
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: AMH-21/02

ATTY/TYPIST: :ads

BRIEF DESCRIPTION:

2 **THIS IS NOT A CODE REVISER AMENDMENT**

3 **SSB 5369** - H COMM AMD

4 By Committee on Juvenile Justice & Family Law

5 ADOPTED 03/05/02

6 On page 14, after line 12, insert the following:

7 "Sec. 9. RCW 74.20A.080 and 2000 c 86 s 8 are each amended to read
8 as follows:

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

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

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

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

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

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

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

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

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

35 (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; or

20 (v) By regular mail to an address if designated by the financial
21 institution as a central levy or garnishment address, and if the notice
22 is clearly identified as a levy or garnishment order. Before the
23 division of child support may initiate an action for noncompliance with
24 a withholding action against a financial institution, the division of
25 child support must serve the order to withhold and deliver on the
26 financial institution in the manner described in (d)(i) or (ii) of this
27 subsection.

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

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

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

1 (b) Provide further and additional answers when requested by the
2 secretary.

3 (5) The returned answer or a payment remitted to the division of
4 child support by the employer constitutes proof of service of the order
5 to withhold and deliver in the case where the order was served by
6 regular mail.

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

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

13 (ii) Within seven working days deliver the property to the
14 secretary;

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

19 (iv) Deliver amounts withheld from periodic payments to the
20 secretary within seven working days of the date the payments are
21 payable to the debtor;

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

24 (b) Furnish to the secretary a good and sufficient bond,
25 satisfactory to the secretary, conditioned upon final determination of
26 liability.

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

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

30 (b) Terminated by court order;

31 (c) A person or entity, other than an employer as defined in Title
32 50 RCW, who has received the order to withhold and deliver does not
33 possess property of or owe money to the debtor; or

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

37 (8) Where money is due and owing under any contract of employment,
38 express or implied, or is held by any person, firm, corporation, or
39 association, political subdivision, or department of the state, or

1 agency, subdivision, or instrumentality of the United States subject to
2 withdrawal by the debtor, such money shall be delivered by remittance
3 payable to the order of the secretary.

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

7 (10) A person, firm, corporation, or association, political
8 subdivision, department of the state, or agency, subdivision, or
9 instrumentality of the United States that complies with the order to
10 withhold and deliver under this chapter is not civilly liable to the
11 debtor for complying with the order to withhold and deliver under this
12 chapter.

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

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

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

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

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

10 Renumber the remaining section consecutively and correct the title.

EFFECT: Authorizes DCS to serve notice on financial institutions using regular mail if there is a central levy or garnishment address and if the notice is clearly identified as a levy or garnishment order (identical to SHB 2684 which the committee passed).

11 **5369-S AMH JJFL HUTC 69**

12 **THIS IS NOT A CODE REVISER AMENDMENT**

13 **SSB 5369 - H COMM AMD**

14 By Committee on Juvenile Justice & Family Law

15 ADOPTED 03/05/02

16 On page 14, beginning on line 1, strike all material through
17 "receipt." on line 12

18 Renumber the remaining section consecutively and correct the title.

EFFECT: Removes the sections authorizing DCS to use parcel delivery service as a means of serving notice to parties in child support proceedings.

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