
SENATE BILL 5597

State of Washington

65th Legislature

2017 Regular Session

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

Read first time 01/31/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to requiring electronic payments to the division
2 of child support when remitting funds in response to an order to
3 withhold income; amending RCW 74.20A.350; adding a new section to
4 chapter 26.23 RCW; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.23
7 RCW to read as follows:

8 (1) The definitions in this subsection apply throughout this
9 section unless the context clearly requires otherwise.

10 (a) "Electronic funds transfer" means any transfer of funds,
11 other than a transaction originated or accomplished by conventional
12 check, drafts, or similar paper instrument, which is initiated
13 through an electronic terminal, telephonic instrument, or computer or
14 magnetic tape so as to order, instruct, or authorize a financial
15 institution to debit or credit a checking or other deposit account.

16 "Electronic funds transfer" includes payments made:

17 (i) By electronic check (echeck); and

18 (ii) By any means made available through the division of child
19 support's web-based payment services.

1 (b) "Income withholding order" means an order to withhold income,
2 order to withhold and deliver, or notice of payroll deduction issued
3 under this chapter or chapter 26.10, 26.18, 74.20, or 74.20A RCW.

4 (c) "Payroll processor" means a person, entity, agent, or company
5 which provides payroll services to an employer or other business such
6 as calculating paychecks and providing electronic funds transfer
7 services for payments to employees and other entities.

8 (2) Except as provided in subsection (4) of this section, an
9 employer or other business that has received an income withholding
10 order from the department of social and health services requiring
11 payment to the Washington state support registry must remit payments
12 through electronic funds transfer when the following conditions
13 apply:

14 (a) The income withholding order applies to a person who is
15 either an employee or contractor of the business, and the employer or
16 business has:

17 (i) Ten or more employees; or

18 (ii) Ten or more contractors;

19 (b) The employer or business has received an income withholding
20 order for more than one employee or contractor, even if the employer
21 or business has fewer than ten employees or contractors, but has
22 received an income withholding order for more than one employee or
23 contractor;

24 (c) The employer or business uses a payroll processor to handle
25 its payroll, payment, and tax processes and the payroll processor has
26 the capacity to transmit payments through electronic funds transfer;
27 or

28 (d) The employer or business is required by the department of
29 revenue to file and pay taxes electronically under RCW 82.32.080.

30 (3) All electronic funds transfer payments must identify the
31 person from whom the payment was withheld, the amount of the payment,
32 the person's identifying number assigned by the division of child
33 support, or the division of child support case number to which the
34 payment is to be applied. If a business, employer, or payroll
35 processor required to remit payments by electronic funds transfer
36 under this section fails to comply with this requirement, the
37 division of child support may issue a notice of noncompliance
38 pursuant to RCW 74.20A.350.

39 (4) The department may waive the requirement to remit payments
40 electronically for a business, employer, or payroll processor that is

1 unable to comply despite good faith efforts or due to circumstances
2 beyond that entity's reasonable control. Grounds for approving a
3 waiver include, but are not limited to, circumstances in which:

4 (a) The business, employer, or payroll processor does not have a
5 computer that meets the minimum standards necessary for electronic
6 remittance;

7 (b) Additional time is needed to program the entity's computer;

8 (c) The business, employer, or payroll processor does not
9 currently file data electronically with any business or government
10 agency;

11 (d) Compliance conflicts with the entity's business procedures;

12 (e) Compliance would cause a financial hardship.

13 (5) The department has the discretion to terminate a waiver
14 granted under subsection (4) of this section if:

15 (a) The business or employer has received at least one income
16 withholding order for a person or employee and has failed to withhold
17 or failed to withhold within the time provided in the order at least
18 twice;

19 (b) The business, employer, or payroll processor has submitted at
20 least one dishonored check; or

21 (c) The business, employer, or payroll processor continues to
22 incorrectly identify withholdings or makes other errors that affect
23 proper distribution of the support, despite contact and information
24 from the department on how to correct the error.

25 (6) The department of social and health services has rule-making
26 authority to enact rules in compliance with this section, including,
27 but not limited to:

28 (a) The necessary conditions required for a business, employer,
29 or payroll processor to electronically remit child support payments
30 to the Washington state support registry;

31 (b) Options for electronic funds transfers and the process by
32 which one must comply in order to establish such payment
33 arrangements;

34 (c) Which types of payment meet the definition of electronic
35 funds transfer; and

36 (d) Reasons for exemption from the requirement to remit funds by
37 electronic funds transfer.

38 **Sec. 2.** RCW 74.20A.350 and 1997 c 58 s 893 are each amended to
39 read as follows:

1 (1) The division of child support may issue a notice of
2 noncompliance to any person, firm, entity, or agency of state or
3 federal government that the division believes is not complying with:

4 (a) A notice of payroll deduction issued under chapter 26.23 RCW;

5 (b) A lien, order to withhold and deliver, or assignment of
6 earnings issued under this chapter;

7 (c) Any other wage assignment, garnishment, attachment, or
8 withholding instrument properly served by the agency or firm
9 providing child support enforcement services for another state, under
10 Title IV-D of the federal social security act;

11 (d) A subpoena issued by the division of child support, or the
12 agency or firm providing child support enforcement for another state,
13 under Title IV-D of the federal social security act;

14 (e) An information request issued by the division of child
15 support, or the agency or firm providing child support enforcement
16 for another state under Title IV-D of the federal social security
17 act, to an employer or entity required to respond to such requests
18 under RCW 74.20A.360; (~~or~~)

19 (f) The duty to report newly hired employees imposed by RCW
20 26.23.040; or

21 (g) The duty of a business, employer, or payroll processor that
22 has received an income withholding order from the department of
23 social and health services requiring payment to the Washington state
24 support registry to remit withheld funds by electronic means imposed
25 by section 1 of this act.

26 (2) Liability for noncompliance with a wage withholding,
27 garnishment, order to withhold and deliver, or any other lien or
28 attachment issued to secure payment of child support is governed by
29 RCW 26.23.090 and 74.20A.100, except that liability for noncompliance
30 with remittance time frames is governed by subsection (~~(3)~~) (4) of
31 this section.

32 (3) Fines for noncompliance by a business, employer, or payroll
33 processor with the duty to remit withheld funds by electronic means
34 imposed by section 1 of this act are governed by subsection (4)(c) of
35 this section.

36 (4) The division of child support may impose fines of up to one
37 hundred dollars per occurrence for:

38 (a) Noncompliance with a subpoena or an information request
39 issued by the division of child support, or the agency or firm

1 providing child support enforcement services for another state under
2 Title IV-D of the federal social security act;

3 (b) Noncompliance with the required time frames for remitting
4 withheld support moneys to the Washington state support registry, or
5 the agency or firm providing child support enforcement services for
6 another state, except that no liability shall be established for
7 failure to make timely remittance unless the division of child
8 support has provided the person, firm, entity, or agency of state or
9 federal government with written warning:

10 (i) Explaining the duty to remit withheld payments promptly;

11 (ii) Explaining the potential for fines for delayed submission;

12 and

13 (iii) Providing a contact person within the division of child
14 support with whom the person, firm, entity, or agency of state or
15 federal government may seek assistance with child support withholding
16 issues;

17 (c) A business, employer, or payroll processor's noncompliance
18 with the duty to remit withheld funds by electronic means imposed by
19 section 1 of this act. The division of child support may not impose
20 fines for failure to comply with this requirement unless it has
21 provided the person, firm, entity, or agency of state or federal
22 government with written warning:

23 (i) Explaining the duty to remit withheld payments by electronic
24 means;

25 (ii) Explaining the potential for fines for failure to remit
26 withheld payments by electronic means when required under section 1
27 of this act; and

28 (iii) Providing a contact person within the division of child
29 support with whom the person, firm, entity, or agency of state or
30 federal government may seek assistance with child support withholding
31 issues.

32 ~~((4))~~ (5) The division of child support may assess fines
33 according to RCW 26.23.040 for failure to comply with employer
34 reporting requirements.

35 ~~((5))~~ (6) The division of child support may suspend licenses
36 for failure to comply with a subpoena issued under RCW 74.20.225.

37 ~~((6))~~ (7) The division of child support may serve a notice of
38 noncompliance by personal service or by any method of mailing
39 requiring a return receipt.

1 (~~(7)~~) (8) The liability asserted by the division of child
2 support in the notice of noncompliance becomes final and collectible
3 on the twenty-first day after the date of service, unless within that
4 time the person, firm, entity, or agency of state or federal
5 government:

6 (a) Initiates an action in superior court to contest the notice
7 of noncompliance;

8 (b) Requests a hearing by delivering a hearing request to the
9 division of child support in accordance with rules adopted by the
10 secretary under this section; or

11 (c) Contacts the division of child support and negotiates an
12 alternate resolution to the asserted noncompliance or demonstrates
13 that the person, firm, entity, or agency of state or federal
14 government has complied with the child support processes.

15 (~~(8)~~) (9) The notice of noncompliance shall contain:

16 (a) A full and fair disclosure of the rights and obligations
17 created by this section; and

18 (b) Identification of the:

19 (i) Child support process with respect to which the division of
20 child support is alleging noncompliance; and

21 (ii) State child support enforcement agency issuing the original
22 child support process.

23 (~~(9)~~) (10) In an administrative hearing convened under
24 subsection (~~(7)~~) (8)(b) of this section, the presiding officer
25 shall determine whether or not, and to what extent, liability for
26 noncompliance exists under this section, and shall enter an order
27 containing these findings. If liability does exist, the presiding
28 officer shall include language in the order advising the parties to
29 the proceeding that the liability may be collected by any means
30 available to the division of child support under subsection (~~(12)~~)
31 (13) of this section without further notice to the liable party.

32 (~~(10)~~) (11) Hearings under this section are governed by the
33 administrative procedure act, chapter 34.05 RCW.

34 (~~(11)~~) (12) After the twenty days following service of the
35 notice, the person, firm, entity, or agency of state or federal
36 government may petition for a late hearing. A petition for a late
37 hearing does not stay any collection action to recover the debt. A
38 late hearing is available upon a showing of any of the grounds stated
39 in civil rule 60 for the vacation of orders.

1 (~~(12)~~) (13) The division of child support may collect any
2 obligation established under this section using any of the remedies
3 available under chapter 26.09, 26.18, 26.21A, 26.23, 74.20, or 74.20A
4 RCW for the collection of child support.

5 (~~(13)~~) (14) The division of child support may enter agreements
6 for the repayment of obligations under this section. Agreements may:

7 (a) Suspend the obligation imposed by this section conditioned on
8 future compliance with child support processes. Such suspension shall
9 end automatically upon any failure to comply with a child support
10 process. Amounts suspended become fully collectible without further
11 notice automatically upon failure to comply with a child support
12 process;

13 (b) Resolve amounts due under this section and provide for
14 repayment.

15 (~~(14)~~) (15) The secretary may adopt rules to implement this
16 section.

17 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2018.

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