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**SUBSTITUTE HOUSE BILL 2684**

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**State of Washington**

**57th Legislature**

**2002 Regular Session**

**By** House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Delvin and Chase; by request of Department of Social and Health Services)

Read first time 02/06/2002. Referred to Committee on .

1 AN ACT Relating to service of orders to withhold and deliver on  
2 financial institutions; and amending RCW 74.20A.080.

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

4 **Sec. 1.** RCW 74.20A.080 and 2000 c 86 s 8 are each amended to read  
5 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

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

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

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

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

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

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

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

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

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

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

19 (d) Be served:

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

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

23 (iii) By electronic means if there is an agreement between the  
24 secretary and the person, firm, corporation, association, political  
25 subdivision, department of the state, or agency, subdivision, or  
26 instrumentality of the United States to accept service by electronic  
27 means; ~~((or))~~

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

33 (v) By regular mail to an address if designated by the financial  
34 institution as a central levy or garnishment address, and if the notice  
35 is clearly identified as a levy or garnishment order. Before the  
36 division of child support may initiate an action for noncompliance with  
37 a withholding action against a financial institution, the division of  
38 child support must serve the order to withhold and deliver on the

1 financial institution in the manner described in (d)(i) or (ii) of this  
2 subsection.

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

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

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

15 (b) Provide further and additional answers when requested by the  
16 secretary.

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

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

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

27 (ii) Within seven working days deliver the property to the  
28 secretary;

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

33 (iv) Deliver amounts withheld from periodic payments to the  
34 secretary within seven working days of the date the payments are  
35 payable to the debtor;

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

1 (b) Furnish to the secretary a good and sufficient bond,  
2 satisfactory to the secretary, conditioned upon final determination of  
3 liability.

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

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

7 (b) Terminated by court order;

8 (c) A person or entity, other than an employer as defined in Title  
9 50 RCW, who has received the order to withhold and deliver does not  
10 possess property of or owe money to the debtor; or

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

14 (8) Where money is due and owing under any contract of employment,  
15 express or implied, or is held by any person, firm, corporation, or  
16 association, political subdivision, or department of the state, or  
17 agency, subdivision, or instrumentality of the United States subject to  
18 withdrawal by the debtor, such money shall be delivered by remittance  
19 payable to the order of the secretary.

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

23 (10) A person, firm, corporation, or association, political  
24 subdivision, department of the state, or agency, subdivision, or  
25 instrumentality of the United States that complies with the order to  
26 withhold and deliver under this chapter is not civilly liable to the  
27 debtor for complying with the order to withhold and deliver under this  
28 chapter.

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

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

35 (13) The secretary shall also, on or before the date of service of  
36 the order to withhold and deliver, mail or cause to be mailed a copy of  
37 the order to withhold and deliver to the debtor at the debtor's last  
38 known post office address, or, in the alternative, a copy of the order  
39 to withhold and deliver shall be served on the debtor in the same

1 manner as a summons in a civil action on or before the date of service  
2 of the order or within two days thereafter. The copy of the order  
3 shall be mailed or served together with a concise explanation of the  
4 right to petition for judicial review. This requirement is not  
5 jurisdictional, but, if the copy is not mailed or served as in this  
6 section provided, or if any irregularity appears with respect to the  
7 mailing or service, the superior court, in its discretion on motion of  
8 the debtor promptly made and supported by affidavit showing that the  
9 debtor has suffered substantial injury due to the failure to mail the  
10 copy, may set aside the order to withhold and deliver and award to the  
11 debtor an amount equal to the damages resulting from the secretary's  
12 failure to serve on or mail to the debtor the copy.

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

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

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