

HOUSE BILL REPORT

SSB 6334

As Reported by House Committee On: Judiciary

Title: An act relating to child support, but only including a parent's obligation to provide medical support, use of electronic funds transfers, notice of noncompliance, adoption of the economic table recommended by the child support work group, and references to the federal poverty level in self-support reserve limitations.

Brief Description: Concerning child support, but only including a parent's obligation to provide medical support, use of electronic funds transfers, notice of noncompliance, adoption of the economic table recommended by the child support work group, and references to the federal poverty level in self-support reserve limitations.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Dhingra, Angel and Darneille; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Judiciary: 2/15/18, 2/22/18 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Revises provisions governing a parent's obligation to provide medical support for a child under a child support order, including by allowing a parent to meet the obligation by enrolling the child in public health care coverage.
- Requires an employer or other business that has received a child support-related income withholding order from the Department of Social and Health Services to remit payments through electronic funds transfer when certain conditions apply.
- Adopts a new economic table for use in establishing child support obligations.
- Clarifies the self-support reserve limitation on the amount of child support ordered.

HOUSE COMMITTEE ON JUDICIARY

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.

Majority Report: Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

Staff: Edie Adams (786-7180).

Background:

Child support obligations are established in the context of dissolution of marriage or parentage proceedings through the court or an administrative process with the Department of Social and Health Services (DSHS). The DSHS is responsible for administering the state's child support enforcement program and provides support enforcement services to parents receiving public assistance and to nonassistance parents who request support enforcement services.

Health Care Coverage.

When a child support order is entered by a court or in an administrative proceeding, the order must require both parents to provide medical support for any child named in the order by providing health insurance coverage or contributing cash medical support. Health insurance coverage does not include coverage under Medicaid. Cash medical support consists of a parent's monthly payment toward the premium paid for coverage by either the other parent or the state and a parent's proportionate share of uninsured medical expenses. The court may excuse one parent from the responsibility to provide health insurance coverage or the monthly payment toward the premium under appropriate circumstances. The order must always require each parent to contribute their proportionate shares of uninsured medical expenses.

A parent ordered to provide health insurance coverage may comply with that requirement by providing coverage: (i) through private insurance; or (ii) through an employer or union if the cost of the coverage does not exceed 25 percent of that parent's basic child support obligation. If both parents have available health insurance coverage that is accessible to the child, the court may order the parent with better coverage to provide the health insurance coverage for the child and the other parent to pay a monthly payment toward the premium.

Parties to the order may seek enforcement of a medical support obligation on their own through superior court or may apply to the DSHS for enforcement services. The DSHS may enforce an obligated parent's medical support obligation by first seeking health insurance coverage, and if coverage is not available, by enforcing a cash medical support obligation. The DSHS may enforce an obligation to provide health insurance by issuing a National Medical Support Notice to the obligated parent's employer or union. When a notice is issued to an employer, the employer must respond, and if health insurance is available, the employer must enroll the child or children in the insurance plan and withhold the premiums from the parents' pay.

Federal law requires states to have an approved child support program as a condition of receiving federal funds for various programs. As part of their program, states are required to take steps to ensure that health care coverage is provided for a child under a support order if

coverage is accessible to the parent and can be obtained for the child at a reasonable cost. Federal rules governing medical support requirements were recently revised to provide that health care coverage includes public health care coverage in addition to private health insurance.

Electronic Payments.

All employers doing business in Washington must report to the Washington State Support Registry (Registry) when the business hires or rehires a person for employment. Employers may report by mailing a copy of the employee's W-4 form or by other means authorized by the Registry. The report must be submitted within 20 days of the hiring or re-hiring of the person and must include the employee's name, address, Social Security number, and date of birth. An employer who fails to submit the required report is subject to civil penalties. The DSHS transmits the information to the National Directory of New Hires for purposes of enforcing child support obligations.

The DSHS may enforce child support obligations by taking withholding actions against a responsible parent's wages, earnings, assets, or benefits. The DSHS may serve a parent's employer with a notice of payroll deduction for child support obligations. An employer is liable to the Registry for the amount of support moneys that should have been withheld from the employee's earnings if the employer fails or refuses to respond to the notice and deduct and remit the required support amounts.

The Division of Child Support (DCS) may issue a notice of noncompliance to any person, firm, entity, or agency that the DCS believes is not complying with a notice of payroll deduction or other withholding order, a subpoena or information request, the duty to report newly hired employees, or other requirements. The DCS may impose fines of up to \$100 per occurrence for noncompliance with a subpoena or information request or the timely remittance of support payments. The liability asserted by the DCS in the notice of noncompliance becomes final and collectible on the twenty-first day after the date of service unless the employer requests a hearing with the DCS, negotiates an alternate resolution, or initiates an action in superior court to contest the notice of noncompliance.

Economic Table.

The amount of child support is determined using the statutory child support schedule, which includes an economic table and the child support worksheets developed by the Administrative Office of the Courts.

The economic table is used to establish the basic support obligation for each parent, which can then be modified based on statutorily established adjustments and deviations. The basic support obligation is based on the combined monthly net income of the parents, the number of children before the court, and the ages of those children. The economic table has different amounts, in each income bracket, for children up to age 11 and children ages 12 to 18. Each parent's share of the basic support obligation is determined by the parent's proportionate share of the combined monthly net income. After determining the basic support obligation based on the economic table, the judge considers any adjustments to the basic support obligation, such as medical support, daycare, and other special expenses, which results in a presumptive amount of child support called the "standard calculation." The judge then has discretion to consider reasons to deviate from the standard calculation.

Every four years, the DSHS must convene a work group to review the state's child support laws. This process was established by the Legislature to comply with federal requirements that states conduct quadrennial reviews of their child support laws. The final report of the 2011 Child Support Workgroup (2011 Workgroup) recommended adoption of a new child support economic table that is based on more current data developed by an economist at the request of the 2011 Workgroup. The 2015 Child Support Workgroup also recommended adoption of the new economic table recommended by the 2011 Workgroup.

Self-Support Reserve.

The child support schedule includes low-income limitations that apply when a parent's net income is below, or would fall below, 125 percent of the federal poverty guideline. This is referred to as the self-support reserve. The basic support obligation, excluding health care, daycare, and special child-rearing expenses, may not reduce the parent's net income below the self-support reserve of 125 percent of the federal poverty level, except for the presumptive minimum \$50 support obligation or when it would be unjust to apply the limitation considering the best interests of the child and circumstances of each parent. References to 125 percent of the federal poverty guideline do not specify whether they are for a one-person family or more.

Summary of Amended Bill:

Changes are made to child support statutes governing: a parent's obligation to provide medical support for a child; electronic funds transfer of income withheld by employers; the child support economic table; and the self-support reserve limitation.

Health Care Coverage.

Provisions governing a parent's obligation to provide medical support for a child under a child support order are revised. The definition of medical support is revised to include "health care coverage," rather than "health insurance coverage." Health care coverage may consist of health insurance coverage or public health care coverage.

"Public health care coverage" means state-financed or federally-financed medical coverage, including coverage through the Department of Social and Health Services (DSHS) and the Health Care Authority for children residing in Washington, and for children residing outside Washington, coverage through another state's agencies that administer state-purchased health care programs.

Provisions indicating that health insurance coverage does not include public medical assistance are removed. Numerous references to "health insurance" or "health insurance coverage" are revised to instead refer to health care coverage.

A child support order must include an obligation to provide health care coverage that is both accessible to all children named in the order and available at reasonable cost to the obligated parent. The court must allocate the cost of health care coverage between the parents.

The child's receipt of public health care coverage may not be the sole basis for excusing a parent from providing health insurance coverage through an employer or union. A parent who satisfies the obligation to provide health care coverage by enrolling the child in public health care coverage must also provide accessible health insurance coverage for the child if it is available at no cost to the parent through the parent's employer or union.

The fact that one parent enrolled the child in public health care coverage does not satisfy the other parent's health care coverage obligation unless the order provides otherwise. A parent may satisfy the health care coverage obligation by enrolling the child in available and accessible health insurance coverage of an employer or union if it is available for no more than 25 percent of the noncustodial parent's basic support obligation. If accessible health insurance coverage is not available through the parent's employer or union, the parent may satisfy the obligation by contributing a proportionate share of any premium paid by the other parent or the state for public health care coverage for the child.

Electronic Payments.

An employer or other business that has received an income withholding order from the DSHS requiring payment to the Washington State Support Registry must remit payments through electronic funds transfer under the following conditions:

- the income withholding order applies to an employee or contractor of the business, and the business has 10 or more employees or 10 or more contractors;
- the employer or business receives an income withholding order for more than one employee or contractor of the employer or business, even if the employer or business has fewer than 10 employees or contractors;
- the employer or business uses a payroll processor that has the capacity to transmit payments through electronic funds transfer; or
- the employer or business is required by the Department of Revenue to file and pay taxes electronically.

The DSHS may waive the requirements to remit payments electronically if the employer, business, or payroll processor is unable to comply despite good faith efforts or due to uncontrollable circumstances, and may terminate a waiver under specific circumstances.

All electronic funds transfer payments must identify the person from whom the payment was withheld, the amount of the payment, and the person's identifying number or case number assigned by the Division of Child Support (DCS).

The DCS may issue a notice of noncompliance if a business, employer, or payroll processor fails to comply with a requirement to remit payments by electronic funds transfer. The DCS may impose fines of up to \$100 per occurrence for noncompliance with the duty to remit withheld funds by electronic funds transfer. The DCS must provide written warning to the business, employer, or payroll processor prior to imposing fines. The written warning must:

- explain the duty to remit withheld payments by electronic means;
- explain the potential for fines for noncompliance; and
- provide a point of contact within the DCS for seeking assistance.

The DSHS has authority to adopt rules governing electronic funds transfer requirements for employers.

Economic Table.

The child support economic table recommended by the 2011 and 2015 Child Support Workgroups is adopted. Under the new economic table, the basic support obligation is based on the combined monthly net income of the parents and the number of children before the court. The new economic table no longer provides different basic support obligation amounts depending on the age of the children.

Self-Support Reserve.

References to 125 percent of the federal poverty guideline in the statute establishing self-support reserve limitations are clarified to refer to 125 percent of the federal poverty guideline for a one-person family.

Amended Bill Compared to Substitute Bill:

The amended bill provides a January 1, 2019, effective date for the provisions updating the child support economic table and the self-support reserve limitation. The amended bill also rewords language regarding the obligation of a parent to provide health care coverage even though the other parent has enrolled the child in public health care coverage.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 22, 2018.

Effective Date of Amended Bill: The bill takes effect January 1, 2019, except for sections 101 through 110, relating to medical support obligations, which take effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is designed to improve the child support enforcement program so that families receive the support they need. It allows health care coverage to include both private insurance and public health care coverage. This helps the state meet its state plan requirements, but it is also good for families because it will ensure that more children will have health care coverage. The bill also includes recommendations made by both the 2011 and 2015 Child Support Workgroups and provides efficiencies in processing child support payments.

(Opposed) None.

Persons Testifying: Senator Dhingra, prime sponsor; and David Stillman, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.