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**SUBSTITUTE HOUSE BILL 1859**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representative Appelwick; by request of Dept. of Social and Health Services).

Read first time March 6, 1991.

1       AN ACT Relating to child support; amending RCW 26.23.060,  
2 26.23.070, 26.23.100, 74.20.220, 74.20.310, 74.20A.055, 26.23.050,  
3 74.20A.058, 26.09.175, 26.21.230, and 26.23.035; reenacting and  
4 amending RCW 26.23.110; adding a new section to chapter 26.23 RCW;  
5 adding new sections to chapter 74.20A RCW; adding a new section to  
6 chapter 26.19 RCW; and providing an effective date.

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

8       **Sec. 1.** RCW 26.23.060 and 1989 c 360 s 32 are each amended to read  
9 as follows:

10       (1) The office of support enforcement may issue a notice of payroll  
11 deduction:

12       (a) As authorized by a support order which contains the income  
13 withholding notice provisions in RCW 26.23.050 or a substantially  
14 similar notice; or

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

3 (2) The ((department may)) office of support enforcement shall  
4 serve a notice of payroll deduction upon a responsible parent's  
5 employer ((for child support obligations if the responsible parent  
6 fails to pay child support as due in an amount equal to or greater than  
7 the support payable for one month. Service shall be)), a person, or  
8 organization, whether public or private, in possession of or owing  
9 earnings to the responsible parent by personal service or by any form  
10 of mail requiring a return receipt.

11 ((+2)) (3) Service of a notice of payroll deduction upon an  
12 employer, person, or organization requires ((an)) the employer, person,  
13 or organization to immediately make a mandatory payroll deduction from  
14 the responsible ((parent/employee's)) parent's unpaid disposable  
15 earnings. The employer, person, or organization shall thereafter  
16 deduct each pay period the amount stated in the notice divided by the  
17 number of pay periods per month. The payroll deduction each pay period  
18 shall not exceed fifty percent of the responsible ((parent/employee's))  
19 parent's disposable earnings.

20 ((+3)) (4) A notice of payroll deduction for support shall have  
21 priority over any wage assignment ((or)), garnishment, attachment, or  
22 other legal process.

23 ((+4)) (5) The notice of payroll deduction shall be in writing and  
24 include:

25 (a) The name and social security number of the ((employee))  
26 responsible parent;

27 (b) The amount to be deducted from the responsible parent's  
28 disposable earnings each month, or alternate amounts and frequencies as  
29 may be necessary to facilitate processing of the payroll deduction ((  
30 by the employer));

1 (c) A statement that the total amount withheld shall not exceed  
2 fifty percent of the responsible parent's disposable earnings; and

3 (d) The address to which the payments are to be mailed or  
4 delivered.

5 ~~((+5))~~ (6) An informational copy of the notice of payroll  
6 deduction shall be mailed to the last known address of the responsible  
7 parent by regular mail.

8 ~~((+6))~~ (7) An employer, person, or organization who receives a  
9 notice of payroll deduction shall make immediate deductions from the  
10 ~~((employee's))~~ responsible parent's unpaid disposable earnings and  
11 remit proper amounts to the Washington state support registry on each  
12 date the ~~((employee))~~ responsible parent is due to be paid.

13 ~~((+7))~~ (8) An employer, person, or organization upon whom a notice  
14 of payroll deduction is served, shall make an answer to the  
15 ~~((Washington state support registry))~~ office of support enforcement  
16 within twenty days after the date of service. The answer shall confirm  
17 compliance and institution of the payroll deduction or explain the  
18 circumstances if no payroll deduction is in effect. The answer shall  
19 also state whether the responsible parent is employed by or receives  
20 earnings from the employer, whether the employer, person, or  
21 organization anticipates paying earnings and the amount of earnings.  
22 If the responsible parent is no longer employed, or receiving earnings  
23 from the employer, person, or organization the answer shall state the  
24 present employer's name and address, if known.

25 ~~((+8))~~ (9) The employer, person, or organization may deduct a  
26 processing fee from the remainder of the ~~((employee's))~~ responsible  
27 parent's earnings after withholding under the notice of payroll  
28 deduction, even if the remainder is exempt under RCW 26.18.090. The  
29 processing fee may not exceed: (a) Ten dollars for the first  
30 disbursement made ~~((by the employer))~~ to the Washington state support

1 registry; and (b) one dollar for each subsequent disbursement to the  
2 registry.

3 ~~((9))~~ (10) The notice of payroll deduction shall remain in effect  
4 until released by the office of support enforcement ~~((ex))~~, the court  
5 enters an order terminating the notice and approving an alternate  
6 payment plan under RCW 26.23.050(2), or one year has expired since the  
7 employer, person, or organization has employed the responsible parent  
8 or has been in possession of or owing earnings to the responsible  
9 parent.

10 **Sec. 2.** RCW 26.23.070 and 1987 c 435 s 7 are each amended to read  
11 as follows:

12 (1) The employer, person, or organization may combine amounts  
13 withheld from the earnings of more than one ~~((employee))~~ responsible  
14 parent in a single payment to the Washington state support registry,  
15 listing separately the amount of the payment which is attributable to  
16 each individual ~~((employee))~~.

17 (2) No employer, person, or organization who complies with a notice  
18 of payroll deduction under this chapter shall be civilly liable to the  
19 ~~((employee))~~ responsible parent for complying with a notice of payroll  
20 deduction under this chapter.

21 **Sec. 3.** RCW 26.23.100 and 1989 c 360 s 31 are each amended to read  
22 as follows:

23 (1) The responsible parent subject to a payroll deduction pursuant  
24 to this chapter, may file a motion in superior court to quash, modify,  
25 or terminate the payroll deduction.

26 (2) The court may grant relief only upon a showing: (a) That the  
27 payroll deduction causes extreme hardship or substantial injustice; or  
28 (b) that the support payment was not past due ~~((in an amount equal to~~

1 ~~or greater than the support payable for one month~~) under the terms of  
2 the order when the notice of payroll deduction was served on the  
3 employer.

4 (3) Satisfaction by the obligor of all past due payments subsequent  
5 to the issuance of the notice of payroll deduction is not grounds to  
6 quash, modify, or terminate the notice of payroll deduction.

7 (4) If a notice of payroll deduction has been in operation for  
8 twelve consecutive months and the ~~((obligor's))~~ obligor's support  
9 obligation is current, upon motion of the obligor, the court may order  
10 the ~~((Washington state support registry))~~ office of support enforcement  
11 to terminate the payroll deduction, unless the obligee can show good  
12 cause as to why the payroll deduction should remain in effect.

13 (5) Subsection (2) of this section shall not prevent the court from  
14 ordering an alternative payment plan as provided under RCW  
15 26.23.050(2).

16 **Sec. 4.** RCW 74.20.220 and 1979 c 141 s 367 are each amended to  
17 read as follows:

18 In order to carry out its responsibilities imposed under this  
19 chapter and as required by federal law, the state department of social  
20 and health services, through the attorney general or prosecuting  
21 attorney, is hereby authorized to:

22 (1) ~~((Represent))~~ Initiate an action in superior court to obtain a  
23 support order or obtain other relief related to support for a dependent  
24 child ~~((or dependent children))~~ on whose behalf the department is  
25 providing public assistance ~~((is being provided in obtaining any~~  
26 ~~support order necessary to provide for his or their needs))~~ or support  
27 enforcement services under RCW 74.20.040, or to enforce ~~((any such~~  
28 ~~order previously entered))~~ a superior court order.

1       (2) (~~Appear as a friend of the court in divorce and separate~~  
2 ~~maintenance suits, or proceedings supplemental thereto, when either or~~  
3 ~~both of the parties thereto are receiving public assistance, for the~~  
4 ~~purpose of advising the court as to the financial interest of the state~~  
5 ~~of Washington therein.~~

6       (3) ~~Appear on behalf of the custodial parent of a dependent child~~  
7 ~~or children on whose behalf public assistance is being provided, when~~  
8 ~~so requested by such parent, for the purpose of assisting such parent~~  
9 ~~in securing a modification of a divorce or separate maintenance decree~~  
10 ~~wherein no support, or inadequate support, was given for such child or~~  
11 ~~children: PROVIDED, That the attorney general shall be authorized to~~  
12 ~~so appear only where it appears to the satisfaction of the court that~~  
13 ~~the parent is without funds to employ private counsel. If the parent~~  
14 ~~does not request such assistance, or refuses it when offered, the~~  
15 ~~attorney general may nevertheless appear as a friend of the court at~~  
16 ~~any supplemental proceeding, and may advise the court of such facts as~~  
17 ~~will show the financial interest of the state of Washington therein;~~  
18 ~~but the attorney general shall not otherwise participate in the~~  
19 ~~proceeding))     Appear as a party in dissolution, child support,  
20 parentage, maintenance suits, or other proceedings, for the purpose of  
21 representing the financial interest and actions of the state of  
22 Washington therein.~~

23       (3) Petition the court for modification of a superior court order  
24 when the office of support enforcement is providing support enforcement  
25 services under RCW 74.20.040.

26       (4) When the attorney general or prosecuting attorney appears in,  
27 defends, or initiates actions to establish, modify, or enforce child  
28 support obligations he or she represents the state, the best interests  
29 of the child relating to parentage, and the best interests of the

1 children of the state, but does not represent the interests of any  
2 other individual.

3 (5) If public assistance has been applied for or granted on behalf  
4 of a child of parents who are divorced or legally separated, the  
5 attorney general or prosecuting attorney may apply to the superior  
6 court in such action for an order directing either parent or both to  
7 show cause:

8 (a) Why an order of support for the child should not be entered, or

9 (b) Why the amount of support previously ordered should not be  
10 increased, or

11 (c) Why the parent should not be held in contempt for his or her  
12 failure to comply with any order of support previously entered.

13 ~~((5))~~ (6) Initiate any civil proceedings deemed necessary by the  
14 department to secure reimbursement from the parent or parents of minor  
15 dependent children for all moneys expended by the state in providing  
16 assistance or services to said children.

17 (7) Nothing in this section limits the authority of the attorney  
18 general or prosecuting attorney to use any and all civil and criminal  
19 remedies to enforce, establish, or modify child support obligations  
20 whether or not the custodial parent receives public assistance.

21 **Sec. 5.** RCW 74.20.310 and 1979 ex.s. c 171 s 15 are each amended  
22 to read as follows:

23 (1) The provisions of RCW 26.26.090 requiring appointment of a  
24 general guardian or guardian ad litem to represent the child in an  
25 action brought to determine the parent and child relationship do not  
26 apply to actions brought under chapter 26.26 RCW if:

27 ~~((1))~~ (a) The action is brought by the attorney general on behalf  
28 of the department of social and health services~~((7))~~ and the child~~((7~~  
29 ~~or the natural mother))~~; or

1        ~~((2))~~ (b) The action is brought by any prosecuting attorney on  
2 behalf of the state ~~((7))~~ and the child ~~((, or the natural mother))~~ when  
3 referral has been made to the prosecuting attorney by the department of  
4 social and health services requesting such action.

5        (2) On the issue of parentage, the attorney general or prosecuting  
6 attorney functions as the child's guardian ad litem provided the  
7 interests of the state and the child are not in conflict.

8        (3) The court, on its own motion or on motion of a party, may  
9 appoint a guardian ad litem when necessary.

10        (4) The prosecuting attorney or the attorney general shall notify  
11 the parties that they have the right to move the court to appoint a  
12 guardian ad litem for the child.

13        **Sec. 6.** RCW 26.23.110 and 1989 c 360 s 16 and 1989 c 175 s 77 are  
14 each reenacted and amended to read as follows:

15        (1) The department may serve a notice of support owed on a  
16 responsible parent when a support order:

17        (a) Does not state the current and future support obligation as a  
18 fixed dollar amount; or

19        (b) Contains an escalation clause or adjustment provision for which  
20 additional information not contained in the order is needed to  
21 determine the amount of the accrued debt and/or the current and future  
22 obligation.

23        (2) The notice of support owed shall facilitate enforcement of the  
24 support order and implement and effectuate the terms of the order,  
25 rather than modify those terms. ~~((When the office of support~~  
26 ~~enforcement issues a notice of support owed, the office shall inform~~  
27 ~~the payee under the order.))~~

28        (3) The notice of support owed shall be served on a responsible  
29 parent by personal service or any form of mailing requiring a return

1 receipt. (~~The notice shall contain an initial finding of the amount~~  
2 ~~of current and future support that should be paid and/or the amount of~~  
3 ~~the support debt owed under the support order.~~

4 ~~(4) A)~~ If the responsible parent ((who)) objects to the amounts  
5 stated in the notice the parent has twenty days from the date of the  
6 service of the notice to:

7 (a) File an application for an adjudicative proceeding to contest  
8 the notice; or

9 (b) Initiate an action in superior court to set amounts due and  
10 payable under the support order.

11 ~~((5))~~ (4) The notice shall ((state that the parent may)):

12 (a) ((File an application)) Contain an initial finding of the  
13 amount owed for current support or the amount of the support debt owed  
14 under the support order, or both;

15 (b) Explain the responsible parent's right to:

16 (i) Apply for an adjudicative proceeding ((in which the parent will  
17 be required to appear and show cause why the amount stated in the  
18 notice for current and future support and/or the accrued support debt  
19 is incorrect and should not be ordered)); or

20 ~~((b))~~ (ii) Initiate an action in superior court;

21 (c) Inform the responsible parent that the payee under the order  
22 may also apply for an adjudicative proceeding or initiate an action in  
23 superior court as a result of the notice;

24 (d) Warn the responsible parent of the results if the parent fails  
25 to apply for an adjudicative proceeding or participate in such a  
26 proceeding scheduled by the department at the request of either the  
27 responsible parent or the payee.

28 (5) After service of the notice of support owed on the responsible  
29 parent, the office of support enforcement shall mail to the last known  
30 address of the payee under the support order:

1 (a) A copy of the notice; and

2 (b) A letter explaining the:

3 (i) Payee's right to:

4 (A) Apply for an adjudicative proceeding to object to the amounts  
5 stated in the notice;

6 (B) Participate as a party in an adjudicative proceeding the  
7 responsible parent requests to object to the notice; and

8 (C) Initiate an action in superior court to set the amounts due and  
9 payable under the support order; and

10 (ii) Results if the payee fails to apply for an adjudicative  
11 proceeding or participate in such a proceeding scheduled by the  
12 department at the request of either the payee or the responsible  
13 parent.

14 (6) The payee who objects to the amounts stated in the notice shall  
15 file an application for an adjudicative proceeding or initiate an  
16 action in superior court within twenty days of the date the office of  
17 support enforcement mails a copy of the notice and letter to the payee.

18 (7) If the responsible parent ((does not)) and the payee fail to  
19 file an application for an adjudicative proceeding or initiate an  
20 action in superior court, the amount of current and future support  
21 and/or the support debt stated in the notice shall become final and  
22 subject to collection action.

23 ~~((+7))~~ (8) If an adjudicative proceeding is requested, the  
24 department shall mail a copy of the notice of ((hearing)) the  
25 proceeding to the responsible parent and the payee ((under the support  
26 order at the payee's last known address. A payee who appears for the  
27 hearing shall be allowed to participate. Participation includes, but  
28 is not limited to, giving testimony, presenting evidence, being present  
29 for or listening to other testimony offered in the proceeding, and  
30 offering rebuttal to other testimony. Nothing in this section shall

1 ~~preclude the administrative law judge from limiting participation to~~  
2 ~~preserve the confidentiality of information protected by law)).~~ A  
3 party who objects to the notice of support owed shall appear and show  
4 cause why the amounts stated in the notice are incorrect and should not  
5 be ordered.

6 ~~((+8))~~ (9) If the responsible parent ~~((does not))~~ and the payee  
7 fail to initiate an action in superior court, and serve notice of the  
8 action on the department within the twenty-day period, ~~((the~~  
9 ~~responsible parent))~~ they shall be deemed to have made an election of  
10 remedies and shall be required to exhaust administrative remedies under  
11 this chapter with judicial review available as provided for in RCW  
12 34.05.510 through 34.05.598.

13 ~~((+9))~~ (10) An administrative order entered ~~((in accordance with))~~  
14 under this section shall state the basis, rationale, or formula upon  
15 which the amounts established in the order were based. The amount of  
16 current and future support and/or the amount of the support debt  
17 determined under this section shall be subject to collection under this  
18 chapter and other applicable state statutes.

19 ~~((+10))~~ (11) The department shall ~~((also provide))~~ adopt rules  
20 providing for:

21 (a) An annual review of the support order entered under this  
22 section if ~~((either))~~ the office of support enforcement, the payee, or  
23 the responsible parent requests such a review; and

24 (b) A late hearing if the responsible parent or the payee fails to  
25 file an application for an adjudicative proceeding in a timely manner  
26 under this section.

27 ~~((+11))~~ (12) If an annual review or late hearing is requested  
28 under subsection ~~((+10))~~ (11) of this section, the department shall  
29 mail a copy of the notice of hearing to the payee ~~((at the payee's last~~  
30 ~~known address. A payee who appears for the proceeding shall be allowed~~

1 to participate. Participation includes, but is not limited to, giving  
2 testimony, presenting evidence, being present for or listening to other  
3 testimony offered in the proceeding, and offering rebuttal to other  
4 testimony. Nothing in this section shall preclude the administrative  
5 law judge from limiting participation to preserve the confidentiality  
6 of information protected by law)) and the responsible parent.

7 **Sec. 7.** RCW 74.20A.055 and 1990 1st ex.s. c 2 s 21 are each  
8 amended to read as follows:

9 (1) The secretary may, in the absence of a superior court order,  
10 serve on the responsible parent or parents a notice and finding of  
11 financial responsibility requiring a responsible parent or parents to  
12 appear and show cause in an adjudicative proceeding why the finding of  
13 responsibility and/or the amount thereof is incorrect, should not be  
14 finally ordered, but should be rescinded or modified. This notice and  
15 finding shall relate to the support debt accrued and/or accruing under  
16 this chapter and/or RCW 26.16.205, including periodic payments to be  
17 made in the future (~~for such period of time as the child or children~~  
18 ~~of said responsible parent or parents are in need~~). The hearing shall  
19 be held pursuant to RCW 74.20A.055, chapter 34.05 RCW, the  
20 Administrative Procedure Act, and the rules of the department.

21 (2) The notice and finding of financial responsibility shall be  
22 served in the same manner prescribed for the service of a summons in a  
23 civil action or may be served on the responsible parent by certified  
24 mail, return receipt requested. The receipt shall be prima facie  
25 evidence of service. The notice shall be served upon the debtor within  
26 sixty days from the date the state assumes responsibility for the  
27 support of the dependent child or children on whose behalf support is  
28 sought. If the notice is not served within sixty days from such date,  
29 the department shall lose the right to reimbursement of payments made

1 after the sixty-day period and before the date of notification:  
2 PROVIDED, That if the department exercises reasonable efforts to locate  
3 the debtor and is unable to do so the entire sixty-day period is tolled  
4 until such time as the debtor can be located. ((Any responsible parent  
5 who objects to all or any part of the notice and finding shall have the  
6 right for not more than twenty days from the date of service to file an  
7 application for an adjudicative proceeding. The application shall be  
8 served upon the department by registered or certified mail or  
9 personally. If no such application is made, the notice and finding of  
10 responsibility shall become final, and the debt created therein shall  
11 be subject to collection action as authorized under this chapter. If  
12 a timely application is made, the execution of notice and finding of  
13 responsibility shall be stayed pending the entry of the final  
14 administrative order. If no timely written application has previously  
15 been made, the responsible parent may petition the secretary or the  
16 secretary's designee at any time for an adjudicative proceeding as  
17 provided for in this section upon a showing of good cause for the  
18 failure to make a timely application. The filing of the petition for an  
19 adjudicative proceeding after the twenty day period shall not affect  
20 any collection action previously taken under this chapter. The  
21 granting of an application after the twenty day period operates as a  
22 stay on any future collection action, pending entry of the final  
23 administrative order. Moneys withheld as a result of collection action  
24 in effect at the time of the granting of the application after the  
25 twenty day period shall be delivered to the department and shall be  
26 held in trust by the department pending entry of the final  
27 administrative order. The department may petition the presiding or  
28 reviewing officer to set temporary current and future support to be  
29 paid beginning with the month in which the application after the  
30 twenty day period is granted. The presiding or reviewing officer shall

1 order payment of temporary current and future support if appropriate in  
2 an amount determined pursuant to the child support schedule adopted  
3 under RCW 26.19.040. In the event the responsible parent does not make  
4 payment of the temporary current and future support as ordered by the  
5 presiding or reviewing officer, the department may take collection  
6 action pursuant to chapter 74.20A RCW during the pendency of the  
7 adjudicative proceeding or thereafter to collect any amounts owing  
8 under the order. Temporary current and future support paid, or  
9 collected, during the pendency of the adjudicative proceeding shall be  
10 disbursed to the custodial parent or as otherwise appropriate when  
11 received by the department. If the final administrative order is that  
12 the department has collected from the responsible parent other than  
13 temporary current or future support, an amount greater than such  
14 parent's past support debt, the department shall promptly refund any  
15 such excess amount to such parent.

16 ~~(3) Hearings may be held in the county of residence or other place~~  
17 ~~convenient to the responsible parent.))~~ (3) The notice and finding of  
18 financial responsibility shall set forth the amount the department has  
19 determined the responsible parent owes, the support debt accrued and/or  
20 accruing, and periodic payments to be made in the future ~~((for such~~  
21 ~~period of time as the child or children of the responsible parent are~~  
22 ~~in need, all computable on the basis of the need alleged))~~. The notice  
23 and finding shall also include:

24 (a) A statement of the name of the recipient or custodian and the  
25 name of the child or children for whom ~~((need))~~ support is ~~((alleged))~~  
26 sought; ~~((and/or))~~

27 (b) A statement of the amount of periodic future support payments  
28 as to which financial responsibility is alleged~~((=))~~;

29 ~~((4) The notice and finding shall include))~~ (c) A statement that  
30 the responsible parent may object to all or any part of the notice and

1 finding, and file an application for an adjudicative proceeding to show  
2 cause why said responsible parent should not be determined to be liable  
3 for any or all of the debt, past and future~~((-))~~;

4 ~~((The notice and finding shall include))~~

5 (d) A statement that, if the responsible parent fails in timely  
6 fashion to file an application for an adjudicative proceeding, the  
7 support debt and payments stated in the notice and finding, including  
8 periodic support payments in the future, shall be assessed and  
9 determined and ordered by the department and that this debt and amounts  
10 due under the notice shall be subject to collection action;

11 (e) A statement that the property of the debtor, without further  
12 advance notice or hearing, will be subject to lien and foreclosure,  
13 distrain, seizure and sale, ~~((or))~~ order to withhold and deliver,  
14 notice of payroll deduction or other collection action to satisfy the  
15 debt and enforce the support obligation established under the notice.

16 (4) A responsible parent who objects to the notice and finding of  
17 financial responsibility may file an application for an adjudicative  
18 proceeding within twenty days of the date of service of the notice or  
19 thereafter as provided under this subsection. An adjudicative  
20 proceeding shall be held in the county of residence or other place  
21 convenient to the responsible parent.

22 (a) If the responsible parent files the application within twenty  
23 days, the department shall schedule an adjudicative proceeding to hear  
24 the parent's objection and determine the parents' support obligation  
25 for the entire period covered by the notice and finding of financial  
26 responsibility. The filing of the application stays collection action  
27 pending the entry of a final administrative order;

28 (b) If the responsible parent fails to file an application within  
29 twenty days, the notice and finding shall become a final administrative  
30 order. The amounts for current and future support and the support debt

1 stated in the notice are final and subject to collection, except as  
2 provided under (c) and (d) of this subsection;

3 (c) If the responsible parent files the application more than  
4 twenty days after, but within one year of the date of service, the  
5 department shall schedule an adjudicative proceeding to hear the  
6 parents' objection and determine the parent's support obligation for  
7 the entire period covered by the notice and finding of financial  
8 responsibility. The filing of the application does not stay further  
9 collection action, pending the entry of a final administrative order,  
10 and does not affect any prior collection action;

11 (d) If the responsible parent files the application more than one  
12 year after the date of service, the department shall schedule an  
13 adjudicative proceeding at which the responsible parent must show good  
14 cause for failure to file a timely application. The filing of the  
15 application does not stay future collection action and does not affect  
16 prior collection action:

17 (i) If the presiding officer finds that good cause exists, the  
18 presiding officer shall proceed to hear the parent's objection to the  
19 notice and determine the parent's support obligation;

20 (ii) If the presiding officer finds that good cause does not exist,  
21 the presiding officer shall treat the application as a petition for  
22 prospective modification of the amount for current and future support  
23 established under the notice and finding. In the modification  
24 proceeding, the presiding officer shall set current and future support  
25 under chapter 26.19 RCW. The responsible parent need show neither good  
26 cause nor a substantial change of circumstances to justify modification  
27 of current and future support;

28 (e) The department shall retain and/or shall not refund support  
29 money collected more than twenty days after the date of service of the  
30 notice. Money withheld as the result of collection action shall be

1 delivered to the department. The department shall distribute such  
2 money, as provided in published rules.

3 (5) If an application for an adjudicative proceeding is filed, the  
4 presiding or reviewing officer shall determine the past liability and  
5 responsibility, if any, of the alleged responsible parent and shall  
6 also determine the amount of periodic payments to be made in the  
7 future, which amount is not limited by the amount of any public  
8 assistance payment made to or for the benefit of the child. If  
9 deviating from the child support schedule (~~adopted under RCW~~  
10 ~~26.19.040~~) in making these determinations, the presiding or reviewing  
11 officer shall (~~comply with the provisions set forth in chapter 26.19~~  
12 ~~RCW~~) apply the standards contained in the child support schedule and  
13 enter written findings of fact supporting the deviation.

14 (6) If the responsible parent fails to attend or participate in the  
15 hearing or other stage of an adjudicative proceeding, upon a showing of  
16 valid service, the presiding officer shall enter an (~~initial decision~~  
17 ~~and~~) administrative order declaring the support debt and payment  
18 provisions stated in the notice and finding of financial responsibility  
19 to be assessed and determined and subject to collection action.

20 (~~(6)~~) (7) The final administrative order establishing liability  
21 and/or future periodic support payments shall be superseded upon entry  
22 of a superior court order for support to the extent the superior court  
23 order is inconsistent with the administrative order(~~PROVIDED, That~~  
24 ~~in the absence of a superior court order, either the responsible parent~~  
25 ~~or the department may petition the secretary or his designee for~~  
26 ~~issuance of an order to appear and show cause based on a showing of~~  
27 ~~good cause and material change of circumstances, to require the other~~  
28 ~~party to appear and show cause why the order previously entered should~~  
29 ~~not be prospectively modified. Said order to appear and show cause~~  
30 ~~together with a copy of the petition and affidavit upon which the order~~

1 ~~is based shall be served in the manner of a summons in a civil action~~  
2 ~~or by certified mail, return receipt requested, on the other party by~~  
3 ~~the petitioning party. Prospective modification may be ordered, but~~  
4 ~~only upon a showing of good cause and material change of circumstances.~~

5 ~~(7) The presiding or reviewing officer shall order support payments~~  
6 ~~under the child support schedule adopted under RCW 26.19.040)).~~

7 (8) Debts determined pursuant to this section, accrued and not  
8 paid, are subject to collection action under this chapter without  
9 further necessity of action by a presiding or reviewing officer.

10 ((~~(9) "Need" as used in this section shall mean the necessary costs~~  
11 ~~of food, clothing, shelter, and medical attendance for the support of~~  
12 ~~a dependent child or children. The amount determined by reference to~~  
13 ~~the child support schedule adopted under RCW 26.19.040, shall be a~~  
14 ~~rebuttable presumption of the alleged responsible parent's ability to~~  
15 ~~pay and the need of the family: PROVIDED, That such responsible parent~~  
16 ~~shall be presumed to have no ability to pay child support under this~~  
17 ~~chapter from any income received from aid to families with dependent~~  
18 ~~children, supplemental security income, or continuing general~~  
19 ~~assistance.))~~

20 NEW SECTION. Sec. 8. A new section is added to chapter 26.23 RCW  
21 to read as follows:

22 The department shall be given twenty calendar days prior notice of  
23 the entry of any final order and five days prior notice of the entry of  
24 any temporary order in any proceeding involving child support or  
25 maintenance if the department has a financial interest based on an  
26 assignment of support rights under RCW 74.20.330 or the state has a  
27 subrogated interest under RCW 74.20A.030. Service of this notice upon  
28 the department shall be by personal service on, or mailing by any form

1 of mail requiring a return receipt to, the office of the attorney  
2 general.

3 **Sec. 9.** RCW 26.23.050 and 1989 c 360 s 15 are each amended to read  
4 as follows:

5 (1) Except as provided in subsection (2) of this section, the  
6 superior court shall include in all superior court orders which  
7 establish or modify a support obligation:

8 (a) A provision which orders and directs that the responsible  
9 parent make all support payments to the Washington state support  
10 registry;

11 (b) A statement that a notice of payroll deduction may be issued or  
12 other income withholding action under chapter 26.18 RCW or chapter  
13 74.20A RCW may be taken, without further notice to the responsible  
14 parent((÷

15 ~~(i) If a support payment is not paid when due, and an amount equal~~  
16 ~~to or greater than the support payable for one month is owed under an~~  
17 ~~order entered prior to July 1, 1990; or~~

18 ~~(ii))), at any time after entry of the court order ((for orders~~  
19 ~~entered by the court on or after July 1, 1990)), unless:~~

20 (i) One of the parties demonstrates, and the court finds, that  
21 there is good cause not to require immediate income withholding; or

22 (ii) The parties reach a written agreement which is approved by the  
23 court that provides for an alternate arrangement; and

24 (c) A statement that the receiving parent may be required to submit  
25 an accounting of how the support is being spent to benefit the child.

26 (2) The court may order the responsible parent to make payments  
27 directly to the person entitled to receive the payments or, for orders  
28 entered on or after July 1, 1990, direct that the issuance of a notice  
29 of payroll deduction or other income withholding actions be delayed

1 until a support payment is past due if the court approves an alternate  
2 payment plan. The parties to the order must agree to such a plan and  
3 the plan must contain reasonable assurances that payments will be made  
4 in a regular and timely manner. The court may approve such a plan and  
5 modify or terminate the payroll deduction or other income withholding  
6 action at the time of entry of the order or at a later date upon motion  
7 and agreement of the parties. If the order directs payment to the  
8 person entitled to receive the payments instead of to the Washington  
9 state support registry, the order shall include a statement that the  
10 order may be submitted to the registry if a support payment is past  
11 due. If the order directs delayed issuance of the notice of payroll  
12 deduction or other income withholding action, the order shall include  
13 a statement that such action may be taken, without further notice, at  
14 any time after a support payment is past due. The provisions of this  
15 subsection do not apply if the department is providing public  
16 assistance under Title 74 RCW.

17 (3) The office of administrative hearings and the department of  
18 social and health services shall require that all support obligations  
19 established as administrative orders include a provision which orders  
20 and directs that the responsible parent shall make all support payments  
21 to the Washington state support registry. All administrative orders  
22 shall also state that a notice of payroll deduction may be issued, or  
23 other income withholding action taken, without further notice to the  
24 responsible parent((÷

25 ~~(a) If a support payment is not paid when due and an amount equal~~  
26 ~~to or greater than the support payable for one month is owed under an~~  
27 ~~order entered prior to July 1, 1990; or~~

28 ~~(b)), at any time after entry of the order ((for administrative~~  
29 ~~orders entered on or after July 1, 1990)), unless:~~

1       (a) One of the parties demonstrates, and the presiding officer  
2 finds, that there is good cause not to require immediate income  
3 withholding; or

4       (b) The parties reach a written agreement which is approved by the  
5 presiding officer that provides for an alternate arrangement.

6       (4) If the support order does not include the provision ordering  
7 and directing that all payments be made to the Washington state support  
8 registry and a statement that a notice of payroll deduction may be  
9 issued if a support payment is past due or at any time after the entry  
10 of the order, the office of support enforcement may serve a notice on  
11 the responsible parent stating such requirements and authorizations.  
12 Service may be by personal service or any form of mail requiring a  
13 return receipt.

14       (5) Every support order shall state:

15       (a) That payment shall be made to the Washington state support  
16 registry or in accordance with the alternate payment plan approved by  
17 the court;

18       (b) That a notice of payroll deduction may be issued or other  
19 income withholding action under chapter 26.18 RCW or chapter 74.20A RCW  
20 may be taken, without further notice to the responsible parent((+)

21       ~~(i) If a support payment is not paid when due and an amount equal~~  
22 ~~to or greater than the support payable for one month is owed under an~~  
23 ~~order entered prior to July 1, 1990; or~~

24       ~~(ii))~~, at any time after entry of an order by the court ((~~on or~~  
25 ~~after July 1, 1990))~~, unless:

26       (i) The court approves an alternate payment plan under subsection  
27 (2) of this section; or

28       (ii) One of the parties demonstrates, and the court finds, that  
29 there is good cause not to require immediate income withholding; or

1        (iii) The parties reach a written agreement which is approved by  
2 the court that provides for an alternate arrangement;

3        (c) The income of the parties, if known, or that their income is  
4 unknown and the income upon which the support award is based;

5        (d) The support award as a sum certain amount;

6        (e) The specific day or date on which the support payment is due;

7        (f) The social security number, residence address, and name of  
8 employer of the responsible parent;

9        (g) The social security number and residence address of the  
10 physical custodian except as provided in subsection (6) of this  
11 section;

12        (h) The names, dates of birth, and social security numbers, if any,  
13 of the dependent children;

14        (i) That the parties are to notify the Washington state support  
15 registry of any change in residence address;

16        (j) That any parent owing a duty of child support shall be  
17 obligated to provide health insurance coverage for his or her child if  
18 coverage that can be extended to cover the child is or becomes  
19 available to that parent through employment or is union-related as  
20 provided under RCW 26.09.105;

21        (k) That if proof of health insurance coverage is not provided  
22 within twenty days, the obligee or the department may seek direct  
23 enforcement of the coverage through the obligor's employer or union  
24 without further notice to the obligor as provided under chapter 26.18  
25 RCW; and

26        (l) The reasons for not ordering health insurance coverage if the  
27 order fails to require such coverage.

28        (6) The physical custodian's address shall be omitted from an order  
29 entered under the administrative procedure act. A responsible parent  
30 whose support obligation has been determined by such administrative

1 order may request the physical custodian's residence address by  
2 submission of a request for disclosure under RCW 26.23.120.

3 (7) The superior court clerk, the office of administrative  
4 hearings, and the department of social and health services shall,  
5 within five days of entry, forward to the Washington state support  
6 registry, a true and correct copy of all superior court orders or  
7 administrative orders establishing or modifying a support obligation  
8 which provide that support payments shall be made to the support  
9 registry. If a superior court order entered prior to January 1, 1988,  
10 directs the responsible parent to make support payments to the clerk,  
11 the clerk shall send a true and correct copy of the support order and  
12 the payment record to the registry for enforcement action when the  
13 clerk identifies that a payment is more than fifteen days past due.  
14 The office of support enforcement shall reimburse the clerk for the  
15 reasonable costs of copying and sending copies of court orders to the  
16 registry at the reimbursement rate provided in Title IV-D of the social  
17 security act.

18 (8) Receipt of a support order by the registry or other action  
19 under this section on behalf of a person or persons who are not  
20 recipients of public assistance is deemed to be a request for support  
21 enforcement services under RCW 74.20.040 to the fullest extent  
22 permitted under federal law.

23 (9) After the responsible parent has been ordered or notified to  
24 make payments to the Washington state support registry in accordance  
25 with subsection (1), (~~((2), or (3))~~) (3), or (4) of this section, the  
26 responsible parent shall be fully responsible for making all payments  
27 to the Washington state support registry and shall be subject to  
28 payroll deduction or other income withholding action. The responsible  
29 parent shall not be entitled to credit against a support obligation for  
30 any payments made to a person or agency other than to the Washington

1 state support registry. A civil action may be brought by the payor to  
2 recover payments made to persons or agencies who have received and  
3 retained support moneys paid contrary to the provisions of this  
4 section.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.20A  
6 RCW to read as follows:

7 (1) The department, the physical custodian, or the responsible  
8 parent may petition for a prospective modification of a final  
9 administrative order if:

10 (a) The administrative order has not been superseded by a superior  
11 court order; and

12 (b) There has been a substantial change of circumstances, except as  
13 provided under RCW 74.20A.055(4)(d).

14 (2) An order of child support may be modified one year or more  
15 after it has been entered without showing a substantial change of  
16 circumstances:

17 (a) If the order in practice works a severe economic hardship on  
18 either party or the child; or

19 (b) If a party requests an adjustment in an order for child support  
20 that was based on guidelines which determined the amount of support  
21 according to the child's age, and the child is no longer in the age  
22 category on which the current support amount was based; or

23 (c) If a child is a full-time student and reasonably expected to  
24 complete secondary school or the equivalent level of vocational or  
25 technical training before the child becomes nineteen years of age upon  
26 a finding that there is a need to extend support beyond the eighteenth  
27 birthday.

28 (3) An order may be modified without showing a substantial change  
29 of circumstances if the requested modification is to:

1 (a) Require health insurance coverage for a child covered by the  
2 order; or

3 (b) Modify an existing order for health insurance coverage.

4 (4) Support orders may be adjusted once every twenty-four months  
5 based upon changes in the income of the parents without a showing of  
6 substantially changed circumstances.

7 (5) An obligor's voluntary unemployment or voluntary  
8 underemployment, by itself, is not a substantial change of  
9 circumstances.

10 (6) The department shall file the petition and a supporting  
11 affidavit with the secretary or the secretary's designee when the  
12 department petitions for modification.

13 (7) The responsible parent or the physical custodian shall follow  
14 the procedures in this chapter for filing an application for an  
15 adjudicative proceeding to petition for modification.

16 (8) Upon the filing of a proper petition or application, the  
17 secretary or the secretary's designee shall issue an order directing  
18 each party to appear and show cause why the order should not be  
19 modified.

20 (9) If the presiding or reviewing officer finds a modification is  
21 appropriate, the officer shall modify the order and set current and  
22 future support under chapter 26.19 RCW.

23 **Sec. 11.** RCW 74.20A.058 and 1989 c 55 s 5 are each amended to read  
24 as follows:

25 ~~((If an adjudicative proceeding is requested by an alleged father  
26 under RCW 74.20A.056, the department shall mail a copy of the notice of  
27 hearing to the mother at her last known address. If the mother appears  
28 for the proceeding, she shall be allowed to participate in it.  
29 Participation includes giving testimony, and being present for or~~

1 ~~listening to other testimony offered in the proceeding. Nothing in this~~  
2 ~~section shall preclude the administrative law judge from limiting~~  
3 ~~participation to preserve the confidentiality of information protected~~  
4 ~~by law.))~~

5 (1) The office of support enforcement shall serve a copy of the  
6 notice and finding of financial or parental responsibility on the  
7 custodian after service of the notice and finding on the responsible  
8 parent.

9 (2) The office of support enforcement shall serve the notice on the  
10 custodian by mailing a copy of the notice and a letter of explanation  
11 by first class mail to the parent's last known address. The letter  
12 shall contain the following information:

13 (a) The custodian's right to object to the notice; and

14 (b) The consequences if the custodian defaults.

15 (3) The custodian may apply for an adjudicative proceeding to  
16 object to the notice or a proposed settlement on the notice. The  
17 custodian has twenty days from the date notice was given to the  
18 custodian to apply for an adjudicative proceeding to contest:

19 (a) A notice and finding of financial or parental responsibility;  
20 or

21 (b) A proposed settlement on the notice.

22 (4) The custodian may:

23 (a) Participate as a party in an adjudicative proceeding scheduled  
24 by the department on a notice and finding of financial or parental  
25 responsibility; and

26 (b) Apply for an adjudicative proceeding after the twenty days on  
27 the same grounds as the responsible parent or alleged father.

28 **Sec. 12.** RCW 26.09.175 and 1990 1st ex.s. c 2 s 3 are each amended  
29 to read as follows:

1 (1) A proceeding for the modification of an order of child support  
2 shall commence with the filing of a petition(~~(, a supporting financial~~  
3 ~~affidavit,)~~) and worksheets. The petition (~~and affidavit~~) shall be  
4 in substantially the form prescribed by the administrator for the  
5 courts. There shall be a fee of twenty dollars for the filing of a  
6 petition for modification of dissolution.

7 (2) The petitioner shall serve upon the other party the summons, a  
8 copy of the petition (~~and affidavit, and a blank copy of a financial~~  
9 ~~affidavit~~), and the worksheets in the form prescribed by the  
10 administrator for the courts. If the modification proceeding is the  
11 first action filed in this state, service shall be made by personal  
12 service. If the decree to be modified was entered in this state,  
13 service shall be by personal service or by any form of mail requiring  
14 a return receipt. If the support obligation has been assigned to the  
15 state pursuant to RCW 74.20.330 (~~and notice has been filed with the~~  
16 ~~court~~) or the state has a subrogated interest under RCW 74.20A.030,  
17 the summons, petition, (~~affidavit,~~) and worksheets shall also be  
18 served on the attorney general. Proof of service shall be filed with  
19 the court.

20 (3) The responding party's answer (~~and completed financial~~  
21 ~~affidavit~~) and worksheets shall be served and the answer filed within  
22 twenty days after service of the petition or sixty days if served out  
23 of state. The responding party's failure to file an answer within the  
24 time required shall result in entry of a default judgment for the  
25 petitioner.

26 (4) At any time after responsive pleadings are filed, either party  
27 may schedule the matter for hearing.

28 (5) Unless both parties stipulate to arbitration or the presiding  
29 judge authorizes oral testimony pursuant to subsection (6) of this  
30 section, a petition for modification of an order of child support shall

1 be heard by the court on affidavits, the petition, answer, and  
2 worksheets only.

3 (6) A party seeking authority to present oral testimony on the  
4 petition to modify a support order shall file an appropriate motion not  
5 later than ten days after the time of notice of hearing. Affidavits  
6 and exhibits setting forth the reasons oral testimony is necessary to  
7 a just adjudication of the issues shall accompany the petition. The  
8 affidavits and exhibits must demonstrate the extraordinary features of  
9 the case. Factors which may be considered include, but are not limited  
10 to: (a) Substantial questions of credibility on a major issue; (b)  
11 insufficient or inconsistent discovery materials not correctable by  
12 further discovery; or (c) particularly complex circumstances requiring  
13 expert testimony.

14 (7) The administrator for the courts shall develop and prepare, in  
15 consultation with interested persons, model forms or notices for the  
16 use of the procedure provided by this section, including a notice  
17 advising of the right of a party to proceed with or without benefit of  
18 counsel.

19 NEW SECTION. **Sec. 13.** A new section is added to chapter 74.20A  
20 RCW to read as follows:

21 When providing support enforcement services, the office of support  
22 enforcement may take action, under this chapter and chapter 26.23 RCW,  
23 against a responsible parent's property of any kind, including but not  
24 limited to earnings, located in, or subject to the jurisdiction of, the  
25 state of Washington regardless of the presence or residence of the  
26 responsible parent. If the responsible parent resides in another state  
27 or country, the office of support enforcement shall serve a notice  
28 under RCW 74.20A.040 more than sixty days before taking collection  
29 action.

1        NEW SECTION.    **Sec. 14.**    A new section is added to chapter 74.20 RCW  
2 to read as follows:

3        When the department appears or participates in an adjudicative  
4 proceeding under chapter 26.23 or 74.20A RCW it shall:

5        (1) Act in furtherance of the state's financial interest in the  
6 matter and the best interests of the children of the state;

7        (2) Facilitate the resolution of the controversy; and

8        (3) Make independent recommendations to ensure the integrity and  
9 proper application of the process.

10       In these proceedings the department does not act on behalf or as an  
11 agent or representative of any individual.

12       NEW SECTION.    **Sec. 15.**    A new section is added to chapter 26.19 RCW  
13 to read as follows:

14       The administrator for the courts shall review the support schedule  
15 every four years to determine if the application of the support  
16 schedule results in appropriate support orders. The administrator for  
17 the courts shall report findings regarding the application of the  
18 schedule to the legislature. Upon the review and approval of the  
19 office of financial management, the department of social and health  
20 services shall pay the reasonable and necessary costs of this review  
21 process.

22       **Sec. 16.**    RCW 26.21.230 and 1963 c 45 s 30 are each amended to read  
23 as follows:

24       The obligee, the prosecuting attorney, or the attorney general may  
25 register the foreign support order in a court of this state in the  
26 manner(~~(, with the effect and for the purposes herein)~~) provided for in  
27 this chapter for the purpose of modification and enforcement of the  
28 support provisions. The court shall only have jurisdiction to consider

1 the child support provisions of the order. The modification shall be  
2 pursuant to RCW 26.09.170 and 26.09.175.

3 **Sec. 17.** RCW 26.23.035 and 1989 c 360 s 34 are each amended to  
4 read as follows:

5 (1) ~~((The child support registry shall distribute all moneys~~  
6 ~~received in compliance with 42 U.S.C. Sec. 657. Support received by~~  
7 ~~the office of support enforcement shall be distributed promptly but not~~  
8 ~~later than eight days from the date of receipt unless circumstances~~  
9 ~~exist which make such distribution impossible. Such circumstances~~  
10 ~~include when: (a) The location of the custodial parent is unknown; (b)~~  
11 ~~the child support debt is in litigation; or (c) the responsible parent~~  
12 ~~or custodial parent cannot be identified. When, following termination~~  
13 ~~of public assistance, the office of support enforcement collects~~  
14 ~~support, all moneys collected up to the maximum of the support due for~~  
15 ~~the period following termination from public assistance shall, to the~~  
16 ~~extent permitted by federal law, be paid to the custodial parent before~~  
17 ~~any distribution to the office of support enforcement under federal~~  
18 ~~law. This section shall not apply to support collected through~~  
19 ~~intercepting federal tax refunds under 42 U.S.C. Sec. 664. When a~~  
20 ~~responsible parent has more than one support obligation, or a support~~  
21 ~~debt is owed to more than one party, moneys received will be~~  
22 ~~distributed between the parties proportionally, based upon the amount~~  
23 ~~of the support obligation and/or support debt owed.)) The department~~  
24 ~~of social and health services shall adopt rules for the distribution of~~  
25 ~~support money collected by the office of support enforcement. These~~  
26 ~~rules shall:~~

27 (a) Comply with 42 U.S.C. Sec. 657;

28 (b) Direct the office of support enforcement to distribute support  
29 money within eight days of receipt, unless one of the following

1 circumstances, or similar circumstances specified in the rules,  
2 prevents prompt distribution:

3 (i) The location of the custodial parent is unknown;

4 (ii) The support debt is in litigation;

5 (iii) The office of support enforcement cannot identify the  
6 responsible parent or the custodial parent;

7 (c) Provide for proportionate distribution of support payments if  
8 the responsible parent owes a support obligation or a support debt for  
9 two or more families or family units; and

10 (d) Authorize the distribution of support money, except money  
11 collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to  
12 the family before the debt owed to the state when the family stops  
13 receiving a public assistance grant.

14 (2) The office of support enforcement may distribute support  
15 payments to the payee under the support order or to another person who  
16 has lawful physical custody of the child or custody with the payee's  
17 consent. The payee may file an application for an adjudicative  
18 proceeding to challenge distribution to such other person. Prior to  
19 distributing support payments to any person other than the payee, the  
20 registry shall:

21 (a) Obtain a written statement from the child's physical custodian,  
22 under penalty of perjury, that the custodian has lawful custody of the  
23 child or custody with the payee's consent;

24 (b) Mail to the responsible parent and to the payee at the payee's  
25 last known address a copy of the physical custodian's statement and a  
26 notice which states that support payments will be sent to the physical  
27 custodian; and

28 (c) File a copy of the notice with the clerk of the court that  
29 entered the original support order.

1           (3) If the Washington state support registry distributes a support  
2 payment to a person in error, the registry may obtain restitution by  
3 means of a set-off against future payments received on behalf of the  
4 person receiving the erroneous payment, or may act according to RCW  
5 74.20A.270 as deemed appropriate. Any set-off against future support  
6 payments shall be limited to amounts collected on the support debt and  
7 ten percent of amounts collected as current support.

8           NEW SECTION.   **Sec. 18.**           Section 11 of this act shall take  
9 effect January 1, 1992.