

SENATE BILL REPORT

SB 6803

As of February 1, 2008

Title: An act relating to restricted licenses for persons who fail to comply with child support obligations.

Brief Description: Establishing restricted licenses for persons who fail to comply with child support obligations.

Sponsors: Senators McAuliffe, Hargrove and Rasmussen.

Brief History:

Committee Activity: Human Services & Corrections: 1/31/08.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Shani Bauer (786-7468)

Background: Federal law requires that states have procedures allowing them to suspend or restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing past due child support. Failure to have these procedures will result in penalties to the State's TANF block grant (Temporary Assistance to Needy Families). However, within the directive of federal law, states are free to implement the procedures as they see fit.

Washington law gives the Department of Social and Human Services (DSHS) the authority to administratively issue a notice of noncompliance to a responsible parent who has failed to pay his or her support when due. The parent is notified that if he or she fails to pay the required support or contact DSHS to enter into a payment agreement, his or her licenses may be suspended.

The parent may request a hearing before an Administrative Law Judge (ALJ). The only issue to be considered at the hearing is whether the parent is required to pay support under a child support order and whether or not the parent is in compliance with that order. If the parent does not request a hearing or make payment arrangements with DSHS within 20 days of notification, DSHS will send notice to the Department of Licensing or other licensing entity to suspend the license.

If the parent contacts DSHS, DSHS may hold the license suspension action for no more than 30 days while attempting to reach an agreement. In entering into an agreement with the parent, DSHS is directed to establish a "fair and reasonable" payment schedule that considers the financial needs of the parent.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Once the parent's license is suspended, DSHS must promptly provide the parent with a release if the parent comes into compliance. Generally, the parent must then pay a fee to the licensing entity in order to get his or her license reinstated.

Summary of Bill: If DSHS sends notice to the licensing entity that a responsible parent is not in compliance with his or her child support order, the licensing entity must issue a restricted license to the parent for a period of not less than 90 days. The restricted license must permit the parent to:

- drive to and from his or her place of employment;
- perform duties in the course of his or her employment; and
- drive during any period of time in which he or she has custody of his or her children pursuant to a parenting plan.

After receiving notice of the restricted license, the parent has 30 days to reach an agreement with DSHS. If the parent and DSHS are unable to come to an agreement, the parent is entitled to a hearing in front of an ALJ to determine whether continued suspension will create an undue hardship or interfere with the parent's ability to comply with the child support order or perform typical parental functions and duties.

If the ALJ finds the suspension will cause undue hardship or interference, the licensing entity must extend the restricted license until the parent is in compliance with his or her child support order. If the suspension will not cause undue hardship, the parent's license will be suspended. In making its determination, the ALJ must consider the availability of public transportation and other responsibilities the parent may have to dependents.

The provisions for a restricted license and administrative hearing also apply to the suspension of licenses issued by the Department of Fish and Wildlife if the suspension affects the parent's ability to comply with a child support order or parenting plan.

Appropriation: None.

Fiscal Note: Requested on January 24, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The existing license suspension scheme has a particularly harsh effect on indigent clients. These individuals may live in rural areas, and therefore often lack public transportation. Many work in the construction industry and carry their tools with them; again, making public transportation not a good option for transportation to and from work. What often happens is that an individual may lose his or her job, and then end up losing their license while they are employed due to nonpayment of child support. Getting their license back becomes essential to getting employed again. The parent may not have a lot of education and is therefore not particularly eloquent in working with the department. The decision may be made on personal bias because the parent doesn't have the ability to state their case. Federal legislation gives the state extensive discretion. The law can be crafted to maintain the coercive effect of license suspension while allowing people to earn the money they need in order to pay child support.

CON: The department cannot support this bill. It undermines an already efficient and effective process that gives obligor multiple opportunities to contact the department and enter into an agreement. Support has to be six months delinquent before the license suspension process is initiated, and this is a tool of last resort to get the parent's attention. A notice sends a very strong message that if you do not contact the department, your license will be suspended. The department is able to collect an estimated \$50 million a year as a result of processes around this tool. The bill introduces a number of factors that would be a large administrative and financial burden to the department.

Persons Testifying: PRO: Ariella Wagonfeld, Cindy Wysocki, Northwest Defenders Association.

CON: David Stillman, DSHS-Division of Child Support.