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HOUSE BILL 1771

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Pettigrew, Walsh, and Dickerson

Read first time 01/28/09. Referred to Committee on Judiciary.

1            AN ACT Relating to the child support license suspension program;  
2 amending RCW 74.20A.320; and adding new sections to chapter 74.20A RCW.

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

4            **Sec. 1.** RCW 74.20A.320 and 1997 c 58 s 802 are each amended to  
5 read as follows:

6            (1) The department may serve upon a responsible parent a notice  
7 informing the responsible parent of the department's intent to submit  
8 the parent's name to the department of licensing and any appropriate  
9 licensing entity as a licensee who is not in compliance with a child  
10 support order. The department shall attach a copy of the responsible  
11 parent's child support order to the notice. Service of the notice must  
12 be by certified mail, return receipt requested. If service by  
13 certified mail is not successful, service shall be by personal service.

14            (2) The notice of noncompliance must include the ~~((address and~~  
15 ~~telephone number of the department's division of child support office~~  
16 ~~that issues the notice and must inform the responsible parent that))~~  
17 following information:

18            ~~((a) The parent may request an adjudicative proceeding to contest~~  
19 ~~the issue of compliance with the child support order. The only issues~~

1 that may be considered at the adjudicative proceeding are whether the  
2 parent is required to pay child support under a child support order and  
3 whether the parent is in compliance with that order;

4 (b) A request for an adjudicative proceeding shall be in writing  
5 and must be received by the department within twenty days of the date  
6 of service of the notice;

7 (c) If the parent requests an adjudicative proceeding within twenty  
8 days of service, the department will stay action to certify the parent  
9 to the department of licensing and any licensing entity for  
10 noncompliance with a child support order pending entry of a written  
11 decision after the adjudicative proceeding;

12 (d) If the parent does not request an adjudicative proceeding  
13 within twenty days of service and remains in noncompliance with a child  
14 support order, the department will certify the parent's name to the  
15 department of licensing and any appropriate licensing entity for  
16 noncompliance with a child support order;

17 (e) The department will stay action to certify the parent to the  
18 department of licensing and any licensing entity for noncompliance if  
19 the parent agrees to make timely payments of current support and agrees  
20 to a reasonable payment schedule for payment of the arrears. It is the  
21 parent's responsibility to contact in person or by mail the  
22 department's division of child support office indicated on the notice  
23 within twenty days of service of the notice to arrange for a payment  
24 schedule. The department may stay certification for up to thirty days  
25 after contact from a parent to arrange for a payment schedule;

26 (f) If the department certifies the responsible parent to the  
27 department of licensing and a licensing entity for noncompliance with  
28 a child support order, the licensing entity will suspend or not renew  
29 the parent's license and the department of licensing will suspend or  
30 not renew any driver's license that the parent holds until the parent  
31 provides the department of licensing and the licensing entity with a  
32 release from the department stating that the responsible parent is in  
33 compliance with the child support order;

34 (g) If the department certifies the responsible parent as a person  
35 who is in noncompliance with a child support order, the department of  
36 fish and wildlife will suspend the fishing license, hunting license,  
37 commercial fishing license, or any other license issued under chapters  
38 77.32, 77.28 [75.28], and 75.25 RCW that the responsible parent may

1 ~~possess. Notice from the department of licensing that a responsible~~  
2 ~~parent's driver's license has been suspended shall serve as notice of~~  
3 ~~the suspension of a license issued under chapters 77.32 and 75.25 RCW;~~

4 ~~(h) Suspension of a license will affect insurability if the~~  
5 ~~responsible parent's insurance policy excludes coverage for acts~~  
6 ~~occurring after the suspension of a license;~~

7 ~~(i) If after receiving the notice of noncompliance with a child~~  
8 ~~support order, the responsible parent files a motion to modify support~~  
9 ~~with the court or requests the department to amend a support obligation~~  
10 ~~established by an administrative decision, or if a motion for~~  
11 ~~modification of a court or administrative order for child support is~~  
12 ~~pending, the department or the court may stay action to certify the~~  
13 ~~parent to the department of licensing and any licensing entity for~~  
14 ~~noncompliance with a child support order. A stay shall not exceed six~~  
15 ~~months unless the department finds good cause. The responsible parent~~  
16 ~~has the obligation to notify the department that a modification~~  
17 ~~proceeding is pending and provide a copy of the motion or request for~~  
18 ~~modification; and~~

19 ~~(j)) (a) The address and telephone number of the department's~~  
20 ~~division of child support office that issued the notice;~~

21 ~~(b) That in order to prevent the department from certifying the~~  
22 ~~parent's name to the department of licensing or any other licensing~~  
23 ~~entity, the parent has twenty days from receipt of the notice to~~  
24 ~~contact the department and:~~

25 ~~(i) Pay the overdue support amount in full;~~

26 ~~(ii) Request an adjudicative proceeding as provided in section 2 of~~  
27 ~~this act;~~

28 ~~(iii) Agree to a payment schedule with the department as provided~~  
29 ~~in section 4 of this act; or~~

30 ~~(iv) File a motion to modify support with the court or request the~~  
31 ~~department amend a support obligation established by an administrative~~  
32 ~~decision as provided in section 3(1) of this act;~~

33 ~~(c) That failure to contact the department within twenty days of~~  
34 ~~receipt of the notice will result in certification of the responsible~~  
35 ~~parent's name to the department of licensing and any other appropriate~~  
36 ~~licensing entity for noncompliance with a child support order. Upon~~  
37 ~~receipt of the notice:~~

1 (i) The licensing entity will suspend or not renew the parent's  
2 license and the department of licensing will suspend or not renew any  
3 driver's license that the parent holds until the parent provides the  
4 department of licensing and the licensing entity with a release from  
5 the department stating that the responsible parent is in compliance  
6 with the child support order;

7 (ii) The department of fish and wildlife will suspend a fishing  
8 license, hunting license, commercial fishing license, or any other  
9 license issued under chapter 77.32 RCW that the responsible parent may  
10 possess. Notice from the department of licensing that a responsible  
11 parent's driver's license has been suspended shall serve as notice of  
12 the suspension of a license issued under chapter 77.32 RCW;

13 (d) That suspension of a license will affect insurability if the  
14 responsible parent's insurance policy excludes coverage for acts  
15 occurring after the suspension of a license;

16 (e) If the responsible parent subsequently ((becomes-in)) comes  
17 into compliance with the child support order, the department will  
18 promptly provide the parent and the appropriate licensing entities with  
19 a release stating that the parent is in compliance with the order((  
20 and the parent may request that the licensing entity or the department  
21 of licensing reinstate the suspended license)).

22 ~~(3) ((A responsible parent may request an adjudicative proceeding~~  
23 ~~upon service of the notice described in subsection (1) of this section.~~  
24 ~~The request for an adjudicative proceeding must be received by the~~  
25 ~~department within twenty days of service. The request must be in~~  
26 ~~writing and indicate the current mailing address and daytime phone~~  
27 ~~number, if available, of the responsible parent. The proceedings under~~  
28 ~~this subsection shall be conducted in accordance with the requirements~~  
29 ~~of chapter 34.05 RCW. The issues that may be considered at the~~  
30 ~~adjudicative proceeding are limited to whether:~~

31 ~~(a) The person named as the responsible parent is the responsible~~  
32 ~~parent;~~

33 ~~(b) The responsible parent is required to pay child support under~~  
34 ~~a child support order; and~~

35 ~~(c) The responsible parent is in compliance with the order.~~

36 ~~(4) The decision resulting from the adjudicative proceeding must be~~  
37 ~~in writing and inform the responsible parent of his or her rights to~~

1 review. The parent's copy of the decision may be sent by regular mail  
2 to the parent's most recent address of record.

3 (5) If a responsible parent contacts the department's division of  
4 child support office indicated on the notice of noncompliance within  
5 twenty days of service of the notice and requests arrangement of a  
6 payment schedule, the department shall stay the certification of  
7 noncompliance during negotiation of the schedule for payment of  
8 arrears. In no event shall the stay continue for more than thirty days  
9 from the date of contact by the parent. The department shall establish  
10 a schedule for payment of arrears that is fair and reasonable, and that  
11 considers the financial situation of the responsible parent and the  
12 needs of all children who rely on the responsible parent for support.  
13 At the end of the thirty days, if no payment schedule has been agreed  
14 to in writing and the department has acted in good faith, the  
15 department shall proceed with certification of noncompliance.

16 (6) If a responsible parent timely requests an adjudicative  
17 proceeding pursuant to subsection (4) of this section, the department  
18 may not certify the name of the parent to the department of licensing  
19 or a licensing entity for noncompliance with a child support order  
20 unless the adjudicative proceeding results in a finding that the  
21 responsible parent is not in compliance with the order.

22 (7) The department may certify to the department of licensing and  
23 any appropriate licensing entity the name of a responsible parent who  
24 is not in compliance with a child support order or a residential or  
25 visitation order if:

26 (a) The responsible parent does not timely request an adjudicative  
27 proceeding upon service of a notice issued under subsection (1) of this  
28 section and is not in compliance with a child support order twenty-one  
29 days after service of the notice;

30 (b) An adjudicative proceeding results in a decision that the  
31 responsible parent is not in compliance with a child support order;

32 (c) The court enters a judgment on a petition for judicial review  
33 that finds the responsible parent is not in compliance with a child  
34 support order;

35 (d) The department and the responsible parent have been unable to  
36 agree on a fair and reasonable schedule of payment of the arrears;

37 (e) The responsible parent fails to comply with a payment schedule  
38 established pursuant to subsection (5) of this section; or

1       ~~The department shall send by regular mail a copy of any~~  
2 ~~certification of noncompliance filed with the department of licensing~~  
3 ~~or a licensing entity to the responsible parent at the responsible~~  
4 ~~parent's most recent address of record.~~

5       ~~(8) The department of licensing and a licensing entity shall,~~  
6 ~~without undue delay, notify a responsible parent certified by the~~  
7 ~~department under subsection (7) of this section that the parent's~~  
8 ~~driver's license or other license has been suspended because the~~  
9 ~~parent's name has been certified by the department as a responsible~~  
10 ~~parent who is not in compliance with a child support order or a~~  
11 ~~residential or visitation order.~~

12       ~~(9))~~ When a responsible parent who is served notice under  
13 subsection (1) of this section subsequently complies with the child  
14 support order, ~~((or when the department receives a court order under~~  
15 ~~section 886 of this act stating that the parent is in compliance with~~  
16 ~~a residential or visitation order, the department shall promptly~~  
17 ~~provide the parent with))~~ a copy of a release stating that the  
18 responsible parent is in compliance with the order~~((. A copy of the~~  
19 ~~release))~~ shall be transmitted by the department to the appropriate  
20 licensing entities.

21       ~~((10) The department may adopt rules to implement and enforce the~~  
22 ~~requirements of this section. The department shall deliver a copy of~~  
23 ~~rules adopted to implement and enforce this section to the legislature~~  
24 ~~by June 30, 1998.~~

25       ~~(11))~~ (4) Nothing in this section prohibits a responsible parent  
26 from filing a motion to modify support with the court or from  
27 requesting the department to amend a support obligation established by  
28 an administrative decision. If there is a reasonable likelihood that  
29 a pending motion or request will significantly change the amount of the  
30 child support obligation, the department or the court may stay action  
31 to certify the responsible parent to the department of licensing and  
32 any licensing entity for noncompliance with a child support order. A  
33 stay shall not exceed six months unless the department finds good cause  
34 to extend the stay. The responsible parent has the obligation to  
35 notify the department that a modification proceeding is pending and  
36 provide a copy of the motion or request for modification.

37       ~~((12))~~ (5) The department of licensing and a licensing entity may  
38 renew, reinstate, or otherwise extend a license in accordance with the

1 licensing entity's or the department of licensing's rules after the  
2 licensing entity or the department of licensing receives a copy of the  
3 release specified in subsection ~~((+9))~~ (3) of this section. The  
4 department of licensing and a licensing entity may waive any applicable  
5 requirement for reissuance, renewal, or other extension if it  
6 determines that the imposition of that requirement places an undue  
7 burden on the person and that waiver of the requirement is consistent  
8 with the public interest.

9 ~~((13) The procedures in chapter 58, Laws of 1997, constitute the  
10 exclusive administrative remedy for contesting the establishment of  
11 noncompliance with a child support order and suspension of a license  
12 under this section, and satisfy the requirements of RCW 34.05.422.))~~

13 NEW SECTION. **Sec. 2.** (1) A responsible parent may request an  
14 adjudicative proceeding upon service of the notice described in RCW  
15 74.20A.320. The request for an adjudicative proceeding must be  
16 received by the department within twenty days of service. The request  
17 must be in writing and indicate the current mailing address and daytime  
18 phone number, if available, of the responsible parent.

19 (2) If a responsible parent timely requests an adjudicative  
20 proceeding, the department may not certify the name of the parent to  
21 the department of licensing or a licensing entity for noncompliance  
22 with a child support order unless the adjudicative proceeding results  
23 in a finding that the responsible parent is not in compliance with the  
24 order and has not made a good faith effort to comply.

25 (3) The issues that may be considered at the adjudicative  
26 proceeding are limited to whether:

27 (a) The person named as the responsible parent is the responsible  
28 parent;

29 (b) The responsible parent is required to pay child support under  
30 a child support order;

31 (c) The responsible parent is in compliance with the order; and

32 (d) The responsible parent has made a good faith effort to comply  
33 with the order.

34 (4) If the administrative law judge finds that the parent is not in  
35 compliance with the support order, but has made a good faith effort to  
36 comply, the administrative law judge shall formulate a payment schedule  
37 as provided in section 4 of this act.

1 (5) The decision resulting from the adjudicative proceeding must be  
2 in writing and inform the responsible parent of his or her rights to  
3 review. The parent's copy of the decision may be sent by regular mail  
4 to the parent's most recent address of record.

5 (6) The proceedings under this subsection shall be conducted in  
6 accordance with the requirements of chapter 34.05 RCW, the  
7 administrative procedure act.

8 (7) The procedures of this section constitute the exclusive  
9 administrative remedy for contesting the establishment of noncompliance  
10 with a child support order and suspension of a license under this  
11 section, and satisfy the requirements of RCW 34.05.422.

12 NEW SECTION. **Sec. 3.** (1) The department may certify to the  
13 department of licensing and any appropriate licensing entity the name  
14 of a responsible parent who is not in compliance with a child support  
15 order or a residential or visitation order if:

16 (a) The responsible parent does not timely request an adjudicative  
17 proceeding upon service of a notice issued under RCW 74.20A.320 and is  
18 not in compliance with a child support order twenty-one days after  
19 service of the notice;

20 (b) An adjudicative proceeding results in a decision that the  
21 responsible parent is not in compliance with a child support order and  
22 has not made a good faith effort to comply;

23 (c) The court enters a judgment on a petition for judicial review  
24 that finds the responsible parent is not in compliance with a child  
25 support order and has not made a good faith effort to comply; or

26 (d) The responsible parent fails to comply with a payment schedule  
27 established pursuant to section 4 of this act.

28 (2) The department shall send by regular mail a copy of any  
29 certification of noncompliance filed with the department of licensing  
30 or a licensing entity to the responsible parent at the responsible  
31 parent's most recent address of record along with information as to how  
32 the parent may get his or her license reinstated.

33 (3) The department of licensing and a licensing entity shall,  
34 without undue delay, notify a responsible parent certified by the  
35 department under subsection (1) of this section that the parent's  
36 driver's license or other license has been suspended because the



1 parent's name has been certified by the department as a responsible  
2 parent who is not in compliance with a child support order or a  
3 residential or visitation order.

4 NEW SECTION. **Sec. 4.** (1) If a responsible parent contacts the  
5 department's division of child support office indicated on the notice  
6 of noncompliance within twenty days of service of the notice provided  
7 in RCW 74.20A.320 and requests arrangement of a payment schedule, the  
8 department shall stay the certification of noncompliance during  
9 negotiation of the schedule for payment of arrears up to thirty days  
10 from the date of contact by the responsible parent.

11 (2) In proposing or approving a written payment schedule, the  
12 department or the administrative law judge shall take into  
13 consideration the amount of the arrearages, the amount of the current  
14 support order, the earnings of the responsible parent, and the needs of  
15 all children who rely on the responsible parent for support. The  
16 department or administrative law judge shall consider the individual  
17 financial circumstances of each responsible parent in evaluating the  
18 parent's ability to pay any proposed payment schedule and shall propose  
19 a fair and reasonable payment schedule tailored to the individual  
20 financial circumstances of the responsible parent. A payment schedule  
21 may include a graduated payment plan and may require a responsible  
22 parent to engage in employment-enhancing activities to attain a  
23 satisfactory payment level.

24 (3) A payment schedule may be for the payment of less than current  
25 monthly support for a reasonable time and is not required to include a  
26 lump sum payment for the amount of arrears.

27 NEW SECTION. **Sec. 5.** The department may adopt rules to implement  
28 and enforce the requirements of this act.

29 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each  
30 added to chapter 74.20A RCW.

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