

1 **SSB 5369** - H COMM AMD **Adopted 3-5-02**

2 By Committee on Juvenile Justice & Family Law

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (d) Be served:

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

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

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

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

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

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

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

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

36 (b) Provide further and additional answers when requested by the
37 secretary.

38 (5) The returned answer or a payment remitted to the division of
39 child support by the employer constitutes proof of service of the order

1 to withhold and deliver in the case where the order was served by
2 regular mail.

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

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

9 (ii) Within seven working days deliver the property to the
10 secretary;

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

15 (iv) Deliver amounts withheld from periodic payments to the
16 secretary within seven working days of the date the payments are
17 payable to the debtor;

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

20 (b) Furnish to the secretary a good and sufficient bond,
21 satisfactory to the secretary, conditioned upon final determination of
22 liability.

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

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

26 (b) Terminated by court order;

27 (c) A person or entity, other than an employer as defined in Title
28 50 RCW, who has received the order to withhold and deliver does not
29 possess property of or owe money to the debtor; or

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

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

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

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

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

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

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

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

36 (15) The division of child support shall notify any person, firm,
37 corporation, association, or political subdivision, department of the
38 state, or agency, subdivision, or instrumentality of the United States
39 required to withhold and deliver the earnings of a debtor under this

1 action that they may deduct a processing fee from the remainder of the
2 debtor's earnings, even if the remainder would otherwise be exempt
3 under RCW 74.20A.090. The processing fee shall not exceed ten dollars
4 for the first disbursement to the department and one dollar for each
5 subsequent disbursement under the order to withhold and deliver."

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).