

SENATE BILL REPORT

HB 1262

As of March 21, 2023

Title: An act relating to establishing a lump sum reporting system.

Brief Description: Establishing a lump sum reporting system.

Sponsors: Representatives Walen, Reed and Davis; by request of Department of Social and Health Services.

Brief History: Passed House: 2/9/23, 97-0.

Committee Activity: Law & Justice: 3/21/23.

Brief Summary of Bill

- Requires an employer to notify the Division of Child Support (DCS) before making any lump sum payment of \$500 or more to a parent who is responsible for child support.
- Permits the employer to disburse one-half of the disposable earnings portion of the lump sum payment to the responsible parent and prohibits the employer from disbursing the remaining amount of the lump sum payment within a specified time period after notifying DCS.
- Requires DCS to respond to the notifying employer by releasing the lump sum payment for disbursement to the responsible parent or by specifying the amount of the lump sum payment to be remitted to DCS on behalf of the responsible parent.
- Exempts an employer from liability for reporting or withholding and remitting a lump sum payment.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

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). DSHS Division of Child Support (DCS) 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.

Both federal and state law authorizes DCS to enforce child support obligations through various means, including by issuing an income withholding order, which means an order to withhold income, order to withhold and deliver, or notice of payroll deduction.

Upon service of an income withholding order, the employer must make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington State Support Registry within seven working days of the date the earnings are payable to the responsible parent. Each pay period thereafter, the employer must deduct the amount stated in the order divided by the number of pay periods per month. The payroll deduction each pay period may not exceed 50 percent of the responsible parent's disposable earnings.

An employer served with an income withholding order must answer to DCS within 20 days after the date of service and confirm that the employer complied and instituted the payroll deduction or explain the circumstances if no payroll deduction is in effect.

DCS may issue a notice of noncompliance to any person, entity, or agency that DCS believes is not complying with an income withholding order. An employer's liability for noncompliance with an income withholding order includes liability for the amount of support moneys which should have been withheld from the employee's earnings; costs, including staff costs; and reasonable attorneys' fees.

Summary of Bill: "Lump sum payment" means income other than a periodic recurring payment of earnings on regular paydays and includes discretionary and nondiscretionary bonuses, commissions, merit increases, moving and relocation incentive payments, severance pay, workers' compensation, insurance settlements, and personal injury settlements paid as replacement for wages owed. Lump sum payment does not include reimbursement for expenses.

An employer who has been served with an income withholding order that includes a provision for payment toward child support arrears must notify DCS before making any lump sum payment of more than \$500 to the parent responsible for child support. An employer may report to DCS a lump sum payment of a smaller amount or an amount yet to be determined. Notice to DCS may be provided by contacting DCS or the federal Office of Child Support Enforcement.

The reporting employer must determine the portion of the lump sum payment which

consists of disposable earnings and may disburse 50 percent of that amount to the responsible parent. Unless otherwise agreed to by the employer and DCS, the employer may not disburse the remaining amount of the lump sum payment before the earlier of:

- the fifteenth calendar day after the employer reports the lump sum payment; or
- the date on which the income payer receives authorization from DCS to make all or a portion of the lump sum payment.

DCS must respond to the employer within 14 calendar days after receiving the employer's notice of a lump sum payment and provide:

- a written release indicating that some or all of the portion of the lump sum payment retained by the income payer may be disbursed to the obligor; or
- an amended or supplemental income withholding order or other written demand specifying the amount of the lump sum payment to be remitted to DCS on behalf of the responsible parent.

Failure to timely provide notice of a lump sum payment may constitute noncompliance under the provisions that authorize the DCS to issue a notice of compliance. An employer is not civilly liable to the responsible parent for reporting, withholding, and remitting a lump sum payment.

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: PRO: This bill is a technical fix to ensure that employers report lump sum payments in advance so that these payments can be intercepted for child support. Millions of dollars in back child support are due in Washington at this time, and everything should be done to support families and children that need this money for daily needs. Nearly 74% of the Division of Child Support's (DCS) collections are done through employers. Currently, only some employers report bonuses to DCS. This bill gives DCS advance notice of bonuses worth \$500 or more, and an opportunity to direct a portion of such bonuses to unpaid child support. Employers will only need to report bonuses of employees subject to wage withholding and that have unpaid child support debt. Having appropriate procedures in place will ensure that children and families receive money, while fulfilling employers' concept of providing bonuses to employees. This bill reflects a model law developed by a national work group including the American Payroll Association, the federal Office of Child Support Enforcement, many employers, and many states.

Persons Testifying: PRO: Representative Amy Walen, Prime Sponsor; Alice Jacobsohn, American Payroll Association; Sharon Redmond, Washington State DSHS, Division of

Child Support.

Persons Signed In To Testify But Not Testifying: No one.