

# SENATE BILL REPORT

## SB 5612

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As Reported by Senate Committee On:  
Human Services & Corrections, February 23, 2009

**Title:** An act relating to medical support obligations.

**Brief Description:** Concerning medical support obligations.

**Sponsors:** Senators Hargrove and Stevens; by request of Department of Social and Health Services.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/10/09, 2/23/09 [DPS].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5612 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

**Staff:** Shani Bauer (786-7468)

**Background:** Under federal law, the state must take steps to provide for a child's health care coverage as part of any child support order. In July of 2008, the Administration for Children and Families adopted new regulations further specifying state obligations in enforcing medical support provisions. Specifically, those regulations require the state to consider health insurance available to either parent at the time of entering a support order and require an obligated parent to pay a cash medical support obligation if that person does not have health insurance available. The regulations also define reasonable cost for health insurance as 5 percent of a parent's gross income or a comparable standard determined by the state.

A cash medical support obligation may require the parent to pay a proportional amount of an insurance premium paid for private insurance by the other party or an amount paid by the state to cover the child under Medicaid. If the child is covered by the state through Medicaid, the parent's proportional share may be retained by the state as reimbursement or passed through to the parent for payment of medical expenses. If no insurance is available, the parent must be required to contribute to the uninsured expenses of the child.

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*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.*

Under current state law, the court must require either or both parents to provide health insurance coverage for the child if coverage is or becomes available through the parents' employment and the cost is less than 25 percent of the obligated parent's basic child support obligation. The court may also provide for the uninsured medical costs of the children.

Health insurance coverage is enforced by the Department of Social and Health Services (DSHS) through a standardized notice developed by the federal government called the "National Medical Support Notice." When a notice is issued to an employer, the employer must respond. If health insurance is available, the employer must withhold the necessary premium and forward the notice to a health insurance provider. The provider is required to enroll the children in health care coverage.

**Summary of Bill (Recommended Substitute):** A parent who provides health insurance coverage may have the cost of the health insurance premium included in the child support calculation or seek to enforce cash medical support against the other parent in the amount of the other parent's proportionate share of the insurance premium. The amount of the cash medical support may not exceed 25 percent of the obligated parent's basic child support obligation.

If no private health insurance is available and coverage for the child is provided to a parent through Medicaid, the other parent must pay cash medical support in an amount equal to the parent's proportionate share of the health insurance premium, not to exceed 25 percent of the obligated parent's basic child support obligation.

Each parent is responsible for that parent's proportionate share of any uninsured expenses. For the purposes of this section, cash medical support and proportionate share are defined.

Like provisions must be included in administrative support orders established through DSHS.

DSHS will first seek to enforce health insurance coverage against an obligated parent. If coverage is not available, DSHS will enforce a cash medical support obligation. If a sum certain amount is not specified in the order for cash medical support, DSHS may serve notice on the parent to determine the amount. Parties may seek enforcement of a medical support obligation on their own through the superior court.

When cash medical support is collected and the child is on Medicaid, DSHS may retain the funds as reimbursement or pass through the funds to the parent for medical costs. Enforcement of health insurance coverage using the National Medical Support Notice is limited to enforcing coverage against the obligated parent.

A receiving parent may be required to account for how cash medical support is being used to benefit the child. A parent required to provide health insurance coverage must notify DSHS and the other parent when coverage terminates.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute):** A parent who provides health insurance coverage to the child is entitled to receive a contribution from the other parent either as part

of the child support calculation or through a cash medical support order. Clarifying changes are made.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on October 1, 2009.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill is to allow DSHS to comply with federal regulations regarding the cash medical support obligation. HB 1794 works in coordination with this bill in removing the ordinary cost of medical support from the economic table. This bill then allows one parent to seek a proportionate share of medical costs separately from the other parent. It also addresses the situation where health insurance is not available at reasonable cost. No tool or mechanism is currently available for one parent to help the other parent pay the cost of health insurance.

OTHER: Right now child support can be set administratively or by the court. Whichever tribunal is setting support should also deal with the medical support issue. However, we have concerns with the first section of definitions. Court and child support orders are being defined for the first time. Court includes both judicial court and administrative tribunals. The problem is that this definition is added to dissolution provisions. If you eliminate the definition of court, there is no definition for child support order. These definition need to be removed from the dissolution chapter.

**Persons Testifying:** PRO: David Stillman, DSHS.

OTHER: Paula Casey, Superior Court Judges Association.