

SENATE BILL REPORT

ESHB 1814

As of March 15, 2017

Title: An act relating to notification requirements for the department of social and health services.

Brief Description: Concerning notification requirements for the department of social and health services.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman and Ortiz-Self; by request of Department of Social and Health Services).

Brief History: Passed House: 3/06/17, 97-1.

Committee Activity: Human Services, Mental Health & Housing:

Brief Summary of Bill

- Revises the method of notice for certain notices provided by the Department of Social and Health Services in specific instances.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Alison Mendiola (786-7444)

Background: Child Protective Services. When the Department of Social and Health Services (DSHS) completes an investigation of child abuse and neglect, DSHS notifies the subject of the report of the investigative findings DSHS provides this notice through certified mail, return receipt requested.

Residential Habilitation Centers (RHC). When a determination is made that the estate of a resident of an RHC is able to pay all or any portion of the charges, a notice and finding of responsibility is served on the guardian of the resident's estate. This notice includes the amount DSHS has determined the estate is able to pay and that the payment is due 28 days after personal service of this notice and finding of responsibility. Service is to be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The Secretary of DSHS (Secretary), if satisfied of the financial ability or inability of such person to make payments in accordance with the original

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finding, may modify or vacate the finding and enter a new finding of responsibility. This determination is served and appealable in the same manner and in accordance with the same procedure of the original findings of responsibility.

Economic Services Administration. After service of a notice of debt for overpayment for public assistance or food stamps by personal service or certified mail, return receipt requested, the Secretary of DSHS may issue an order to withhold and deliver that includes the amount of the debt. This order is served in the manner prescribed for the service of summons in a civil action or by certified mail, return receipt requested. The Secretary shall also, on the date on or before the date of service of the order to withhold and deliver, mail by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known address. In the alternative, a copy of the order to withhold and deliver is to be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter.

If an irregularity appears with respect to the mailing or service, the superior court, on motion of the debtor supported by an affidavit showing that the debtor suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver to the debtor an amount equal to the damages resulting from the Secretary's failures to serve on or mail to the debtor the copy.

Child Support. DSHS may serve upon a responsible parent a notice informing the responsible parent of DSHS's intent to submit the parent's name to the Department of Licensing (DOL) and any appropriate licensing entity as a licensee who is not in compliance with a child support order. Notice of service must be by certified mail, return receipt requested. If service by certified mail is not successful, service shall be by personal service.

Indian Child Welfare Act. The Indian Child Welfare Act (ICWA) is a federal law passed in 1978 that sets requirements that apply to state child custody proceedings involving an Indian child who is a member of, or eligible for membership in, a federally recognized tribe. In 2011, the Legislature enacted a state version of the ICWA, which creates uniform procedures for child custody cases involving Indian children. The state ICWA provides exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of that tribe, unless the tribe consents to state concurrent jurisdiction. In child welfare cases involving Indian children, the petitioning party must notify the parent or Indian custodian and the Indian child's tribe or tribes by certified mail. State courts must, in the absence of good cause to the contrary, transfer child welfare proceedings involving Indian children to the jurisdiction of the Indian child's tribe following a motion making that request. A tribe has 75 days to affirmatively respond to a motion or order transferring jurisdiction and may decline such jurisdiction.

Summary of Bill: Child Protective Services. When there is a finding of child abuse or neglect by DSHS, the subject receives notice by certified mail. If there is an unfounded finding, the subject is notified by regular mail to the person's last known address or by email.

Residential Habilitation Centers. When a determination is made that the estate of a resident of an RHC is able to pay all or any portion of the charges, an initial notice and finding of responsibility is to be served on the guardian of the resident's estate. This initial notice

includes the amount the DSHS has determined the estate is able to pay, and the payment is due 28 days after personal service of this notice and finding of responsibility. Service is to be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. Service of the initial notice is to be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested.

The Secretary, if satisfied of the financial ability or inability of such person to make payments in accordance with the initial finding, may modify or vacate the finding and enter a new finding of responsibility. This determination is served and appealable in the same manner and in accordance with the same procedure of the initial findings of responsibility.

Economic Services Administration. After service of a notice of debt for overpayment for public assistance or food stamps by personal service or certified mail, return receipt requested, the Secretary may issue an order to withhold and deliver that includes the amount of the debt. This order is to be served by regular mail, or with a party's agreement, electronically. The Secretary shall also, on the date on or before the date of service of the order to withhold and deliver, mail a copy of the order to withhold and deliver to the debtor at the debtor's last known address or, with a party's agreement, serve the order on the debtor electronically on or before the date of service of the order to withhold and deliver.

If an irregularity appears with respect to the mailing or service electronically, the superior court, on motion of the debtor supported by an affidavit showing that the debtor suffered substantial injury due to the failure to mail the copy or serve the copy electronically, may set aside the order to withhold and deliver to the debtor an amount equal to the damages resulting from the Secretary's failures to serve on or mail to the debtor the copy.

Child Support. If the support order establishing or modifying the child support obligation includes a statement required under RCW 26.23.050 that the responsible party's privileges to obtain and maintain a license may not be renewed or may be suspended if the parent is not in compliance with a support order, DSHS may send the notice required to the responsible parent by regular mail to the responsible parent's last known mailing address on file with DSHS, or by personal service. Notice by regular mail is deemed served three days from the date the notice was deposited with the United States Postal Service. However, if the support order does not include this language, notice of service must be by certified mail, return receipt requested with a copy of the responsible parent's child support order attached to the service. If service by certified mail is not successful, service shall be by personal service, as is currently required.

Indian Child Welfare Act. The address for which notice is sent to an Indian tribe regarding a child welfare proceeding involving an Indian child is specified to include the tribal agent designated by the Indian child's tribe for receipt of Indian Child Welfare Act notice, as published by the Bureau of Indian Affairs in the Federal Register.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: N/A.

Persons Signed In To Testify But Not Testifying: N/A.