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HOUSE BILL 2201

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Hinkle, Pettigrew, and Warnick

Read first time 02/12/09. Referred to Committee on Judiciary.

1            AN ACT Relating to child support pass through funds; amending RCW  
2 26.23.035; and declaring an emergency.

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

4            **Sec. 1.** RCW 26.23.035 and 2007 c 143 s 2 are each amended to read  
5 as follows:

6            (1) The department of social and health services shall adopt rules  
7 for the distribution of support money collected by the division of  
8 child support. These rules shall:

9            (a) Comply with Title IV-D of the federal social security act as  
10 amended by the personal responsibility and work opportunity  
11 reconciliation act of 1996 and the federal deficit reduction act of  
12 2005;

13            (b) Direct the division of child support to distribute support  
14 money within eight days of receipt, unless one of the following  
15 circumstances, or similar circumstances specified in the rules,  
16 prevents prompt distribution:

17            (i) The location of the custodial parent is unknown;

18            (ii) The support debt is in litigation;

1 (iii) The division of child support cannot identify the responsible  
2 parent or the custodian;

3 (c) Provide for proportionate distribution of support payments if  
4 the responsible parent owes a support obligation or a support debt for  
5 two or more Title IV-D cases; and

6 (d) Authorize the distribution of support money, except money  
7 collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to  
8 the IV-D custodian before the debt owed to the state when the custodian  
9 stops receiving a public assistance grant.

10 (2) The division of child support may distribute support payments  
11 to the payee under the support order or to another person who has  
12 lawful physical custody of the child or custody with the payee's  
13 consent. The payee may file an application for an adjudicative  
14 proceeding to challenge distribution to such other person. Prior to  
15 distributing support payments to any person other than the payee, the  
16 registry shall:

17 (a) Obtain a written statement from the child's physical custodian,  
18 under penalty of perjury, that the custodian has lawful custody of the  
19 child or custody with the payee's consent;

20 (b) Mail to the responsible parent and to the payee at the payee's  
21 last known address a copy of the physical custodian's statement and a  
22 notice which states that support payments will be sent to the physical  
23 custodian; and

24 (c) File a copy of the notice with the clerk of the court that  
25 entered the original support order.

26 (3) If the Washington state support registry distributes a support  
27 payment to a person in error, the registry may obtain restitution by  
28 means of a set-off against future payments received on behalf of the  
29 person receiving the erroneous payment, or may act according to RCW  
30 74.20A.270 as deemed appropriate. Any set-off against future support  
31 payments shall be limited to amounts collected on the support debt and  
32 ten percent of amounts collected as current support.

33 (4) The division of child support shall ensure that the fifty  
34 dollar pass through payment, as required by 42 U.S.C. Sec. 657 before  
35 the adoption of P.L. 104-193, is terminated immediately upon July 27,  
36 1997, and all rules to the contrary adopted before July 27, 1997, are  
37 without force and effect.

1       (~~(5) Effective October 1, 2008, consistent with 42 U.S.C. Sec.~~  
2 ~~657(a) as amended by section 7301(b)(7)(B) of the federal deficit~~  
3 ~~reduction act of 2005, the department shall pass through child support~~  
4 ~~that does not exceed one hundred dollars per month collected on behalf~~  
5 ~~of a family, or in the case of a family that includes two or more~~  
6 ~~children, an amount that is not more than two hundred dollars per~~  
7 ~~month. The department has rule-making authority to implement this~~  
8 ~~subsection.))~~

9       NEW SECTION.   **Sec. 2.**   This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of the  
11 state government and its existing public institutions, and takes effect  
12 immediately.

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