
HOUSE BILL 2578

State of Washington

56th Legislature

2000 Regular Session

By Representatives Lambert, Dickerson and Haigh; by request of
Department of Social and Health Services

Read first time 01/17/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to jurisdiction in child support matters; amending
2 RCW 26.09.175, 26.23.130, 74.20A.055, and 74.20A.056; adding a new
3 section to chapter 26.23 RCW; adding a new section to chapter 74.20A
4 RCW; and repealing RCW 74.20A.058.

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

6 **Sec. 1.** RCW 26.09.175 and 1992 c 229 s 3 are each amended to read
7 as follows:

8 (1) A proceeding for the modification of an order of child support
9 shall commence with the filing of a petition and worksheets. The
10 petition shall be in the form prescribed by the administrator for the
11 courts. There shall be a fee of twenty dollars for the filing of a
12 petition for modification of dissolution.

13 (2) The petitioner shall serve upon the other party the summons, a
14 copy of the petition, and the worksheets in the form prescribed by the
15 administrator for the courts. If the modification proceeding is the
16 first action filed in this state, service shall be made by personal
17 service. If the decree to be modified was entered in this state,
18 service shall be by personal service or by any form of mail requiring
19 a return receipt. If the support obligation has been assigned to the

1 state pursuant to RCW 74.20.330 or the state has a subrogated interest
2 under RCW 74.20A.030, the summons, petition, and worksheets shall also
3 be served on the attorney general; except that notice shall be given to
4 the office of the prosecuting attorney for the county in which the
5 action is filed in lieu of the office of the attorney general in those
6 counties and in the types of cases as designated by the office of the
7 attorney general by letter sent to the presiding superior court judge
8 of that county. Proof of service shall be filed with the court.

9 (3) The responding party's answer and worksheets shall be served
10 and the answer filed within twenty days after service of the petition
11 or sixty days if served out of state. The responding party's failure
12 to file an answer within the time required shall result in entry of a
13 default judgment for the petitioner.

14 (4) At any time after responsive pleadings are filed, either party
15 may schedule the matter for hearing.

16 (5) Unless both parties stipulate to arbitration or the presiding
17 judge authorizes oral testimony pursuant to subsection (6) of this
18 section, a petition for modification of an order of child support shall
19 be heard by the court on affidavits, the petition, answer, and
20 worksheets only.

21 (6) A party seeking authority to present oral testimony on the
22 petition to modify a support order shall file an appropriate motion not
23 later than ten days after the time of notice of hearing. Affidavits
24 and exhibits setting forth the reasons oral testimony is necessary to
25 a just adjudication of the issues shall accompany the petition. The
26 affidavits and exhibits must demonstrate the extraordinary features of
27 the case. Factors which may be considered include, but are not limited
28 to: (a) Substantial questions of credibility on a major issue; (b)
29 insufficient or inconsistent discovery materials not correctable by
30 further discovery; or (c) particularly complex circumstances requiring
31 expert testimony.

32 **Sec. 2.** RCW 26.23.130 and 1991 c 367 s 43 are each amended to read
33 as follows:

34 The department shall be given twenty calendar days prior notice of
35 the entry of any final order and five days prior notice of the entry of
36 any temporary order in any proceeding involving child support or
37 maintenance if the department has a financial interest based on an
38 assignment of support rights under RCW 74.20.330 or the state has a

1 subrogated interest under RCW 74.20A.030. Service of this notice upon
2 the department shall be by personal service on, or mailing by any form
3 of mail requiring a return receipt to, the office of the attorney
4 general; except that notice shall be given to the office of the
5 prosecuting attorney for the county in which the action is filed in
6 lieu of the office of the attorney general in those counties and in the
7 types of cases as designated by the office of the attorney general by
8 letter sent to the presiding superior court judge of that county. The
9 department shall not be entitled to terms for a party's failure to
10 serve the department within the time requirements for this section,
11 unless the department proves that the party knew that the department
12 had an assignment of support rights or a subrogated interest and that
13 the failure to serve the department was intentional.

14 **Sec. 3.** RCW 74.20A.055 and 1997 c 58 s 940 are each amended to
15 read as follows:

16 (1) The secretary may, in the absence of a superior court order, or
17 pursuant to an establishment of paternity under chapter 26.26 RCW,
18 serve on the responsible parent or parents and custodial parent a
19 notice and finding of financial responsibility requiring ((a
20 ~~responsible parent or~~)) the parents to appear and show cause in an
21 adjudicative proceeding why the finding of responsibility and/or the
22 amount thereof is incorrect, should not be finally ordered, but should
23 be rescinded or modified. This notice and finding shall relate to the
24 support debt accrued and/or accruing under this chapter and/or RCW
25 26.16.205, including periodic payments to be made in the future. The
26 hearing shall be held pursuant to this section, chapter 34.05 RCW, the
27 Administrative Procedure Act, and the rules of the department. A
28 custodian who has lawful physical custody of a child has the same
29 rights that a custodial parent has under this section.

30 (2) The notice and finding of financial responsibility shall be
31 served in the same manner prescribed for the service of a summons in a
32 civil action or may be served on the responsible parent by certified
33 mail, return receipt requested. The receipt shall be prima facie
34 evidence of service. The notice shall be served upon the debtor within
35 sixty days from the date the state assumes responsibility for the
36 support of the dependent child or children on whose behalf support is
37 sought. If the notice is not served within sixty days from such date,
38 the department shall lose the right to reimbursement of payments made

1 after the sixty-day period and before the date of notification:
2 PROVIDED, That if the department exercises reasonable efforts to locate
3 the debtor and is unable to do so the entire sixty-day period is tolled
4 until such time as the debtor can be located. The notice may be served
5 upon the custodial parent, who is the nonassistance applicant or public
6 assistance recipient, by first class mail to the last known address.
7 If the custodial parent is not the nonassistance applicant or public
8 assistance recipient, service shall be in the same manner as for the
9 responsible parent.

10 (3) The notice and finding of financial responsibility shall set
11 forth the amount the department has determined the responsible parent
12 owes, the support debt accrued and/or accruing, and periodic payments
13 to be made in the future. The notice and finding shall also include:

14 (a) A statement of the name of the (~~recipient or custodian~~)
15 custodial parent and the name of the child or children for whom support
16 is sought;

17 (b) A statement of the amount of periodic future support payments
18 as to which financial responsibility is alleged;

19 (c) A statement that the responsible parent or custodial parent may
20 object to all or any part of the notice and finding, and file an
21 application for an adjudicative proceeding to show cause why (~~said~~
22 ~~responsible parent should not be determined to be liable for any or all~~
23 ~~of the debt, past and future~~) the terms set forth in the notice should
24 not be ordered;

25 (d) A statement that, if neither the responsible parent (~~fails~~)
26 nor the custodial parent files in a timely fashion (~~to file~~) an
27 application for an adjudicative proceeding, the support debt and
28 payments stated in the notice and finding, including periodic support
29 payments in the future, shall be assessed and determined and ordered by
30 the department and that this debt and amounts due under the notice
31 shall be subject to collection action;

32 (e) A statement that the property of the debtor, without further
33 advance notice or hearing, will be subject to lien and foreclosure,
34 distraint, seizure and sale, order to withhold and deliver, notice of
35 payroll deduction or other collection action to satisfy the debt and
36 enforce the support obligation established under the notice.

37 (4) A responsible parent or custodial parent who objects to the
38 notice and finding of financial responsibility may file an application
39 for an adjudicative proceeding within twenty days of the date of

1 service of the notice or thereafter as provided under this subsection.
2 ((An adjudicative proceeding shall be held in the county of residence
3 or other place convenient to the responsible parent.))

4 (a) If the responsible parent or custodial parent files the
5 application within twenty days, the ((department)) office of
6 administrative hearings shall schedule an adjudicative proceeding to
7 hear the parent's or parents' objection and determine the ((parents'))
8 support obligation for the entire period covered by the notice and
9 finding of financial responsibility. The filing of the application
10 stays collection action pending the entry of a final administrative
11 order;

12 (b) If both the responsible parent and the custodial parent
13 fail((s)) to file an application within twenty days, the notice and
14 finding shall become a final administrative order. The amounts for
15 current and future support and the support debt stated in the notice
16 are final and subject to collection, except as provided under (c) and
17 (d) of this subsection;

18 (c) If the responsible parent or custodial parent files the
19 application more than twenty days after, but within one year of the
20 date of service, the department shall schedule an adjudicative
21 proceeding to hear the parent's or parents' objection and determine the
22 ((parent's)) support obligation for the entire period covered by the
23 notice and finding of financial responsibility. The filing of the
24 application does not stay further collection action, pending the entry
25 of a final administrative order, and does not affect any prior
26 collection action;

27 (d) If the responsible parent or custodial parent files the
28 application more than one year after the date of service, the
29 ((department)) office of administrative hearings shall schedule an
30 adjudicative proceeding at which the ((responsible)) parent who
31 requested the late hearing must show good cause for failure to file a
32 timely application. The filing of the application does not stay future
33 collection action and does not affect prior collection action:

34 (i) If the presiding officer finds that good cause exists, the
35 presiding officer shall proceed to hear the parent's objection to the
36 notice and determine the ((parent's)) support obligation;

37 (ii) If the presiding officer finds that good cause does not exist,
38 the presiding officer shall treat the application as a petition for
39 prospective modification of the amount for current and future support

1 established under the notice and finding. In the modification
2 proceeding, the presiding officer shall set current and future support
3 under chapter 26.19 RCW. The ((responsible)) petitioning parent need
4 show neither good cause nor a substantial change of circumstances to
5 justify modification of current and future support;

6 (e) The department shall retain and/or shall not refund support
7 money collected more than twenty days after the date of service of the
8 notice. Money withheld as the result of collection action shall be
9 delivered to the department. The department shall distribute such
10 money, as provided in published rules.

11 (5) If an application for an adjudicative proceeding is filed, the
12 presiding or reviewing officer shall determine the past liability and
13 responsibility, if any, of the alleged responsible parent and shall
14 also determine the amount of periodic payments to be made in the
15 future, which amount is not limited by the amount of any public
16 assistance payment made to or for the benefit of the child. If
17 deviating from the child support schedule in making these
18 determinations, the presiding or reviewing officer shall apply the
19 standards contained in the child support schedule and enter written
20 findings of fact supporting the deviation.

21 (6) If either the responsible parent or the custodial parent fails
22 to attend or participate in the hearing or other stage of an
23 adjudicative proceeding, upon a showing of valid service, the presiding
24 officer shall enter an order of default against each party who did not
25 appear, and may enter an administrative order declaring the support
26 debt and payment provisions stated in the notice and finding of
27 financial responsibility to be assessed and determined and subject to
28 collection action. The parties who appear may enter an agreed
29 settlement or consent order, which may be different than the terms of
30 the department's notice, without further notice to any party who did
31 not appear. Any party who appears may choose to proceed to the
32 hearing, after the conclusion of which the presiding officer or
33 reviewing officer may enter an order that is different than the terms
34 stated in the notice, if the obligation is supported by credible
35 evidence presented by any party at the hearing, without further notice
36 to any party who did not appear.

37 (7) The final administrative order establishing liability and/or
38 future periodic support payments shall be superseded upon entry of a

1 superior court order for support to the extent the superior court order
2 is inconsistent with the administrative order.

3 (8) Debts determined pursuant to this section, accrued and not
4 paid, are subject to collection action under this chapter without
5 further necessity of action by a presiding or reviewing officer.

6 **Sec. 4.** RCW 74.20A.056 and 1997 c 58 s 941 are each amended to
7 read as follows:

8 (1) If an alleged father has signed an affidavit acknowledging
9 paternity which has been filed with the state registrar of vital
10 statistics before July 1, 1997, the division of child support may serve
11 a notice and finding of parental responsibility on him and the
12 custodial parent. Procedures for and responsibility resulting from
13 acknowledgments filed after July 1, 1997, are in subsections (8) and
14 (9) of this section. Service of the notice shall be in the same manner
15 as a summons in a civil action or by certified mail, return receipt
16 requested on the alleged father. The custodial parent shall be served
17 by first class mail to the last known address, if the custodial parent
18 is the nonassistance applicant or public assistance recipient. If the
19 custodial parent is not the nonassistance applicant or public
20 assistance recipient, service shall be in the same manner as for the
21 responsible parent. The notice shall have attached to it a copy of the
22 affidavit or certification of birth record information advising of the
23 existence of a filed affidavit, provided by the state registrar of
24 vital statistics, and shall state that:

25 (a) The alleged father or custodial parent may file an application
26 for an adjudicative proceeding at which ((he)) they both will be
27 required to appear and show cause why the amount stated in the finding
28 of financial responsibility as to support is incorrect and should not
29 be ordered;

30 (b) An alleged father or the mother, if she is also the custodial
31 parent, may request that a blood or genetic test be administered to
32 determine whether such test would exclude him from being a natural
33 parent and, if not excluded, may subsequently request that the division
34 of child support initiate an action in superior court to determine the
35 existence of the parent-child relationship; and

36 (c) If neither the alleged father ((does not request)) nor the
37 custodial parent requests that a blood or genetic test be administered
38 or files an application for an adjudicative proceeding, the amount of

1 support stated in the notice and finding of parental responsibility
2 shall become final, subject only to a subsequent determination under
3 RCW 26.26.060 that the parent-child relationship does not exist.

4 (2) An alleged father or custodial parent who objects to the amount
5 of support requested in the notice may file an application for an
6 adjudicative proceeding up to twenty days after the date the notice was
7 served. An application for an adjudicative proceeding may be filed
8 within one year of service of the notice and finding of parental
9 responsibility without the necessity for a showing of good cause or
10 upon a showing of good cause thereafter. An adjudicative proceeding
11 under this section shall be pursuant to RCW 74.20A.055. The only
12 issues shall be the amount of the accrued debt, the amount of the
13 current and future support obligation, and the reimbursement of the
14 costs of blood or genetic tests if advanced by the department. A
15 custodian who has lawful physical custody of a child has the same
16 rights that a custodial parent has under this section.

17 (3) If the application for an adjudicative proceeding is filed
18 within twenty days of service of the notice, collection action shall be
19 stayed pending a final decision by the department. If no application
20 is filed within twenty days:

21 (a) The amounts in the notice shall become final and the debt
22 created therein shall be subject to collection action; and

23 (b) Any amounts so collected shall neither be refunded nor returned
24 if the alleged father is later found not to be a responsible parent.

25 (4) An alleged father (~~((who denies being a responsible parent))~~) or
26 the mother, if she is also the custodial parent, may request that a
27 blood or genetic test be administered at any time. The request for
28 testing shall be in writing or as the department may specify by rule
29 and served on the division of child support (~~((personally or by~~
30 ~~registered or certified mail))~~). If a request for testing is made, the
31 department shall arrange for the test and, pursuant to rules adopted by
32 the department, may advance the cost of such testing. The department
33 shall mail a copy of the test results by certified mail, return receipt
34 requested, to the alleged father's and the mother's, if she is also the
35 custodial parent, last known address.

36 (5) If the test excludes the alleged father from being a natural
37 parent, the division of child support shall file a copy of the results
38 with the state registrar of vital statistics and shall dismiss any
39 pending administrative collection proceedings based upon the affidavit

1 in issue. The state registrar of vital statistics shall remove the
2 alleged father's name from the birth certificate and change the child's
3 surname to be the same as the mother's maiden name as stated on the
4 birth certificate, or any other name which the mother may select.

5 (6) The alleged father or the mother, if she is also the custodial
6 parent, may, within twenty days after the date of receipt of the test
7 results, request the division of child support to initiate an action
8 under RCW 26.26.060 to determine the existence of the parent-child
9 relationship. If the division of child support initiates a superior
10 court action at the request of the alleged father or the mother and the
11 decision of the court is that the alleged father is a natural parent,
12 the ~~((alleged father))~~ parent who requested the test shall be liable
13 for court costs incurred.

14 (7) If the alleged father or the mother, if she is also the
15 custodial parent, does not request the division of child support to
16 initiate a superior court action, or ~~((if the alleged father))~~ fails to
17 appear and cooperate with blood or genetic testing, the notice of
18 parental responsibility shall become final for all intents and purposes
19 and may be overturned only by a subsequent superior court order entered
20 under RCW 26.26.060.

21 (8)(a) If an alleged father has signed an affidavit acknowledging
22 paternity that has been filed with the state registrar of vital
23 statistics after July 1, 1997, within sixty days from the date of
24 filing of the acknowledgment:

25 (i) The division of child support may serve a notice and finding of
26 parental responsibility on him and the custodial parent as set forth
27 under this section; and

28 (ii) The alleged father or any other signatory may rescind ~~((his))~~
29 the acknowledgment of paternity. The rescission shall be notarized and
30 delivered to the state registrar of vital statistics personally or by
31 registered or certified mail. The state registrar shall remove the
32 father's name from the birth certificate and change the child's surname
33 to be the same as the mother's maiden name as stated on the birth
34 certificate or any other name that the mother may select. The state
35 registrar shall file rescission notices in a sealed file. All future
36 paternity actions on behalf of the child in question shall be performed
37 under court order.

38 (b) If neither the alleged father ~~((does not))~~ nor the custodial
39 parent files an application for an adjudicative proceeding or ~~((rescind~~

1 his)) rescinds the acknowledgment of paternity, the amount of support
2 stated in the notice and finding of parental responsibility becomes
3 final, subject only to a subsequent determination under RCW 26.26.060
4 that the parent-child relationship does not exist.

5 (c) An alleged father or custodial parent who objects to the amount
6 of support requested in the notice may file an application for an
7 adjudicative proceeding up to twenty days after the date the notice was
8 served. An application for an adjudicative proceeding may be filed
9 within one year of service of the notice and finding of parental
10 responsibility without the necessity for a showing of good cause or
11 upon a showing of good cause thereafter. An adjudicative proceeding
12 under this section shall be pursuant to RCW 74.20A.055. The only
13 issues shall be the amount of the accrued debt and the amount of the
14 current and future support obligation.

15 (i) If the application for an adjudicative proceeding is filed
16 within twenty days of service of the notice, collection action shall be
17 stayed pending a final decision by the department.

18 (ii) If the application for an adjudicative proceeding is not filed
19 within twenty days of the service of the notice, any amounts collected
20 under the notice shall be neither refunded nor returned if the alleged
21 father is later found not to be a responsible parent.

22 (d) If an alleged father or the mother, if she is also the
23 custodial parent, makes a request for genetic testing, the department
24 shall proceed as set forth under RCW 74.20.360.

25 (e) If neither the alleged father (~~((does not))~~) nor the custodial
26 parent requests an adjudicative proceeding, or if neither the alleged
27 father (~~((fails to rescind his))~~) nor the mother rescinds the filed
28 acknowledgment of paternity, the notice of parental responsibility
29 becomes final for all intents and purposes and may be overturned only
30 by a subsequent superior court order entered under RCW 26.26.060.

31 (9) Affidavits acknowledging paternity that are filed after July 1,
32 1997, are subject to requirements of chapters 26.26 and 70.58 RCW.

33 (10) The department and the department of health may adopt rules to
34 implement the requirements under this section.

35 NEW SECTION. Sec. 5. A new section is added to chapter 26.23 RCW
36 to read as follows:

37 If this chapter requires service in the manner prescribed for
38 service of a summons in a civil action or by certified mail, valid

1 service also includes delivery by a parcel delivery service that
2 returns the signature of the addressee on a return receipt.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.20A RCW
4 to read as follows:

5 If this chapter requires service in the manner prescribed for
6 service of a summons in a civil action or by certified mail, valid
7 service also includes delivery by a parcel delivery service that
8 returns the signature of the addressee on a return receipt.

9 NEW SECTION. **Sec. 7.** RCW 74.20A.058 (Adjudicative proceeding
10 contesting parental responsibility--Notice to mother) and 1989 c 55 s
11 5 are each repealed.

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