payments  
23 to the Washington state support registry. All administrative orders  
24 shall also state that the responsible parent's privileges to obtain and  
25 maintain a license, as defined in RCW 74.20A.320, may not be renewed,  
26 or may be suspended if the parent is not in compliance with a support  
27 order as provided in RCW 74.20A.320. All administrative orders shall  
28 also state that withholding action may be taken against wages,  
29 earnings, assets, or benefits, and liens enforced against real and  
30 personal property under the child support statutes of this or any other  
31 state without further notice to the responsible parent at any time  
32 after entry of the order, unless:

33 (a) One of the parties demonstrates, and the presiding officer  
34 finds, that there is good cause not to require immediate income  
35 withholding; or

36 (b) The parties reach a written agreement that is approved by the  
37 presiding officer that provides for an alternate agreement.

38 (4) If the support order does not include the provision ordering  
39 and directing that all payments be made to the Washington state support

1 registry and a statement that withholding action may be taken against  
2 wages, earnings, assets, or benefits if a support payment is past due  
3 or at any time after the entry of the order, or that a parent's  
4 licensing privileges may not be renewed, or may be suspended, the  
5 division of child support may serve a notice on the responsible parent  
6 stating such requirements and authorizations. Service may be by  
7 personal service or any form of mail requiring a return receipt.

8 (5) Every support order shall state:

9 (a) The address where the support payment is to be sent;

10 (b) That withholding action may be taken against wages, earnings,  
11 assets, or benefits, and liens enforced against real and personal  
12 property under the child support statutes of this or any other state,  
13 without further notice to the responsible parent at any time after  
14 entry of a support order, unless:

15 (i) One of the parties demonstrates, and the court finds, that  
16 there is good cause not to require immediate income withholding; or

17 (ii) The parties reach a written agreement that is approved by the  
18 court that provides for an alternate arrangement;

19 (c) The income of the parties, if known, or that their income is  
20 unknown and the income upon which the support award is based;

21 (d) The support award as a sum certain amount;

22 (e) The specific day or date on which the support payment is due;

23 (f) The social security number, residence address, date of birth,  
24 telephone number, driver's license number, and name and address of the  
25 employer of the responsible parent, except as provided under subsection  
26 (6) of this section;

27 (g) The social security number and residence address of the  
28 physical custodian except as provided in subsection (6) or (7) of this  
29 section;

30 (h) The names, dates of birth, and social security numbers, if any,  
31 of the dependent children;

32 (i) A provision requiring the responsible parent to keep the  
33 Washington state support registry informed of whether he or she has  
34 access to health insurance coverage at reasonable cost and, if so, the  
35 health insurance policy information;

36 (j) That any parent owing a duty of child support shall be  
37 obligated to provide health insurance coverage for his or her child if  
38 coverage that can be extended to cover the child is or becomes



1 available to that parent through employment or is union-related as  
2 provided under RCW 26.09.105;

3 (k) That if proof of health insurance coverage or proof that the  
4 coverage is unavailable is not provided within twenty days, the obligee  
5 or the department may seek direct enforcement of the coverage through  
6 the obligor's employer or union without further notice to the obligor  
7 as provided under chapter 26.18 RCW;

8 (l) The reasons for not ordering health insurance coverage if the  
9 order fails to require such coverage; ~~((and))~~

10 (m) That the responsible parent's privileges to obtain and maintain  
11 a license, as defined in RCW 74.20A.320, may not be renewed, or may be  
12 suspended if the parent is not in compliance with a support order as  
13 provided in RCW 74.20A.320; and

14 (n) That each parent must:

15 (i) Provide the state case registry with the information required  
16 by RCW 26.23.055; and

17 (ii) Update the information provided to the state case registry  
18 when the information changes.

19 (6) The address and employer's name and address of either party may  
20 be omitted from a support order if:

21 (a) There is reason to believe that release of the address  
22 information may result in physical or emotional harm to the party or to  
23 the child; or

24 (b) A restraining or protective order is in effect to protect one  
25 party from the other party.

26 (7) The physical custodian's address(~~((:—(a)))~~) shall be omitted  
27 from an order entered under the administrative procedure act.

28 (8) When (~~((the physical custodian's))~~) a party's employment or  
29 address is omitted from an order, the order shall state that the  
30 (~~((custodian's address))~~) information is known to the division of child  
31 support, state case registry.

32 ~~((b))~~ A responsible parent may request the physical custodian's  
33 residence address by submission of a request for disclosure under RCW  
34 26.23.120 to the division of child support.

35 ~~(7))~~ (9) After the responsible parent has been ordered or notified  
36 to make payments to the Washington state support registry under this  
37 section, the responsible parent shall be fully responsible for making  
38 all payments to the Washington state support registry and shall be  
39 subject to payroll deduction or other income-withholding action. The

1 responsible parent shall not be entitled to credit against a support  
2 obligation for any payments made to a person or agency other than to  
3 the Washington state support registry except as provided under RCW  
4 74.20.101. A civil action may be brought by the payor to recover  
5 payments made to persons or agencies who have received and retained  
6 support moneys paid contrary to the provisions of this section.

7 **Sec. 3.** RCW 26.23.055 and 1997 c 58 s 904 are each amended to read  
8 as follows:

9 (1) Each party to a paternity or child support proceeding must  
10 provide the court and the Washington state child support registry with  
11 his or her:

12 (a) Social security number;

13 (b) Current residential address;

14 (c) Date of birth;

15 (d) Telephone number;

16 (e) Driver's license number; and

17 (f) Employer's name, address, and telephone number.

18 (2) Each party to an order entered in a child support or paternity  
19 proceeding shall update the information required under subsection (1)  
20 of this section promptly after any change in the information. The duty  
21 established under this section continues as long as any monthly support  
22 or support debt remains due under the support order.

23 (3) In any proceeding to establish, enforce, or modify the child  
24 support order between the parties, a party may demonstrate to the  
25 presiding officer that he or she has diligently attempted to locate the  
26 other party. Upon a showing of diligent efforts to locate, the  
27 presiding officer (~~(may allow, or accept as adequate,)~~) shall deem  
28 service of process for the action by delivery of written notice to the  
29 address most recently provided by the party under this section to be  
30 adequate notice of the action.

31 (4) All support orders shall contain notice to the parties of the  
32 obligations established by this section and possibility of service of  
33 process according to subsection (3) of this section.

34 **Sec. 4.** RCW 26.23.120 and 1997 c 58 s 908 are each amended to read  
35 as follows:

36 (1) Any information or records concerning individuals who owe a  
37 support obligation or for whom support enforcement services are being

1 provided which are obtained or maintained by the Washington state  
2 support registry, the division of child support, or under chapter 74.20  
3 RCW shall be private and confidential and shall only be subject to  
4 public disclosure as provided in subsection (2) of this section.

5 (2) The secretary of the department of social and health services  
6 may adopt rules:

7 (a) That specify what information is confidential;

8 (b) That specify the individuals or agencies to whom this  
9 information and these records may be disclosed;

10 (c) Limiting the purposes for which the information may be  
11 disclosed;

12 (d) Establishing procedures to obtain the information or records;  
13 or

14 (e) Establishing safeguards necessary to comply with federal law  
15 requiring safeguarding of information.

16 (3) The rules adopted under subsection (2) of this section shall  
17 provide for disclosure of the information and records, under  
18 appropriate circumstances, which shall include, but not be limited to:

19 (a) When authorized or required by federal statute or regulation  
20 governing the support enforcement program;

21 (b) To the person the subject of the records or information, unless  
22 the information is exempt from disclosure under RCW 42.17.310;

23 (c) To government agencies, whether state, local, or federal, and  
24 including federally recognized tribes, law enforcement agencies,  
25 prosecuting agencies, and the executive branch, if the disclosure is  
26 necessary for child support enforcement purposes or required under  
27 Title IV-D of the federal social security act;

28 (d) To the parties in a judicial or adjudicative proceeding upon a  
29 specific written finding by the presiding officer that the need for the  
30 information outweighs any reason for maintaining the privacy and  
31 confidentiality of the information or records;

32 (e) To private persons, federally recognized tribes, or  
33 organizations if the disclosure is necessary to permit private  
34 contracting parties to assist in the management and operation of the  
35 department;

36 (f) Disclosure of address and employment information to the parties  
37 to an action for purposes relating to a child support order, subject to  
38 the limitations in subsections (4) and (5) of this section;

1 (g) Disclosure of information or records when necessary to the  
2 efficient administration of the support enforcement program or to the  
3 performance of functions and responsibilities of the support registry  
4 and the division of child support as set forth in state and federal  
5 statutes; or

6 (h) Disclosure of the information or records when authorized under  
7 RCW 74.04.060.

8 (4) Prior to disclosing the whereabouts of a physical custodian,  
9 custodial parent or a (~~party to a support order~~) child to the other  
10 parent or party, a notice shall be mailed, if appropriate under the  
11 circumstances, to the parent or (~~other party~~) physical custodian  
12 whose whereabouts are to be disclosed, at that person's last known  
13 address. The notice shall advise the parent or (~~party~~) physical  
14 custodian that a request for disclosure has been made and will be  
15 complied with unless the department:

16 (a) Receives a copy of a court order within thirty days which  
17 enjoins the disclosure of the information or restricts or limits the  
18 requesting party's right to contact or visit the parent or party whose  
19 address is to be disclosed or the child;

20 (b) Receives a hearing request within thirty days under subsection  
21 (5) of this section; or

22 (c) Has reason to believe that the release of the information may  
23 result in physical or emotional harm to the (~~party~~) physical  
24 custodian whose whereabouts are to be released, or to the child.

25 (5) A person receiving notice under subsection (4) of this section  
26 may request an adjudicative proceeding under chapter 34.05 RCW, at  
27 which the person may show that there is reason to believe that release  
28 of the information may result in physical or emotional harm to the  
29 person or the child. The administrative law judge shall determine  
30 whether the whereabouts of the person or child should be disclosed  
31 based on subsection (4)(c) of this section, however no hearing is  
32 necessary if the department has in its possession a protective order or  
33 an order limiting visitation or contact.

34 (6) The notice and hearing process in subsections (4) and (5) of  
35 this section do not apply to protect the whereabouts of a noncustodial  
36 parent, unless that parent has requested notice before whereabouts  
37 information is released. A noncustodial parent may request such notice  
38 by submitting a written request to the division of child support.

1       (7) Nothing in this section shall be construed as limiting or  
2 restricting the effect of RCW 42.17.260(9). Nothing in this section  
3 shall be construed to prevent the disclosure of information and records  
4 if all details identifying an individual are deleted or the individual  
5 consents to the disclosure.

6       (~~(7)~~) (8) It shall be unlawful for any person or agency in  
7 violation of this section to solicit, publish, disclose, receive, make  
8 use of, or to authorize, knowingly permit, participate in or acquiesce  
9 in the use of any lists of names for commercial or political purposes  
10 or the use of any information for purposes other than those purposes  
11 specified in this section. A violation of this section shall be a  
12 gross misdemeanor as provided in chapter 9A.20 RCW.

13       **Sec. 5.** RCW 26.23.040 and 1997 c 58 s 944 are each amended to read  
14 as follows:

15       (1) All employers doing business in the state of Washington(~~(, and~~  
16 ~~to whom the department of employment security has assigned a standard~~  
17 ~~industrial classification sic code)) shall report to the Washington  
18 state support registry:~~

19       (a) The hiring of any person who resides or works in this state to  
20 whom the employer anticipates paying earnings; and

21       (b) The rehiring or return to work of any employee who was laid  
22 off, furloughed, separated, granted a leave without pay, or terminated  
23 from employment.

24       The secretary of the department of social and health services may  
25 adopt rules to establish additional exemptions if needed to reduce  
26 unnecessary or burdensome reporting.

27       (2) Employers may report by mailing the employee's copy of the W-4  
28 form, or other means authorized by the registry which will result in  
29 timely reporting.

30       (3) Employers shall submit reports within twenty days of the  
31 hiring, rehiring, or return to work of the employee, except as provided  
32 in subsection (4) of this section. The report shall contain:

33       (a) The employee's name, address, social security number, and date  
34 of birth; and

35       (b) The employer's name, address, (~~(employment security reference~~  
36 ~~number, unified business identifier number)) and identifying number  
37 assigned under section 6109 of the internal revenue code of 1986.~~

1 (4) In the case of an employer transmitting reports magnetically or  
2 electronically, the employer shall report newly hired employees by two  
3 monthly transmissions, if necessary, not less than twelve days nor more  
4 than sixteen days apart.

5 (5) An employer who fails to report as required under this section  
6 (~~shall be given a written warning for the first violation and~~) shall  
7 be subject to a civil penalty of (~~up to two hundred dollars per month~~  
8 ~~for each subsequent violation after the warning has been given~~):

9 (a) Twenty-five dollars per month per employee; or

10 (b) Five hundred dollars, if the failure to report is the result of  
11 a conspiracy between the employer and the employee not to supply the  
12 required report, or to supply a false report. All violations within a  
13 single month shall be considered a single violation for purposes of  
14 assessing the penalty. The penalty may be imposed and collected by the  
15 division of child support under RCW 74.20A.350.

16 (6) The registry shall retain the information for a particular  
17 employee only if the registry is responsible for establishing,  
18 enforcing, or collecting a support debt of the employee. The registry  
19 may, however, retain information for a particular employee for as long  
20 as may be necessary to:

21 (a) Transmit the information to the national directory of new hires  
22 as required under federal law; or

23 (b) Provide the information to other state agencies for comparison  
24 with records or information possessed by those agencies as required by  
25 law.

26 Information that is not permitted to be retained shall be promptly  
27 destroyed. Agencies that obtain information from the department of  
28 social and health services under this section shall maintain the  
29 confidentiality of the information received, except as necessary to  
30 implement the agencies' responsibilities.

31 NEW SECTION. Sec. 6. A new section is added to chapter 26.23 RCW  
32 to read as follows:

33 The federal personal responsibility and work opportunity  
34 reconciliation act of 1996, P.L. 104-193, requires states to collect  
35 social security numbers as part of the application process for  
36 professional, occupational, recreational, and driver's licenses. The  
37 legislature finds that if social security numbers are accessible to the  
38 public, it will be relatively easy for someone fraudulently to use

1 another's social security number to assume that person's identity and  
2 gain access to bank accounts, credit services, billing information,  
3 driving history, and other sources of personal information. Public law  
4 104-193 will compound and exacerbate the disturbing trend of social  
5 security number-related fraud. In order to prevent fraud and curtail  
6 invasions of privacy, the governor, through the department of social  
7 and health services, shall seek a waiver to the federal mandate of P.L.  
8 104-193.

9       **Sec. 7.** RCW 26.23.060 and 1997 c 58 s 890 are each amended to read  
10 as follows:

11       (1) The division of child support may issue a notice of payroll  
12 deduction:

13       (a) As authorized by a support order that contains a notice clearly  
14 stating that child support may be collected by withholding from  
15 earnings, wages, or benefits without further notice to the obligated  
16 parent; or

17       (b) After service of a notice containing an income-withholding  
18 provision under this chapter or chapter 74.20A RCW.

19       (2) The division of child support shall serve a notice of payroll  
20 deduction upon a responsible parent's employer or upon the employment  
21 security department for the state in possession of or owing any  
22 benefits from the unemployment compensation fund to the responsible  
23 parent pursuant to Title 50 RCW:

24       (a) In the manner prescribed for the service of a summons in a  
25 civil action;

26       (b) By certified mail, return receipt requested; ~~((or))~~

27       (c) By electronic means if there is an agreement between the  
28 secretary and the person, firm, corporation, association, political  
29 subdivision, department of the state, or agency, subdivision, or  
30 instrumentality of the United States to accept service by electronic  
31 means; or

32       (d) By regular mail to a responsible parent's employer unless the  
33 division of child support reasonably believes that service of process  
34 in the manner prescribed in (a) or (b) of this subsection is required  
35 for initiating an action to ensure employer compliance with the  
36 withholding requirement.

37       (3) Service of a notice of payroll deduction upon an employer or  
38 employment security department requires the employer or employment

1 security department to immediately make a mandatory payroll deduction  
2 from the responsible parent's unpaid disposable earnings or  
3 unemployment compensation benefits. The employer or employment  
4 security department shall thereafter deduct each pay period the amount  
5 stated in the notice divided by the number of pay periods per month.  
6 The payroll deduction each pay period shall not exceed fifty percent of  
7 the responsible parent's disposable earnings.

8 (4) A notice of payroll deduction for support shall have priority  
9 over any wage assignment, garnishment, attachment, or other legal  
10 process.

11 (5) The notice of payroll deduction shall be in writing and  
12 include:

13 (a) The name and social security number of the responsible parent;

14 (b) The amount to be deducted from the responsible parent's  
15 disposable earnings each month, or alternate amounts and frequencies as  
16 may be necessary to facilitate processing of the payroll deduction;

17 (c) A statement that the total amount withheld shall not exceed  
18 fifty percent of the responsible parent's disposable earnings;

19 (d) The address to which the payments are to be mailed or  
20 delivered; and

21 (e) A notice to the responsible parent warning the responsible  
22 parent that, despite the payroll deduction, the responsible parent's  
23 privileges to obtain and maintain a license, as defined in RCW  
24 74.20A.320, may not be renewed, or may be suspended if the parent is  
25 not in compliance with a support order as defined in RCW 74.20A.320.

26 (6) An informational copy of the notice of payroll deduction shall  
27 be mailed to the last known address of the responsible parent by  
28 regular mail.

29 (7) An employer or employment security department that receives a  
30 notice of payroll deduction shall make immediate deductions from the  
31 responsible parent's unpaid disposable earnings and remit proper  
32 amounts to the Washington state support registry (~~on each date the~~  
33 ~~responsible parent is due to be paid~~) within seven working days of the  
34 date the earnings are payable to the responsible parent.

35 (8) An employer, or the employment security department, upon whom  
36 a notice of payroll deduction is served, shall make an answer to the  
37 division of child support within twenty days after the date of service.  
38 The answer shall confirm compliance and institution of the payroll  
39 deduction or explain the circumstances if no payroll deduction is in



1 effect. The answer shall also state whether the responsible parent is  
2 employed by or receives earnings from the employer or receives  
3 unemployment compensation benefits from the employment security  
4 department, whether the employer or employment security department  
5 anticipates paying earnings or unemployment compensation benefits and  
6 the amount of earnings. If the responsible parent is no longer  
7 employed, or receiving earnings from the employer, the answer shall  
8 state the present employer's name and address, if known. If the  
9 responsible parent is no longer receiving unemployment compensation  
10 benefits from the employment security department, the answer shall  
11 state the present employer's name and address, if known.

12 The returned answer or a payment remitted to the division of child  
13 support by the employer constitutes proof of service of the notice of  
14 payroll deduction in the case where the notice was served by regular  
15 mail.

16 (9) The employer or employment security department may deduct a  
17 processing fee from the remainder of the responsible parent's earnings  
18 after withholding under the notice of payroll deduction, even if the  
19 remainder is exempt under RCW 26.18.090. The processing fee may not  
20 exceed: (a) Ten dollars for the first disbursement made to the  
21 Washington state support registry; and (b) one dollar for each  
22 subsequent disbursement to the registry.

23 (10) The notice of payroll deduction shall remain in effect until  
24 released by the division of child support, the court enters an order  
25 terminating the notice and approving an alternate arrangement under RCW  
26 26.23.050, or ~~((one year has expired since the employer has employed~~  
27 ~~the responsible parent or has been in possession of or owing any~~  
28 ~~earnings to the responsible parent or the employment security~~  
29 ~~department has been in possession of or owing any unemployment~~  
30 ~~compensation benefits to the responsible parent))~~ until the employer no  
31 longer employs the responsible parent and is no longer in possession of  
32 or owing any earnings to the responsible parent. The employer shall  
33 promptly notify the office of support enforcement when the employer no  
34 longer employs the parent subject to the notice. For the employment  
35 security department, the notice of payroll deduction shall remain in  
36 effect until released by the division of child support or until the  
37 court enters an order terminating the notice.

38 (11) The division of child support may use uniform interstate  
39 withholding forms adopted by the United States department of health and

1 human services to take withholding actions under this section when the  
2 responsible parent is receiving earnings or unemployment compensation  
3 in another state.

4 NEW SECTION. **Sec. 8.** Sections 1, 5, and 7 of this act take effect  
5 October 1, 1998.

--- END ---