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SENATE BILL 6756

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State of Washington 57th Legislature

2002 Regular Session

By Senators Benton, Hochstatter and Zarelli

Read first time 02/01/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to accounting of support payments; and amending RCW  
2 26.09.120, 26.23.050, and 26.23.120.

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

4 **Sec. 1.** RCW 26.09.120 and 1994 c 230 s 2 are each amended to read  
5 as follows:

6 (1) The court shall order support payments, including spousal  
7 maintenance if child support is ordered, to be made to the Washington  
8 state support registry, ~~((or))~~ unless the responsible parent petitions  
9 the court to make the payment to the person entitled to receive the  
10 payments under an order approved by the court as provided in RCW  
11 26.23.050.

12 (2) Maintenance payments, when ordered in an action where there is  
13 no dependent child, may be ordered to be paid to the person entitled to  
14 receive the payments, or the clerk of the court as trustee for  
15 remittance to the persons entitled to receive the payments.

16 (3) If support or maintenance payments are made to the clerk of  
17 court, the clerk:

1 (a) Shall maintain records listing the amount of payments, the date  
2 when payments are required to be made, and the names and addresses of  
3 the parties affected by the order;

4 (b) May by local court rule accept only certified funds or cash as  
5 payment; and

6 (c) Shall accept only certified funds or cash for five years in all  
7 cases after one check has been returned for nonsufficient funds or  
8 account closure.

9 (4) The parties affected by the order shall inform the registry  
10 through which the payments are ordered to be paid of any change of  
11 address or of other conditions that may affect the administration of  
12 the order.

13 **Sec. 2.** RCW 26.23.050 and 2001 c 42 s 3 are each amended to read  
14 as follows:

15 (1) If the division of child support is providing support  
16 enforcement services under RCW 26.23.045, or if a party is applying for  
17 support enforcement services by signing the application form on the  
18 bottom of the support order, the superior court shall include in all  
19 court orders that establish or modify a support obligation:

20 (a) A provision that orders and directs the responsible parent to  
21 make all support payments to the Washington state support registry;

22 (b) A statement that withholding action may be taken against wages,  
23 earnings, assets, or benefits, and liens enforced against real and  
24 personal property under the child support statutes of this or any other  
25 state, without further notice to the responsible parent at any time  
26 after entry of the court order, unless:

27 (i) One of the parties demonstrates, and the court finds, that  
28 there is good cause not to require immediate income withholding and  
29 that withholding should be delayed until a payment is past due; or

30 (ii) The parties reach a written agreement that is approved by the  
31 court that provides for an alternate arrangement;

32 (c) A statement that the receiving parent (~~((might be required to))~~)  
33 shall submit an accounting each month to the division of child support,  
34 including receipts, of how the support is being spent to benefit the  
35 child; and

36 (d) A statement that the responsible parent's privileges to obtain  
37 and maintain a license, as defined in RCW 74.20A.320, may not be

1 renewed, or may be suspended if the parent is not in compliance with a  
2 support order as provided in RCW 74.20A.320.

3 As used in this subsection and subsection (3) of this section,  
4 "good cause not to require immediate income withholding" means a  
5 written determination of why implementing immediate wage withholding  
6 would not be in the child's best interests and, in modification cases,  
7 proof of timely payment of previously ordered support.

8 (2) In all other cases not under subsection (1) of this section,  
9 the court may order the responsible parent to make payments directly to  
10 the person entitled to receive the payments, to the Washington state  
11 support registry, or may order that payments be made in accordance with  
12 an alternate arrangement agreed upon by the parties.

13 (a) The superior court shall include in all orders under this  
14 subsection that establish or modify a support obligation:

15 (i) A statement that withholding action may be taken against wages,  
16 earnings, assets, or benefits, and liens enforced against real and  
17 personal property under the child support statutes of this or any other  
18 state, without further notice to the responsible parent at any time  
19 after entry of the court order, unless:

20 (A) One of the parties demonstrates, and the court finds, that  
21 there is good cause not to require immediate income withholding and  
22 that withholding should be delayed until a payment is past due; or

23 (B) The parties reach a written agreement that is approved by the  
24 court that provides for an alternate arrangement; and

25 (ii) A statement that the receiving parent may be required to  
26 submit an accounting of how the support is being spent to benefit the  
27 child.

28 As used in this subsection, "good cause not to require immediate  
29 income withholding" is any reason that the court finds appropriate.

30 (b) The superior court may order immediate or delayed income  
31 withholding as follows:

32 (i) Immediate income withholding may be ordered if the responsible  
33 parent has earnings. If immediate income withholding is ordered under  
34 this subsection, all support payments shall be paid to the Washington  
35 state support registry. The superior court shall issue a mandatory  
36 wage assignment order as set forth in chapter 26.18 RCW when the  
37 support order is signed by the court. The parent entitled to receive  
38 the transfer payment is responsible for serving the employer with the  
39 order and for its enforcement as set forth in chapter 26.18 RCW.

1 (ii) If immediate income withholding is not ordered, the court  
2 shall require that income withholding be delayed until a payment is  
3 past due. The support order shall contain a statement that withholding  
4 action may be taken against wages, earnings, assets, or benefits, and  
5 liens enforced against real and personal property under the child  
6 support statutes of this or any other state, without further notice to  
7 the responsible parent, after a payment is past due.

8 (c) If a mandatory wage withholding order under chapter 26.18 RCW  
9 is issued under this subsection and the division of child support  
10 provides support enforcement services under RCW 26.23.045, the existing  
11 wage withholding assignment is prospectively superseded upon the  
12 division of child support's subsequent service of an income withholding  
13 notice.

14 (3) The office of administrative hearings and the department of  
15 social and health services shall require that all support obligations  
16 established as administrative orders include a provision which orders  
17 and directs that the responsible parent shall make all support payments  
18 to the Washington state support registry. All administrative orders  
19 shall also state that the responsible parent's privileges to obtain and  
20 maintain a license, as defined in RCW 74.20A.320, may not be renewed,  
21 or may be suspended if the parent is not in compliance with a support  
22 order as provided in RCW 74.20A.320. All administrative orders shall  
23 also state that withholding action may be taken against wages,  
24 earnings, assets, or benefits, and liens enforced against real and  
25 personal property under the child support statutes of this or any other  
26 state without further notice to the responsible parent at any time  
27 after entry of the order, unless:

28 (a) One of the parties demonstrates, and the presiding officer  
29 finds, that there is good cause not to require immediate income  
30 withholding; or

31 (b) The parties reach a written agreement that is approved by the  
32 presiding officer that provides for an alternate agreement.

33 (4) If the support order does not include the provision ordering  
34 and directing that all payments be made to the Washington state support  
35 registry and a statement that withholding action may be taken against  
36 wages, earnings, assets, or benefits if a support payment is past due  
37 or at any time after the entry of the order, or that a parent's  
38 licensing privileges may not be renewed, or may be suspended, the  
39 division of child support may serve a notice on the responsible parent

1 stating such requirements and authorizations. Service may be by  
2 personal service or any form of mail requiring a return receipt.

3 (5) Every support order shall state:

4 (a) The address where the support payment is to be sent;

5 (b) That withholding action may be taken against wages, earnings,  
6 assets, or benefits, and liens enforced against real and personal  
7 property under the child support statutes of this or any other state,  
8 without further notice to the responsible parent at any time after  
9 entry of a support order, unless:

10 (i) One of the parties demonstrates, and the court finds, that  
11 there is good cause not to require immediate income withholding; or

12 (ii) The parties reach a written agreement that is approved by the  
13 court that provides for an alternate arrangement;

14 (c) The income of the parties, if known, or that their income is  
15 unknown and the income upon which the support award is based;

16 (d) The support award as a sum certain amount;

17 (e) The specific day or date on which the support payment is due;

18 (f) The names and ages of the dependent children;

19 (g) A provision requiring the responsible parent to keep the  
20 Washington state support registry informed of whether he or she has  
21 access to health insurance coverage at reasonable cost and, if so, the  
22 health insurance policy information;

23 (h) That any parent owing a duty of child support shall be  
24 obligated to provide health insurance coverage for his or her child if  
25 coverage that can be extended to cover the child is or becomes  
26 available to that parent through employment or is union-related as  
27 provided under RCW 26.09.105;

28 (i) That if proof of health insurance coverage or proof that the  
29 coverage is unavailable is not provided within twenty days, the obligee  
30 or the department may seek direct enforcement of the coverage through  
31 the obligor's employer or union without further notice to the obligor  
32 as provided under chapter 26.18 RCW;

33 (j) The reasons for not ordering health insurance coverage if the  
34 order fails to require such coverage;

35 (k) That the responsible parent's privileges to obtain and maintain  
36 a license, as defined in RCW 74.20A.320, may not be renewed, or may be  
37 suspended if the parent is not in compliance with a support order as  
38 provided in RCW 74.20A.320;

39 (l) That each parent must:

1 (i) Promptly file with the court and update as necessary the  
2 confidential information form required by subsection (7) of this  
3 section; and

4 (ii) Provide the state case registry and update as necessary the  
5 information required by subsection (7) of this section; and

6 (m) That parties to administrative support orders shall provide to  
7 the state case registry and update as necessary their residential  
8 addresses and the address of the responsible parent's employer. The  
9 division of child support may adopt rules that govern the collection of  
10 parties' current residence and mailing addresses, telephone numbers,  
11 dates of birth, social security numbers, the names of the children,  
12 social security numbers of the children, dates of birth of the  
13 children, driver's license numbers, and the names, addresses, and  
14 telephone numbers of the parties' employers to enforce an  
15 administrative support order. The division of child support shall not  
16 release this information if the division of child support determines  
17 that there is reason to believe that release of the information may  
18 result in physical or emotional harm to the party or to the child, or  
19 a restraining order or protective order is in effect to protect one  
20 party from the other party.

21 (6) After the responsible parent has been ordered or notified to  
22 make payments to the Washington state support registry under this  
23 section, the responsible parent shall be fully responsible for making  
24 all payments to the Washington state support registry and shall be  
25 subject to payroll deduction or other income-withholding action. The  
26 responsible parent shall not be entitled to credit against a support  
27 obligation for any payments made to a person or agency other than to  
28 the Washington state support registry except as provided under RCW  
29 74.20.101. A civil action may be brought by the payor to recover  
30 payments made to persons or agencies who have received and retained  
31 support moneys paid contrary to the provisions of this section.

32 (7) All petitioners and parties to all court actions under chapters  
33 26.09, 26.10, 26.12, 26.18, 26.21, 26.23, 26.26, and 26.27 RCW shall  
34 complete to the best of their knowledge a verified and signed  
35 confidential information form or equivalent that provides the parties'  
36 current residence and mailing addresses, telephone numbers, dates of  
37 birth, social security numbers, driver's license numbers, and the  
38 names, addresses, and telephone numbers of the parties' employers. The  
39 clerk of the court shall not accept petitions, except in parentage

1 actions initiated by the state, orders of child support, decrees of  
2 dissolution, or paternity orders for filing in such actions unless  
3 accompanied by the confidential information form or equivalent, or  
4 unless the confidential information form or equivalent is already on  
5 file with the court clerk. In lieu of or in addition to requiring the  
6 parties to complete a separate confidential information form, the clerk  
7 may collect the information in electronic form. The clerk of the court  
8 shall transmit the confidential information form or its data to the  
9 division of child support with a copy of the order of child support or  
10 paternity order, and may provide copies of the confidential information  
11 form or its data and any related findings, decrees, parenting plans,  
12 orders, or other documents to the state administrative agency that  
13 administers Title IV-A, IV-D, or IV-E of the federal social security  
14 act. In state initiated paternity actions, the parties adjudicated the  
15 parents of the child or children shall complete the confidential  
16 information form or equivalent or the state's attorney of record may  
17 complete that form to the best of the attorney's knowledge.

18 **Sec. 3.** RCW 26.23.120 and 1998 c 160 s 4 are each amended to read  
19 as follows:

20 (1) Any information or records concerning individuals who owe a  
21 support obligation or for whom support enforcement services are being  
22 provided which are obtained or maintained by the Washington state  
23 support registry, the division of child support, or under chapter 74.20  
24 RCW shall be private and confidential and shall only be subject to  
25 public disclosure as provided in subsection (2) of this section.

26 (2) The secretary of the department of social and health services  
27 may adopt rules:

28 (a) That specify what information is confidential;

29 (b) That specify the individuals or agencies to whom this  
30 information and these records may be disclosed;

31 (c) Limiting the purposes for which the information may be  
32 disclosed;

33 (d) Establishing procedures to obtain the information or records;  
34 or

35 (e) Establishing safeguards necessary to comply with federal law  
36 requiring safeguarding of information.

1 (3) The rules adopted under subsection (2) of this section shall  
2 provide for disclosure of the information and records, under  
3 appropriate circumstances, which shall include, but not be limited to:

4 (a) The division of child support shall send the responsible  
5 parent, upon written request, copies of all receipts every six months;

6 (b) When authorized or required by federal statute or regulation  
7 governing the support enforcement program;

8 (~~(b)~~) (c) To the person the subject of the records or  
9 information, unless the information is exempt from disclosure under RCW  
10 42.17.310;

11 (~~(e)~~) (d) To government agencies, whether state, local, or  
12 federal, and including federally recognized tribes, law enforcement  
13 agencies, prosecuting agencies, and the executive branch, if the  
14 disclosure is necessary for child support enforcement purposes or  
15 required under Title IV-D of the federal social security act;

16 (~~(d)~~) (e) To the parties in a judicial or adjudicative proceeding  
17 upon a specific written finding by the presiding officer that the need  
18 for the information outweighs any reason for maintaining the privacy  
19 and confidentiality of the information or records;

20 (~~(e)~~) (f) To private persons, federally recognized tribes, or  
21 organizations if the disclosure is necessary to permit private  
22 contracting parties to assist in the management and operation of the  
23 department;

24 (~~(f)~~) (g) Disclosure of address and employment information to the  
25 parties to an action for purposes relating to a child support order,  
26 subject to the limitations in subsections (4) and (5) of this section;

27 (~~(g)~~) (h) Disclosure of information or records when necessary to  
28 the efficient administration of the support enforcement program or to  
29 the performance of functions and responsibilities of the support  
30 registry and the division of child support as set forth in state and  
31 federal statutes; or

32 (~~(h)~~) (i) Disclosure of the information or records when  
33 authorized under RCW 74.04.060.

34 (4) Prior to disclosing the whereabouts of a physical custodian,  
35 custodial parent or a child to the other parent or party, a notice  
36 shall be mailed, if appropriate under the circumstances, to the parent  
37 or physical custodian whose whereabouts are to be disclosed, at that  
38 person's last known address. The notice shall advise the parent or



1 physical custodian that a request for disclosure has been made and will  
2 be complied with unless the department:

3 (a) Receives a copy of a court order within thirty days which  
4 enjoins the disclosure of the information or restricts or limits the  
5 requesting party's right to contact or visit the parent or party whose  
6 address is to be disclosed or the child;

7 (b) Receives a hearing request within thirty days under subsection  
8 (5) of this section; or

9 (c) Has reason to believe that the release of the information may  
10 result in physical or emotional harm to the physical custodian whose  
11 whereabouts are to be released, or to the child.

12 (5) A person receiving notice under subsection (4) of this section  
13 may request an adjudicative proceeding under chapter 34.05 RCW, at  
14 which the person may show that there is reason to believe that release  
15 of the information may result in physical or emotional harm to the  
16 person or the child. The administrative law judge shall determine  
17 whether the whereabouts of the person or child should be disclosed  
18 based on subsection (4)(c) of this section, however no hearing is  
19 necessary if the department has in its possession a protective order or  
20 an order limiting visitation or contact.

21 (6) The notice and hearing process in subsections (4) and (5) of  
22 this section do not apply to protect the whereabouts of a noncustodial  
23 parent, unless that parent has requested notice before whereabouts  
24 information is released. A noncustodial parent may request such notice  
25 by submitting a written request to the division of child support.

26 (7) Nothing in this section shall be construed as limiting or  
27 restricting the effect of RCW 42.17.260(9). Nothing in this section  
28 shall be construed to prevent the disclosure of information and records  
29 if all details identifying an individual are deleted or the individual  
30 consents to the disclosure.

31 (8) It shall be unlawful for any person or agency in violation of  
32 this section to solicit, publish, disclose, receive, make use of, or to  
33 authorize, knowingly permit, participate in or acquiesce in the use of  
34 any lists of names for commercial or political purposes or the use of  
35 any information for purposes other than those purposes specified in  
36 this section. A violation of this section shall be a gross misdemeanor  
37 as provided in chapter 9A.20 RCW.

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