

HOUSE BILL REPORT

HB 1262

As Passed House:
February 9, 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:

Committee Activity:

Civil Rights & Judiciary: 1/25/23, 1/27/23 [DP].

Floor Activity:

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

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 the DCS.
- Requires the 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 the DCS on behalf of the responsible parent.
- Exempts an employer from liability for reporting or withholding and remitting a lump sum payment.

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.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Hansen, Chair; Farivar, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Cheney, Entenman, Goodman, Peterson, Rude and Walen.

Staff: Yelena Baker (786-7301).

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). The 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 the 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. The DCS may issue an income withholding order as authorized by a support order that contains a notice authorizing child support collection by withholding from earnings or after service of a notice containing an income withholding provision.

The DCS must serve an income withholding order upon a responsible parent's employer in a specified manner. 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 the 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.

The DCS may issue a notice of noncompliance to any person, entity, or agency that the DCS believes is not complying with an income withholding order. The liability asserted in the notice of noncompliance becomes final and collectible on the twenty-first day after the date of service, unless within that time the person, entity, or agency initiates an action in superior court to contest the noncompliance notice, requests an administrative hearing, or contacts the DCS and demonstrates compliance or negotiates with the DCS an alternate resolution to the asserted noncompliance. 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.

An income withholding order for child support has priority over any wage assignment, garnishment, attachment, or other legal process. An employer is not civilly liable to the responsible parent for complying with a notice of payroll deduction.

An income withholding order remains in effect until released by the DCS, the court enters an order terminating the income withholding order and approving an alternate arrangement, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent.

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 the Division of Child Support (DCS) before making any lump sum payment of more than \$500 to the parent responsible for child support. An employer may report to the DCS a lump sum payment of a smaller amount or an amount yet to be determined. Notice to the DCS may be provided by contacting the 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 the 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 the DCS to make all or a portion of the lump sum payment.

The 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 the 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.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There is a great deal of economic disparity between families who are not paid child support that is due to them and the people who owe that child support. Currently, only a few employers voluntarily report bonuses and other lump sum payments. The bill enacts model legislation developed by National Council of Child Support Directors, together with the American Payroll Association and the federal Office of Child Support Enforcement. Employers would be required to report lump sum payments only if they already have an employee subject to an income withholding order; this is a small subset of employees, so the bill does not create an undue burden. The lump sum reporting procedures make a lot of sense and payroll professionals are in support of these procedural requirements.

(Opposed) None.

Persons Testifying: Representative Amy Walen, prime sponsor; Alice Jacobsohn, American Payroll Association; and Tony Bowie and Sharon Redmond, Department of Social and Health Services, Economic Services Administration.

Persons Signed In To Testify But Not Testifying: None.