
SENATE BILL 5255

State of Washington

68th Legislature

2023 Regular Session

By Senators Kuderer, Nobles, Trudeau, Wagoner, and Wellman; by request of Department of Social and Health Services

Read first time 01/11/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to establishing a lump sum reporting system;
2 amending RCW 26.23.020, 26.23.060, and 26.23.070; adding a new
3 section to chapter 26.23 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes the
6 importance of child support for families and the crucial role
7 employers play as the primary source of income for many parents who
8 owe child support.

9 (2) The legislature finds that when states have adopted a program
10 for withholding and collection of lump sum payments from employers
11 for child support arrears, those states have seen an increase in
12 funds going to children. Employers, however, face a risk of liability
13 for failing to timely pay employees their earned income by holding a
14 lump sum payment pending a state response on whether arrears for
15 child support are owed and withholding is required. Employers also
16 face a risk of liability if a lump sum payment is released to an
17 employee before receiving a state response about arrears for child
18 support and withholding, even if the employer is complying with state
19 wage and hour laws.

20 (3) As a result, the legislature finds that adopting a program
21 for withholding and collection of lump sum payments from employers

1 for child support arrears that states the requirements of the
2 department of social and health services and employers benefits
3 families by increasing funds going to children and also mitigates
4 risks to employers.

5 **Sec. 2.** RCW 26.23.020 and 1987 c 435 s 2 are each amended to
6 read as follows:

7 (1) The definitions contained in RCW 74.20A.020 shall be
8 incorporated into and made a part of this chapter.

9 (2) "Support order" means a superior court order or
10 administrative order, as defined in RCW 74.20A.020.

11 (3) "Earnings" means compensation paid or payable for personal
12 services, whether denominated as wages, salary, commission, bonus, or
13 otherwise, and, notwithstanding any other provision of law making the
14 payments exempt from garnishment, attachment, or other process to
15 satisfy support obligations, specifically includes periodic payments
16 pursuant to pension or retirement programs, or insurance policies of
17 any type, but does not include payments made under Title 50 RCW,
18 except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.
19 Earnings shall specifically include all gain from capital, from
20 labor, or from both combined, not including profit gained through
21 sale or conversion of capital assets.

22 (4) "Disposable earnings" means that part of the earnings of an
23 individual remaining after the deduction from those earnings of an
24 amount required by law to be withheld.

25 (5) "Employer" means any person or entity who pays or owes
26 earnings in employment as defined in Title 50 RCW to the responsible
27 parent including but not limited to the United States government, or
28 any state or local unit of government.

29 (6) "Employee" means a person in employment as defined in Title
30 50 RCW to whom an employer is paying, owes or anticipates paying
31 earnings as a result of services performed.

32 (7) "Lump sum payment" means income other than a periodic
33 recurring payment of earnings on regular paydays and does not include
34 reimbursement for expenses. Lump sum payment includes, but is not
35 limited to, discretionary and nondiscretionary bonuses, commissions,
36 performance bonuses, merit increases, safety awards, signing bonuses,
37 moving and relocation incentive payments, holiday pay, termination
38 pay, and severance pay. Lump sum payment also includes workers'

1 compensation, insurance settlements, and personal injury settlements
2 paid as replacement for wages owed.

3 **Sec. 3.** RCW 26.23.060 and 2021 c 35 s 15 are each amended to
4 read as follows:

5 (1) The division of child support may issue an income withholding
6 order:

7 (a) As authorized by a support order that contains a notice
8 clearly stating that child support may be collected by withholding
9 from earnings, wages, or benefits without further notice to the
10 obligated parent; or

11 (b) After service of a notice containing an income-withholding
12 provision under this chapter or chapter 74.20A RCW.

13 (2) The division of child support shall serve an income
14 withholding order upon a responsible parent's employer or upon the
15 employment security department for the state in possession of or
16 owing any benefits from the unemployment compensation fund to the
17 responsible parent pursuant to Title 50 RCW or from the paid family
18 and medical leave program under Title 50A RCW:

19 (a) In the manner prescribed for the service of a summons in a
20 civil action;

21 (b) By certified mail, return receipt requested;

22 (c) By electronic means if there is an agreement between the
23 secretary and the person, firm, corporation, association, political
24 subdivision, department of the state, or agency, subdivision, or
25 instrumentality of the United States to accept service by electronic
26 means; or

27 (d) By regular mail to a responsible parent's employer unless the
28 division of child support reasonably believes that service of process
29 in the manner prescribed in (a) or (b) of this subsection is required
30 for initiating an action to ensure employer compliance with the
31 withholding requirement.

32 (3) Service of an income withholding order upon an employer or
33 employment security department requires the employer or employment
34 security department to immediately make a mandatory payroll deduction
35 from the responsible parent's unpaid disposable earnings or benefits
36 paid by the employment security department. The amount to be withheld
37 stated in the income withholding order is as follows:

38 (a) If the income withholding order is not for a lump sum payment
39 under section 5 of this act, the employer or employment security

1 department shall thereafter deduct each pay period the amount stated
2 in the order divided by the number of pay periods per month. The
3 payroll deduction each pay period shall not exceed (~~fifty~~) 50
4 percent of the responsible parent's disposable earnings; or

5 (b) If the income withholding order is for a lump sum payment
6 under section 5 of this act, the employer shall withhold the lump sum
7 payment or the amount stated in the order, whichever is less, unless
8 a portion of the lump sum payment is disposable earnings. If a
9 portion of the lump sum payment is comprised of disposable earnings,
10 50 percent of the portion considered disposable earnings is not
11 subject to the income withholding order.

12 (4) An income withholding order for support shall have priority
13 over any wage assignment, garnishment, attachment, or other legal
14 process.

15 (5) The income withholding order shall be in writing and include:

16 (a) The name and social security number of the responsible
17 parent;

18 (b) The amount to be deducted from the responsible parent's
19 disposable earnings each month, or alternate amounts and frequencies
20 as may be necessary to facilitate processing of the payroll
21 deduction;

22 (c) A statement that the total amount withheld shall not exceed
23 (~~fifty~~) 50 percent of the responsible parent's disposable earnings;

24 (d) The address to which the payments are to be mailed or
25 delivered; and

26 (e) A notice to the responsible parent warning the responsible
27 parent that, despite the payroll deduction, the responsible parent's
28 privileges to obtain and maintain a license, as defined in RCW
29 74.20A.320, may not be renewed, or may be suspended if the parent is
30 not in compliance with a support order as defined in RCW 74.20A.320.

31 (6) An informational copy of the income withholding order shall
32 be mailed to the last known address of the responsible parent by
33 regular mail.

34 (7) An employer or employment security department that receives
35 an income withholding order shall make immediate deductions from the
36 responsible parent's unpaid disposable earnings and remit proper
37 amounts to the Washington state support registry within seven working
38 days of the date the earnings are payable to the responsible parent.

39 (8) An employer, or the employment security department, upon whom
40 an income withholding order is served, shall make an answer to the

1 division of child support within (~~twenty~~) 20 days after the date of
2 service. The answer shall confirm compliance and institution of the
3 payroll deduction or explain the circumstances if no payroll
4 deduction is in effect. The answer shall also state whether the
5 responsible parent is employed by or receives earnings from the
6 employer or receives benefit payments from the employment security
7 department, whether the employer or employment security department
8 anticipates paying earnings or benefits and the amount of earnings or
9 benefit payments. If the responsible parent is no longer employed, or
10 receiving earnings from the employer, the answer shall state the
11 present employer's name and address, if known. If the responsible
12 parent is no longer receiving benefit payments from the employment
13 security department, the answer shall state the present employer's
14 name and address, if known.

15 The returned answer or a payment remitted to the division of
16 child support by the employer constitutes proof of service of the
17 income withholding order in the case where the order was served by
18 regular mail.

19 (9) The employer may deduct a processing fee from the remainder
20 of the responsible parent's earnings after withholding under the
21 income withholding order, even if the remainder is exempt under RCW
22 26.18.090. The processing fee may not exceed: (a) Ten dollars for the
23 first disbursement made to the Washington state support registry; and
24 (b) one dollar for each subsequent disbursement to the registry.

25 (10) The income withholding order shall remain in effect until
26 released by the division of child support, the court enters an order
27 terminating the income withholding order and approving an alternate
28 arrangement under RCW 26.23.050, or until the employer no longer
29 employs the responsible parent and is no longer in possession of or
30 owing any earnings to the responsible parent. The employer shall
31 promptly notify the office of support enforcement when the employer
32 no longer employs the parent subject to the income withholding order.
33 For the employment security department, the income withholding order
34 shall remain in effect until released by the division of child
35 support or until the court enters an order terminating the income
36 withholding order.

37 (11) The division of child support must use income withholding
38 forms adopted and required by the United States department of health
39 and human services to take withholding actions under this section

1 whether the responsible parent is receiving earnings or unemployment
2 compensation in this state or in another state.

3 **Sec. 4.** RCW 26.23.070 and 2021 c 168 s 4 are each amended to
4 read as follows:

5 (1) The employer or the employment security department may
6 combine amounts withheld from the earnings of more than one
7 responsible parent in a single payment to the Washington state
8 support registry, listing separately the amount of the payment which
9 is attributable to each individual.

10 (2) No employer nor employment security department that complies
11 with ~~((a notice of payroll deduction))~~ an income withholding order
12 under this chapter shall be civilly liable to the responsible parent
13 for complying with ~~((a notice of payroll deduction))~~ an income
14 withholding order under this chapter.

15 (3) No employer shall be civilly liable to the responsible parent
16 for:

17 (a) Reporting a lump sum payment under this chapter; or

18 (b) Withholding and remitting a lump sum payment under this
19 chapter or under chapter 74.20A RCW.

20 (4) No insurance company shall be civilly liable to the
21 responsible parent for complying with:

22 (a) An order to withhold and deliver issued under RCW 74.20A.080
23 or with any other withholding order issued under ~~((chapter 26.23~~
24 ~~RCW))~~ this chapter;

25 (b) A lien filed by the department under chapter 74.20A RCW; or

26 (c) A combined lien and withholding order developed by the
27 department to implement chapter 168, Laws of 2021.

28 ~~((4))~~ (5) An insurance company complying with a withholding
29 order issued by the department or with a lien filed by the department
30 may not be considered to be committing a violation of the insurance
31 fair conduct act under chapter 48.30 RCW.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.23
33 RCW to read as follows:

34 (1) An employer who has been served with an income withholding
35 order for a responsible parent under this chapter, or chapter 74.20A
36 or 26.21A RCW, that includes a provision for payment toward child
37 support arrears shall notify the division of child support before
38 making any lump sum payment of more than \$500 to the responsible

1 parent. An employer may report a lump sum payment of a smaller amount
2 or an amount yet to be determined by the division of child support.

3 (2) The employer provides notice by contacting:

4 (a) The division of child support; or

5 (b) The federal office of child support enforcement.

6 (3) An employer who reports a lump sum payment under this section
7 shall determine the portion of the lump sum payment which consists of
8 disposable earnings and may disburse 50 percent of that amount to the
9 responsible parent.

10 (4) The employer must withhold and remit to the division of child
11 support the amount needed to comply with the income withholding
12 order.

13 (5) Notwithstanding any other provision of state law, unless
14 otherwise agreed to by the employer and the division of child
15 support, the employer may not disburse the remaining amount of the
16 lump sum payment before the earlier of:

17 (a) The 15th calendar day after the date on which the employer
18 reports the lump sum payment; or

19 (b) The date on which the income payer receives authorization
20 from the division of child support to make all or a portion of the
21 lump sum payment.

22 (6) Upon receipt of notice of a lump sum payment under this
23 section, the division of child support shall respond to the employer
24 within 14 calendar days after receiving the employer's report of a
25 lump sum payment by providing:

26 (a) A written release indicating that some or all of the portion
27 of the lump sum payment retained by the income payer may be disbursed
28 to the obligor; or

29 (b) An amended or supplemental income withholding order or other
30 written demand specifying the amount of the lump sum payment to be
31 remitted to the division of child support on behalf of the
32 responsible parent.

33 (7) The duties of an employer under this section are governed by
34 the laws of the state of the responsible parent's principal place of
35 employment.

36 (8) Failure to timely provide notice of a lump sum payment may
37 constitute noncompliance under RCW 74.20A.350.

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