
SENATE BILL 5490

State of Washington

65th Legislature

2017 Regular Session

By Senators O'Ban, Pedersen, Hunt, and Darneille; by request of Department of Social and Health Services

Read first time 01/26/17. Referred to Committee on Human Services, Mental Health & Housing.

1 AN ACT Relating to notification requirements for the department
2 of social and health services; and amending RCW 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 26.44.100 and 2005 c 512 s 1 are each amended to
6 read as follows:

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

19 (2) The department shall notify the parent, guardian, or legal
20 custodian of a child of any allegations of child abuse or neglect
21 made against such person at the initial point of contact with such

1 person, in a manner consistent with the laws maintaining the
2 confidentiality of the persons making the complaints or allegations.
3 Investigations of child abuse and neglect should be conducted in a
4 manner that will not jeopardize the safety or protection of the child
5 or the integrity of the investigation process.

6 Whenever the department completes an investigation of a child
7 abuse or neglect report under this chapter (~~(26.44—RCW)~~), the
8 department shall notify the subject of the report of the department's
9 investigative findings. The notice shall also advise the subject of
10 the report that:

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

14 (b) Information in the department's record may be considered in
15 subsequent investigations or proceedings related to child protection
16 or child custody;

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

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

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

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

30 (5) The duty of notification created by this section is subject
31 to the ability of the department to ascertain the location of the
32 person to be notified. The department shall exercise reasonable,
33 good-faith efforts to ascertain the location of persons entitled to
34 notification under this section.

35 (~~(+5)~~) (6) The department shall provide training to all
36 department personnel who conduct investigations under this section
37 that shall include, but is not limited to, training regarding the
38 legal duties of the department from the initial time of contact
39 during investigation through treatment in order to protect children
40 and families.

1 **Sec. 2.** RCW 43.20B.430 and 1989 c 175 s 99 are each amended to
2 read as follows:

3 In all cases where a determination is made that the estate of a
4 resident of a residential habilitation center is able to pay all or
5 any portion of the charges, ((a)) an initial notice and finding of
6 responsibility shall be served on the guardian of the resident's
7 estate, or if no guardian has been appointed then to the resident,
8 the resident's spouse, or other person acting in a representative
9 capacity and having property in his or her possession belonging to a
10 resident. The initial notice shall set forth the amount the
11 department has determined that such estate is able to pay, not to
12 exceed the charge as fixed in accordance with RCW 43.20B.420, and the
13 responsibility for payment to the department shall commence twenty-
14 eight days after ((personal)) service of such notice and finding of
15 responsibility. Service of the initial notice shall be in the manner
16 prescribed for the service of a summons in a civil action or may be
17 served by certified mail, return receipt requested. The return
18 receipt signed by addressee only is prima facie evidence of service.
19 An application for an adjudicative proceeding from the determination
20 of responsibility may be made to the secretary by the guardian of the
21 resident's estate, or if no guardian has been appointed then by the
22 resident, the resident's spouse, or other person acting in a
23 representative capacity and having property in his or her possession
24 belonging to a resident of a state school, within such twenty-eight
25 day period. The application must be written and served on the
26 secretary by registered or certified mail, or by personal service. If
27 no application is filed, the notice and finding of responsibility
28 shall become final. If an application is filed, the execution of
29 notice and finding of responsibility shall be stayed pending the
30 final adjudicative order. The hearing shall be conducted in a local
31 department office or other location in Washington convenient to the
32 appellant. The proceeding is governed by the Administrative Procedure
33 Act, chapter 34.05 RCW.

34 **Sec. 3.** RCW 43.20B.435 and 1979 c 141 s 240 are each amended to
35 read as follows:

36 The secretary, upon application of the guardian of the estate of
37 the resident, and after investigation, or upon investigation without
38 application, may, if satisfied of the financial ability or inability
39 of such person to make payments in accordance with the ((original))

1 initial finding of responsibility as provided for in RCW 43.20B.430,
2 modify or vacate such (~~(original)~~) initial finding of responsibility,
3 and enter a new finding of responsibility. The secretary's
4 determination to modify or vacate findings of responsibility shall be
5 served (~~and~~) by regular mail. A new finding of responsibility shall
6 be appealable in the same manner and in accordance with the same
7 procedure for appeals of (~~original~~) initial findings of
8 responsibility.

9 **Sec. 4.** RCW 43.20B.635 and 1990 c 100 s 1 are each amended to
10 read as follows:

11 (1) After service of a notice of debt for an overpayment as
12 provided for in RCW 43.20B.630, stating the debt accrued, the
13 secretary may issue to any person, firm, corporation, association,
14 political subdivision, or department of the state, an order to
15 withhold and deliver property of any kind including, but not
16 restricted to, earnings which are due, owing, or belonging to the
17 debtor, when the secretary has reason to believe that there is in the
18 possession of such person, firm, corporation, association, political
19 subdivision, or department of the state property which is due, owing,
20 or belonging to the debtor.

21 (2)(a) The order to withhold and deliver shall state the amount
22 of the debt, and shall state in summary the terms of this section,
23 RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C.
24 1673, and other state or federal exemption laws applicable generally
25 to debtors.

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

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

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

38 (c) If any such person, firm, corporation, association, political
39 subdivision, or department of the state possesses any property which

1 may be subject to the claim of the department of social and health
2 services, such property shall be withheld immediately upon receipt of
3 the order to withhold and deliver and shall, after the twenty-day
4 period, upon demand, be delivered forthwith to the secretary.

5 (d) The secretary shall hold the property in trust for
6 application on the indebtedness involved or for return, without
7 interest, in accordance with final determination of liability or
8 nonliability. In the alternative, there may be furnished to the
9 secretary a good and sufficient bond, satisfactory to the secretary,
10 conditioned upon final determination of liability.

11 (e) Where money is due and owing under any contract of
12 employment, express or implied, or is held by any person, firm,
13 corporation, association, political subdivision, or department of the
14 state subject to withdrawal by the debtor, such money shall be
15 delivered by remittance payable to the order of the secretary.
16 Delivery to the secretary, subject to the exemptions under RCW
17 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673,
18 and other state or federal law applicable generally to debtors, of
19 the money or other property held or claimed satisfies the requirement
20 of the order to withhold and deliver. Delivery to the secretary
21 serves as full acquittance, and the state warrants and represents
22 that it shall defend and hold harmless for such actions persons
23 delivering money or property to the secretary pursuant to this
24 chapter. The state also warrants and represents that it shall defend
25 and hold harmless for such actions persons withholding money or
26 property pursuant to this chapter.

27 (4)(a) The secretary shall also, on or before the date of service
28 of the order to withhold and deliver, mail or cause to be mailed (~~by~~
29 ~~certified mail~~) a copy of the order to withhold and deliver to the
30 debtor at the debtor's last known post office address(~~(τ)~~) or, (~~in~~
31 ~~the alternative, a copy of the order to withhold and deliver shall be~~
32 ~~served on the debtor in the same manner as a summons in a civil~~
33 ~~action on or before the date of service of the order or within two~~
34 ~~days thereafter~~) with a party's agreement serve the order upon the
35 debtor electronically on or before the date of service of the order
36 to withhold and deliver.

37 (b) The copy of the order shall be mailed or served together with
38 a concise explanation of the right to petition for a hearing on any
39 issue related to the collection. This requirement is not
40 jurisdictional, but, if the copy is not mailed or served as provided

1 in this section, or if any irregularity appears with respect to the
2 mailing or service electronically, the superior court, on its
3 discretion on motion of the debtor promptly made and supported by
4 affidavit showing that the debtor has suffered substantial injury due
5 to the failure to mail the copy or serve the copy electronically, may
6 set aside the order to withhold and deliver and award to the debtor
7 an amount equal to the damages resulting from the secretary's failure
8 to serve on or mail to the debtor the copy.

9 **Sec. 5.** RCW 74.20A.320 and 2009 c 408 s 1 are each amended to
10 read as follows:

11 (1) The department may serve upon a responsible parent a notice
12 informing the responsible parent of the department's intent to submit
13 the parent's name to the department of licensing and any appropriate
14 licensing entity as a licensee who is not in compliance with a child
15 support order. (~~The department shall attach a copy of the~~
16 ~~responsible parent's child support order to the notice.~~)

17 (a) If the support order establishing or modifying the child
18 support obligation includes a statement required under RCW 26.23.050
19 that the responsible parent's privileges to obtain and maintain a
20 license may not be renewed or may be suspended if the parent is not
21 in compliance with a support order, the department may send the
22 notice required by this section to the responsible parent by regular
23 mail, addressed to the responsible parent's last known mailing
24 address on file with the department or by personal service. Notice by
25 regular mail is deemed served three days from the date the notice was
26 deposited with the United States postal service.

27 (b) If the support order does not include a statement as required
28 under RCW 26.23.050 that the responsible parent's privileges to
29 obtain and maintain a license may not be renewed or may be suspended
30 if the parent is not in compliance with a support order, service of
31 the notice required by this section to the responsible parent must be
32 by certified mail, return receipt requested. The department must
33 attach a copy of the responsible parent's child support order to the
34 notice. If service by certified mail is not successful, service shall
35 be by personal service.

36 (2) The notice of noncompliance must include the following
37 information:

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

1 (b) That in order to prevent the department from certifying the
2 parent's name to the department of licensing or any other licensing
3 entity, the parent has twenty days from receipt of the notice to
4 contact the department and:

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

6 (ii) Request an adjudicative proceeding as provided in RCW
7 74.20A.322;

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

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

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

18 (i) The licensing entity will suspend or not renew the parent's
19 license and the department of licensing will suspend or not renew any
20 driver's license that the parent holds until the parent provides the
21 department of licensing and the licensing entity with a release from
22 the department stating that the responsible parent is in compliance
23 with the child support order;

24 (ii) The department of fish and wildlife will suspend a fishing
25 license, hunting license, occupational licenses, such as a commercial
26 fishing license, or any other license issued under chapter 77.32 RCW
27 that the responsible parent may possess, and suspension of a license
28 by the department of fish and wildlife may also affect the parent's
29 ability to obtain permits, such as special hunting permits, issued by
30 the department. Notice from the department of licensing that a
31 responsible parent's driver's license has been suspended shall serve
32 as notice of the suspension of a license issued under chapter 77.32
33 RCW;

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

37 (e) If the responsible parent subsequently comes into compliance
38 with the child support order, the department will promptly provide
39 the parent and the appropriate licensing entities with a release
40 stating that the parent is in compliance with the order.

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

6 (4) The department of licensing and a licensing entity may renew,
7 reinstate, or otherwise extend a license in accordance with the
8 licensing entity's or the department of licensing's rules after the
9 licensing entity or the department of licensing receives a copy of
10 the release specified in subsection (3) of this section. The
11 department of licensing and a licensing entity may waive any
12 applicable requirement for reissuance, renewal, or other extension if
13 it determines that the imposition of that requirement places an undue
14 burden on the person and that waiver of the requirement is consistent
15 with the public interest.

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