
SENATE BILL 6278

State of Washington 57th Legislature 2002 Regular Session

By Senators Kline, Long and Costa; by request of Department of Social and Health Services

Read first time 01/14/2002. Referred to Committee on Judiciary.

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 financial institutions. If the division of
34 child support initiates an action for noncompliance with a withholding
35 action against a financial institution, the division of child support
36 must serve process on the financial institution in the manner described
37 in (d)(i) or (ii) of this subsection.

38 (3) The division of child support may use uniform interstate
39 withholding forms adopted by the United States department of health and

1 human services to take withholding actions under this section when the
2 responsible parent is owed money or property that is located in this
3 state or in another state.

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

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

11 (b) Provide further and additional answers when requested by the
12 secretary.

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

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

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

23 (ii) Within seven working days deliver the property to the
24 secretary;

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

29 (iv) Deliver amounts withheld from periodic payments to the
30 secretary within seven working days of the date the payments are
31 payable to the debtor;

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

34 (b) Furnish to the secretary a good and sufficient bond,
35 satisfactory to the secretary, conditioned upon final determination of
36 liability.

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

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

1 (b) Terminated by court order;

2 (c) A person or entity, other than an employer as defined in Title
3 50 RCW, who has received the order to withhold and deliver does not
4 possess property of or owe money to the debtor; or

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

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

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

17 (10) A person, firm, corporation, or association, political
18 subdivision, department of the state, or agency, subdivision, or
19 instrumentality of the United States that complies with the order to
20 withhold and deliver under this chapter is not civilly liable to the
21 debtor for complying with the order to withhold and deliver under this
22 chapter.

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

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

29 (13) The secretary shall also, on or before the date of service of
30 the order to withhold and deliver, mail or cause to be mailed a copy of
31 the order to withhold and deliver to the debtor at the debtor's last
32 known post office address, or, in the alternative, a copy of the order
33 to withhold and deliver shall be served on the debtor in the same
34 manner as a summons in a civil action on or before the date of service
35 of the order or within two days thereafter. The copy of the order
36 shall be mailed or served together with a concise explanation of the
37 right to petition for judicial review. This requirement is not
38 jurisdictional, but, if the copy is not mailed or served as in this
39 section provided, or if any irregularity appears with respect to the

1 mailing or service, the superior court, in its discretion on motion of
2 the debtor promptly made and supported by affidavit showing that the
3 debtor has suffered substantial injury due to the failure to mail the
4 copy, may set aside the order to withhold and deliver and award to the
5 debtor an amount equal to the damages resulting from the secretary's
6 failure to serve on or mail to the debtor the copy.

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

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

--- END ---