
SENATE BILL 5378

State of Washington

56th Legislature

1999 Regular Session

By Senators Wojahn, Fairley and Oke; by request of Department of Social and Health Services

Read first time 01/21/1999. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to service and expiration of child support
2 documents on employers and others; amending RCW 26.18.170 and
3 74.20A.080; adding a new section to chapter 26.18 RCW; and adding a new
4 section to chapter 74.20A RCW.

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

6 **Sec. 1.** RCW 26.18.170 and 1995 c 34 s 7 are each amended to read
7 as follows:

8 (1) Whenever an obligor parent who has been ordered to provide
9 health insurance coverage for a dependent child fails to provide such
10 coverage or lets it lapse, the department or the obligee may seek
11 enforcement of the coverage order as provided under this section.

12 (2)(a) If the obligor parent's order to provide health insurance
13 coverage contains language notifying the obligor that failure to
14 provide such coverage or proof that such coverage is unavailable may
15 result in direct enforcement of the order and orders payments through,
16 or has been submitted to, the Washington state support registry for
17 enforcement, then the department may, without further notice to the
18 obligor, send a notice of enrollment to the obligor's employer or union

1 (~~by certified mail, return receipt requested~~). The notice shall be
2 served:

3 (i) By regular mail;

4 (ii) In the manner prescribed for the service of a summons in a
5 civil action;

6 (iii) By certified mail, return receipt requested; or

7 (iv) By electronic means if there is an agreement between the
8 secretary and the person, firm, corporation, association, political
9 subdivision, department of the state, or agency, subdivision, or
10 instrumentality of the United States to accept service by electronic
11 means.

12 (b) The notice shall require the employer or union to enroll the
13 child in the health insurance plan as provided in subsection (3) of
14 this section.

15 ~~((b))~~ (c) The returned answer to the division of child support by
16 the employer constitutes proof of service of the notice of enrollment.

17 (d) The division of child support may use uniform interstate forms
18 adopted by the United States department of health and human services to
19 take insurance enrollment actions under this section.

20 (e) If the obligor parent's order to provide health insurance
21 coverage does not order payments through, and has not been submitted
22 to, the Washington state support registry for enforcement:

23 (i) The obligee may, without further notice to the obligor send a
24 certified copy of the order requiring health insurance coverage to the
25 obligor's employer or union by certified mail, return receipt
26 requested; and

27 (ii) The obligee shall attach a notarized statement to the order
28 declaring that the order is the latest order addressing coverage
29 entered by the court and require the employer or union to enroll the
30 child in the health insurance plan as provided in subsection (3) of
31 this section.

32 (3) Upon receipt of an order that provides for health insurance
33 coverage, or a notice of enrollment:

34 (a) The obligor's employer or union shall answer the party who sent
35 the order or notice within thirty-five days and confirm that the child:

36 (i) Has been enrolled in the health insurance plan;

37 (ii) Will be enrolled; or

38 (iii) Cannot be covered, stating the reasons why such coverage
39 cannot be provided;

1 (b) The employer or union shall withhold any required premium from
2 the obligor's income or wages;

3 (c) If more than one plan is offered by the employer or union, and
4 each plan may be extended to cover the child, then the child shall be
5 enrolled in the obligor's plan. If the obligor's plan does not provide
6 coverage which is accessible to the child, the child shall be enrolled
7 in the least expensive plan otherwise available to the obligor parent;

8 (d) The employer or union shall provide information about the name
9 of the health insurance coverage provider or issuer and the extent of
10 coverage available to the obligee or the department and shall make
11 available any necessary claim forms or enrollment membership cards.

12 (4) If the order for coverage contains no language notifying the
13 obligor that failure to provide health insurance coverage or proof that
14 such coverage is unavailable may result in direct enforcement of the
15 order, the department or the obligee may serve a written notice of
16 intent to enforce the order on the obligor by certified mail, return
17 receipt requested, or by personal service. If the obligor fails to
18 provide written proof that such coverage has been obtained or applied
19 for or fails to provide proof that such coverage is unavailable within
20 twenty days of service of the notice, the department or the obligee may
21 proceed to enforce the order directly as provided in subsection (2) of
22 this section.

23 (5) If the obligor ordered to provide health insurance coverage
24 elects to provide coverage that will not be accessible to the child
25 because of geographic or other limitations when accessible coverage is
26 otherwise available, the department or the obligee may serve a written
27 notice of intent to purchase health insurance coverage on the obligor
28 by certified mail, return receipt requested. The notice shall also
29 specify the type and cost of coverage.

30 (6) If the department serves a notice under subsection (5) of this
31 section the obligor shall, within twenty days of the date of service:

32 (a) File an application for an adjudicative proceeding; or

33 (b) Provide written proof to the department that the obligor has
34 either applied for, or obtained, coverage accessible to the child.

35 (7) If the obligee serves a notice under subsection (5) of this
36 section, within twenty days of the date of service the obligor shall
37 provide written proof to the obligee that the obligor has either
38 applied for, or obtained, coverage accessible to the child.

1 (8) If the obligor fails to respond to a notice served under
2 subsection (5) of this section to the party who served the notice, the
3 party who served the notice may purchase the health insurance coverage
4 specified in the notice directly. The amount of the monthly premium
5 shall be added to the support debt and be collectible without further
6 notice. The amount of the monthly premium may be collected or accrued
7 until the obligor provides proof of the required coverage.

8 (9) The signature of the obligee or of a department employee shall
9 be a valid authorization to the coverage provider or issuer for
10 purposes of processing a payment to the child's health services
11 provider. An order for health insurance coverage shall operate as an
12 assignment of all benefit rights to the obligee or to the child's
13 health services provider, and in any claim against the coverage
14 provider or issuer, the obligee or the obligee's assignee shall be
15 subrogated to the rights of the obligor. Notwithstanding the
16 provisions of this section regarding assignment of benefits, this
17 section shall not require a health care service contractor authorized
18 under chapter 48.44 RCW or a health maintenance organization authorized
19 under chapter 48.46 RCW to deviate from their contractual provisions
20 and restrictions regarding reimbursement for covered services. If the
21 coverage is terminated, the employer shall mail a notice of termination
22 to the department or the obligee at the obligee's last known address
23 within thirty days of the termination date.

24 (10) This section shall not be construed to limit the right of the
25 obligor or the obligee to bring an action in superior court at any time
26 to enforce, modify, or clarify the original support order.

27 (11) Where a child does not reside in the issuer's service area, an
28 issuer shall cover no less than urgent and emergent care. Where the
29 issuer offers broader coverage, whether by policy or reciprocal
30 agreement, the issuer shall provide such coverage to any child
31 otherwise covered that does not reside in the issuer's service area.

32 (12) If an obligor fails to pay his or her portion of any
33 deductible required under the health insurance coverage or fails to pay
34 his or her portion of medical expenses incurred in excess of the
35 coverage provided under the plan, the department or the obligee may
36 enforce collection of the obligor's portion of the deductible or the
37 additional medical expenses through a wage assignment order. The
38 amount of the deductible or additional medical expenses shall be added
39 to the support debt and be collectible without further notice if the

1 obligor's share of the amount of the deductible or additional expenses
2 is reduced to a sum certain in a court order.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.18 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 requires signature or return receipt.

9 **Sec. 3.** RCW 74.20A.080 and 1998 c 160 s 1 are each amended to read
10 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (d) Be served:

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

9 (ii) By certified mail, return receipt requested;

10 (iii) By electronic means if there is an agreement between the
11 secretary and the person, firm, corporation, association, political
12 subdivision, department of the state, or agency, subdivision, or
13 instrumentality of the United States to accept service by electronic
14 means; or

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

20 (3) The division of child support may use uniform interstate
21 withholding forms adopted by the United States department of health and
22 human services to take withholding actions under this section when the
23 responsible parent is owed money or property that is located in another
24 state.

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

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

32 (b) Provide further and additional answers when requested by the
33 secretary.

34 (5) The returned answer or a payment remitted to the division of
35 child support by the employer constitutes proof of service of the
36 (~~notice of payroll deduction~~) order to withhold and deliver in the
37 case where the (~~notice~~) order was served by regular mail.

38 (6) Any such person, firm, corporation, association, political
39 subdivision, department of the state, or agency, subdivision, or

1 instrumentality of the United States in possession of any property
2 which may be subject to the claim of the department shall:

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

5 (ii) Within seven working days deliver the property to the
6 secretary;

7 (iii) Continue to withhold earnings payable to the debtor at each
8 succeeding disbursement interval as provided for in RCW 74.20A.090, and
9 deliver amounts withheld from earnings to the secretary within seven
10 working days of the date earnings are payable to the debtor;

11 (iv) Deliver amounts withheld from periodic payments to the
12 secretary within seven working days of the date the payments are
13 payable to the debtor;

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

16 (b) Furnish to the secretary a good and sufficient bond,
17 satisfactory to the secretary, conditioned upon final determination of
18 liability.

19 (7) An order to withhold and deliver served under this section
20 shall not expire until:

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

22 (b) Terminated by court order; (~~or~~)

23 (c) (~~The~~) A person or entity (~~receiving~~) other than an employer
24 as defined in Title 50 RCW who receives the order to withhold and
25 deliver and who does not possess property of or owe money to the
26 debtor; or

27 (d) An employer who has received the order to withhold and deliver
28 and no longer employs, contracts, or owes money to the debtor under a
29 contract of employment, express or implied.

30 (8) Where money is due and owing under any contract of employment,
31 express or implied, or is held by any person, firm, corporation, or
32 association, political subdivision, or department of the state, or
33 agency, subdivision, or instrumentality of the United States subject to
34 withdrawal by the debtor, such money shall be delivered by remittance
35 payable to the order of the secretary.

36 (9) Delivery to the secretary of the money or other property held
37 or claimed shall satisfy the requirement and serve as full acquittance
38 of the order to withhold and deliver.

1 (10) A person, firm, corporation, or association, political
2 subdivision, department of the state, or agency, subdivision, or
3 instrumentality of the United States that complies with the order to
4 withhold and deliver under this chapter is not civilly liable to the
5 debtor for complying with the order to withhold and deliver under this
6 chapter.

7 (11) The secretary may hold the money or property delivered under
8 this section in trust for application on the indebtedness involved or
9 for return, without interest, in accordance with final determination of
10 liability or nonliability.

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

13 (13) The secretary shall also, on or before the date of service of
14 the order to withhold and deliver, mail or cause to be mailed a copy of
15 the order to withhold and deliver to the debtor at the debtor's last
16 known post office address, or, in the alternative, a copy of the order
17 to withhold and deliver shall be served on the debtor in the same
18 manner as a summons in a civil action on or before the date of service
19 of the order or within two days thereafter. The copy of the order
20 shall be mailed or served together with a concise explanation of the
21 right to petition for judicial review. This requirement is not
22 jurisdictional, but, if the copy is not mailed or served as in this
23 section provided, or if any irregularity appears with respect to the
24 mailing or service, the superior court, in its discretion on motion of
25 the debtor promptly made and supported by affidavit showing that the
26 debtor has suffered substantial injury due to the failure to mail the
27 copy, may set aside the order to withhold and deliver and award to the
28 debtor an amount equal to the damages resulting from the secretary's
29 failure to serve on or mail to the debtor the copy.

30 (14) An order to withhold and deliver issued in accordance with
31 this section has priority over any other wage assignment, garnishment,
32 attachment, or other legal process.

33 (15) The division of child support shall notify any person, firm,
34 corporation, association, or political subdivision, department of the
35 state, or agency, subdivision, or instrumentality of the United States
36 required to withhold and deliver the earnings of a debtor under this
37 action that they may deduct a processing fee from the remainder of the
38 debtor's earnings, even if the remainder would otherwise be exempt
39 under RCW 74.20A.090. The processing fee shall not exceed ten dollars

1 for the first disbursement to the department and one dollar for each
2 subsequent disbursement under the order to withhold and deliver.

3 NEW SECTION. **Sec. 4.** 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 requires signature or return receipt.

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