
SUBSTITUTE HOUSE BILL 1814

State of Washington

65th Legislature

2017 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Goodman and Ortiz-Self; by request of Department of Social and Health Services)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to notification requirements for the department
2 of social and health services; and amending RCW 13.38.070, 26.44.100,
3 43.20B.430, 43.20B.435, 43.20B.635, and 74.20A.320.

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

5 **Sec. 1.** RCW 13.38.070 and 2011 c 309 s 7 are each amended to
6 read as follows:

7 (1) In any involuntary child custody proceeding seeking the
8 foster care placement of, or the termination of parental rights to, a
9 child in which the petitioning party or the court knows, or has
10 reason to know, that the child is or may be an Indian child as
11 defined in this chapter, the petitioning party shall notify the
12 parent or Indian custodian and the Indian child's tribe or tribes, by
13 certified mail, return receipt requested, and by use of a mandatory
14 Indian child welfare act notice addressed to the Indian child's tribe
15 or tribes designated Indian child welfare act contact listed in the
16 federal register or as designated by the tribe with the department on
17 the department web site. If the identity or location of the parent or
18 Indian custodian and the tribe cannot be determined, such notice
19 shall be given to the secretary of the interior by registered mail,
20 return receipt requested, in accordance with the regulations of the
21 bureau of Indian affairs. The secretary of the interior has fifteen

1 days after receipt to provide the requisite notice to the parent or
2 Indian custodian and the tribe. No foster care placement or
3 termination of parental rights proceeding shall be held until at
4 least ten days after receipt of notice by the parent or Indian
5 custodian and the tribe. The parent or Indian custodian or the tribe
6 shall, upon request, be granted up to twenty additional days to
7 prepare for the proceeding.

8 (2) The determination of the Indian status of a child shall be
9 made as soon as practicable in order to serve the best interests of
10 the Indian child and protect the interests of the child's tribe.

11 (3)(a) A written determination by an Indian tribe that a child is
12 a member of or eligible for membership in that tribe, or testimony by
13 the tribe attesting to such status shall be conclusive that the child
14 is an Indian child;

15 (b) A written determination by an Indian tribe that a child is
16 not a member of or eligible for membership in that tribe, or
17 testimony by the tribe attesting to such status shall be conclusive
18 that the child is not a member or eligible for membership in that
19 tribe. Such determinations are presumptively those of the tribe where
20 submitted in the form of a tribal resolution, or signed by or
21 testified to by the person(s) authorized by the tribe's governing
22 body to speak for the tribe, or by the tribe's agent designated to
23 receive notice under the federal Indian child welfare act where such
24 designation is published in the federal register;

25 (c) Where a tribe provides no response to notice under RCW
26 13.38.070, such nonresponse shall not constitute evidence that the
27 child is not a member or eligible for membership. Provided, however,
28 that under such circumstances the party asserting application of the
29 federal Indian child welfare act, or this chapter, will have the
30 burden of proving by a preponderance of the evidence that the child
31 is an Indian child.

32 (4)(a) Where a child has been determined not to be an Indian
33 child, any party to the proceeding, or an Indian tribe that
34 subsequently determines the child is a member, may, during the
35 pendency of any child custody proceeding to which this chapter or the
36 federal Indian child welfare act applies, move the court for
37 redetermination of the child's Indian status based upon new evidence,
38 redetermination by the child's tribe, or newly conferred federal
39 recognition of the tribe.

1 (b) This subsection (4) does not affect the rights afforded under
2 25 U.S.C. Sec. 1914.

3 **Sec. 2.** RCW 26.44.100 and 2005 c 512 s 1 are each amended to
4 read as follows:

5 (1) The legislature finds parents and children often are not
6 aware of their due process rights when agencies are investigating
7 allegations of child abuse and neglect. The legislature reaffirms
8 that all citizens, including parents, shall be afforded due process,
9 that protection of children remains the priority of the legislature,
10 and that this protection includes protecting the family unit from
11 unnecessary disruption. To facilitate this goal, the legislature
12 wishes to ensure that parents and children be advised in writing and
13 orally, if feasible, of their basic rights and other specific
14 information as set forth in this chapter, provided that nothing
15 contained in this chapter shall cause any delay in protective custody
16 action.

17 (2) The department shall notify the parent, guardian, or legal
18 custodian of a child of any allegations of child abuse or neglect
19 made against such person at the initial point of contact with such
20 person, in a manner consistent with the laws maintaining the
21 confidentiality of the persons making the complaints or allegations.
22 Investigations of child abuse and neglect should be conducted in a
23 manner that will not jeopardize the safety or protection of the child
24 or the integrity of the investigation process.

25 Whenever the department completes an investigation of a child
26 abuse or neglect report under this chapter (~~26.44—RCW~~), the
27 department shall notify the subject of the report of the department's
28 investigative findings. The notice shall also advise the subject of
29 the report that:

30 (a) A written response to the report may be provided to the
31 department and that such response will be filed in the record
32 following receipt by the department;

33 (b) Information in the department's record may be considered in
34 subsequent investigations or proceedings related to child protection
35 or child custody;

36 (c) Founded reports of child abuse and neglect may be considered
37 in determining whether the person is disqualified from being licensed
38 to provide child care, employed by a licensed child care agency, or
39 authorized by the department to care for children; and

1 (d) A subject named in a founded report of child abuse or neglect
2 has the right to seek review of the finding as provided in this
3 chapter.

4 (3) The founded finding notification required by this section
5 shall be made by certified mail, return receipt requested, to the
6 person's last known address.

7 (4) The unfounded finding notification required by this section
8 must be made by regular mail to the person's last known address or by
9 email.

10 (5) The duty of notification created by this section is subject
11 to the ability of the department to ascertain the location of the
12 person to be notified. The department shall exercise reasonable,
13 good-faith efforts to ascertain the location of persons entitled to
14 notification under this section.

15 ((+5)) (6) The department shall provide training to all
16 department personnel who conduct investigations under this section
17 that shall include, but is not limited to, training regarding the
18 legal duties of the department from the initial time of contact
19 during investigation through treatment in order to protect children
20 and families.

21 **Sec. 3.** RCW 43.20B.430 and 1989 c 175 s 99 are each amended to
22 read as follows:

23 In all cases where a determination is made that the estate of a
24 resident of a residential habilitation center is able to pay all or
25 any portion of the charges, ((a)) an initial notice and finding of
26 responsibility shall be served on the guardian of the resident's
27 estate, or if no guardian has been appointed then to the resident,
28 the resident's spouse, or other person acting in a representative
29 capacity and having property in his or her possession belonging to a
30 resident. The initial notice shall set forth the amount the
31 department has determined that such estate is able to pay, not to
32 exceed the charge as fixed in accordance with RCW 43.20B.420, and the
33 responsibility for payment to the department shall commence twenty-
34 eight days after ((personal)) service of such notice and finding of
35 responsibility. Service of the initial notice shall be in the manner
36 prescribed for the service of a summons in a civil action or may be
37 served by certified mail, return receipt requested. The return
38 receipt signed by addressee only is prima facie evidence of service.
39 An application for an adjudicative proceeding from the determination

1 of responsibility may be made to the secretary by the guardian of the
2 resident's estate, or if no guardian has been appointed then by the
3 resident, the resident's spouse, or other person acting in a
4 representative capacity and having property in his or her possession
5 belonging to a resident of a state school, within such twenty-eight
6 day period. The application must be written and served on the
7 secretary by registered or certified mail, or by personal service. If
8 no application is filed, the notice and finding of responsibility
9 shall become final. If an application is filed, the execution of
10 notice and finding of responsibility shall be stayed pending the
11 final adjudicative order. The hearing shall be conducted in a local
12 department office or other location in Washington convenient to the
13 appellant. The proceeding is governed by the Administrative Procedure
14 Act, chapter 34.05 RCW.

15 **Sec. 4.** RCW 43.20B.435 and 1979 c 141 s 240 are each amended to
16 read as follows:

17 The secretary, upon application of the guardian of the estate of
18 the resident, and after investigation, or upon investigation without
19 application, may, if satisfied of the financial ability or inability
20 of such person to make payments in accordance with the ~~((original))~~
21 initial finding of responsibility as provided for in RCW 43.20B.430,
22 modify or vacate such ~~((original))~~ initial finding of responsibility,
23 and enter a new finding of responsibility. The secretary's
24 determination to modify or vacate findings of responsibility shall be
25 served ~~((and))~~ by regular mail. A new finding of responsibility shall
26 be appealable in the same manner and in accordance with the same
27 procedure for appeals of ~~((original))~~ initial findings of
28 responsibility.

29 **Sec. 5.** RCW 43.20B.635 and 1990 c 100 s 1 are each amended to
30 read as follows:

31 (1) After service of a notice of debt for an overpayment as
32 provided for in RCW 43.20B.630, stating the debt accrued, the
33 secretary may issue to any person, firm, corporation, association,
34 political subdivision, or department of the state, an order to
35 withhold and deliver property of any kind including, but not
36 restricted to, earnings which are due, owing, or belonging to the
37 debtor, when the secretary has reason to believe that there is in the
38 possession of such person, firm, corporation, association, political

1 subdivision, or department of the state property which is due, owing,
2 or belonging to the debtor.

3 (2)(a) The order to withhold and deliver shall state the amount
4 of the debt, and shall state in summary the terms of this section,
5 RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C.
6 1673, and other state or federal exemption laws applicable generally
7 to debtors.

8 (b) The order to withhold and deliver shall be served (~~in the~~
9 ~~manner prescribed for the service of a summons in a civil action or~~
10 ~~by certified mail, return receipt requested~~) by regular mail or,
11 with a party's agreement, electronically.

12 (3)(a) Any person, firm, corporation, association, political
13 subdivision, or department of the state upon whom service has been
14 made shall answer the order to withhold and deliver within twenty
15 days, exclusive of the day of service, under oath and in writing, and
16 shall make true answers to the matters inquired of therein.

17 (b) The secretary may require further and additional answers to
18 be completed by the person, firm, corporation, association, political
19 subdivision, or department of the state.

20 (c) If any such person, firm, corporation, association, political
21 subdivision, or department of the state possesses any property which
22 may be subject to the claim of the department of social and health
23 services, such property shall be withheld immediately upon receipt of
24 the order to withhold and deliver and shall, after the twenty-day
25 period, upon demand, be delivered forthwith to the secretary.

26 (d) The secretary shall hold the property in trust for
27 application on the indebtedness involved or for return, without
28 interest, in accordance with final determination of liability or
29 nonliability. In the alternative, there may be furnished to the
30 secretary a good and sufficient bond, satisfactory to the secretary,
31 conditioned upon final determination of liability.

32 (e) Where money is due and owing under any contract of
33 employment, express or implied, or is held by any person, firm,
34 corporation, association, political subdivision, or department of the
35 state subject to withdrawal by the debtor, such money shall be
36 delivered by remittance payable to the order of the secretary.
37 Delivery to the secretary, subject to the exemptions under RCW
38 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673,
39 and other state or federal law applicable generally to debtors, of
40 the money or other property held or claimed satisfies the requirement

1 of the order to withhold and deliver. Delivery to the secretary
2 serves as full acquittance, and the state warrants and represents
3 that it shall defend and hold harmless for such actions persons
4 delivering money or property to the secretary pursuant to this
5 chapter. The state also warrants and represents that it shall defend
6 and hold harmless for such actions persons withholding money or
7 property pursuant to this chapter.

8 (4)(a) The secretary shall also, on or before the date of service
9 of the order to withhold and deliver, mail or cause to be mailed (~~by~~
10 ~~certified mail~~) a copy of the order to withhold and deliver to the
11 debtor at the debtor's last known post office address((~~r~~)) or, (~~in~~
12 ~~the alternative, a copy of the order to withhold and deliver shall be~~
13 ~~served on the debtor in the same manner as a summons in a civil~~
14 ~~action on or before the date of service of the order or within two~~
15 ~~days thereafter~~)) with a party's agreement serve the order upon the
16 debtor electronically on or before the date of service of the order
17 to withhold and deliver.

18 (b) The copy of the order shall be mailed or served together with
19 a concise explanation of the right to petition for a hearing on any
20 issue related to the collection. This requirement is not
21 jurisdictional, but, if the copy is not mailed or served as provided
22 in this section, or if any irregularity appears with respect to the
23 mailing or service electronically, the superior court, on its
24 discretion on motion of the debtor promptly made and supported by
25 affidavit showing that the debtor has suffered substantial injury due
26 to the failure to mail the copy or serve the copy electronically, may
27 set aside the order to withhold and deliver and award to the debtor
28 an amount equal to the damages resulting from the secretary's failure
29 to serve on or mail to the debtor the copy.

30 **Sec. 6.** RCW 74.20A.320 and 2009 c 408 s 1 are each amended to
31 read as follows:

32 (1) The department may serve upon a responsible parent a notice
33 informing the responsible parent of the department's intent to submit
34 the parent's name to the department of licensing and any appropriate
35 licensing entity as a licensee who is not in compliance with a child
36 support order. (~~The department shall attach a copy of the~~
37 ~~responsible parent's child support order to the notice.~~)

38 (a) If the support order establishing or modifying the child
39 support obligation includes a statement required under RCW 26.23.050

1 that the responsible parent's privileges to obtain and maintain a
2 license may not be renewed or may be suspended if the parent is not
3 in compliance with a support order, the department may send the
4 notice required by this section to the responsible parent by regular
5 mail, addressed to the responsible parent's last known mailing
6 address on file with the department or by personal service. Notice by
7 regular mail is deemed served three days from the date the notice was
8 deposited with the United States postal service.

9 (b) If the support order does not include a statement as required
10 under RCW 26.23.050 that the responsible parent's privileges to
11 obtain and maintain a license may not be renewed or may be suspended
12 if the parent is not in compliance with a support order, service of
13 the notice required by this section to the responsible parent must be
14 by certified mail, return receipt requested. The department must
15 attach a copy of the responsible parent's child support order to the
16 notice. If service by certified mail is not successful, service shall
17 be by personal service.

18 (2) The notice of noncompliance must include the following
19 information:

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

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

26 (i) Pay the overdue support amount in full;

27 (ii) Request an adjudicative proceeding as provided in RCW
28 74.20A.322;

29 (iii) Agree to a payment schedule with the department as provided
30 in RCW 74.20A.326; or

31 (iv) File an action to modify the child support order with the
32 appropriate court or administrative forum, in which case the
33 department will stay the certification process up to six months;

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

39 (i) The licensing entity will suspend or not renew the parent's
40 license and the department of licensing will suspend or not renew any

1 driver's license that the parent holds until the parent provides the
2 department of licensing and the licensing entity with a release from
3 the department stating that the responsible parent is in compliance
4 with the child support order;

5 (ii) The department of fish and wildlife will suspend a fishing
6 license, hunting license, occupational licenses, such as a commercial
7 fishing license, or any other license issued under chapter 77.32 RCW
8 that the responsible parent may possess, and suspension of a license
9 by the department of fish and wildlife may also affect the parent's
10 ability to obtain permits, such as special hunting permits, issued by
11 the department. Notice from the department of licensing that a
12 responsible parent's driver's license has been suspended shall serve
13 as notice of the suspension of a license issued under chapter 77.32
14 RCW;

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

18 (e) If the responsible parent subsequently comes into compliance
19 with the child support order, the department will promptly provide
20 the parent and the appropriate licensing entities with a release
21 stating that the parent is in compliance with the order.

22 (3) When a responsible parent who is served notice under
23 subsection (1) of this section subsequently complies with the child
24 support order, a copy of a release stating that the responsible
25 parent is in compliance with the order shall be transmitted by the
26 department to the appropriate licensing entities.

27 (4) The department of licensing and a licensing entity may renew,
28 reinstate, or otherwise extend a license in accordance with the
29 licensing entity's or the department of licensing's rules after the
30 licensing entity or the department of licensing receives a copy of
31 the release specified in subsection (3) of this section. The
32 department of licensing and a licensing entity may waive any
33 applicable requirement for reissuance, renewal, or other extension if
34 it determines that the imposition of that requirement places an undue
35 burden on the person and that waiver of the requirement is consistent
36 with the public interest.

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