

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES – ECONOMIC
SERVICES ADMINISTRATION – DIVISION OF CHILD SUPPORT:**

DRAFT LANGUAGE FOR 2025 SESSION

**REPORTING SELF-EMPLOYED WORKERS TO THE DIVISION OF CHILD
SUPPORT**

Sec. 1. RCW 26.23.020 and 2023 c 248 s 2 are each reenacted and amended to read as follows

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

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

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

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

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

(5) "Lump sum payment" means income other than a periodic recurring payment of earnings on regular paydays and does not include reimbursement for expenses. Lump sum

payment includes, but is not limited to, discretionary and nondiscretionary bonuses, commissions, performance bonuses, merit increases, safety awards, signing bonuses, moving and relocation incentive payments, holiday pay, termination pay, and severance pay. Lump sum payment also includes workers' compensation, insurance settlements, and personal injury settlements paid as replacement for wages owed.

(6) "Service provider" means:

(a) Any person 18 years of age or older, a corporation with a sole shareholder, or a limited liability company with a sole member;

(b) Who is not an employee of the service recipient as defined in subsection (3) of this section; and

(c)(i) Who contracts or provides services for compensation to a service recipient doing business in this state in an amount equal to or greater than \$600 in the calendar year;

(ii) Who logs in as a driver to the digital network of a transportation network company doing business in this state or a company operating a network in this state to facilitate delivery of food, goods, or services to persons seeking those services; or

(iii) Who logs in as a service provider to a digital platform company doing business in this state or a company operating a network in this state to facilitate the performance of services to persons seeking those services.

(7) "Service recipient" means:

(a) A person doing business in the state of Washington who, as part of that business, enters into a contract for services with a service provider or receives services from a service provider; or

(b) A person doing business in this state as a company that maintains a digital network to facilitate services by:

(i) Transportation network company drivers or drivers delivering food, goods, or services to a person seeking those services; or

(ii) Others who meet the definition of service provider in subsection (6) of this section.

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

NEW SECTION. **Sec 2.** A new section is added to chapter 26.23 RCW to read as follows:

(1) All service recipients shall report to the Washington state support registry (WSSR):

(a) The hiring or use of a service provider to whom the service recipient:

(i) Pays \$600 or more to the service provider in a calendar year; or

(ii) Enters into a contract with the service provider for \$600 or more in a calendar year;

and

(b) The date on which the service provider first performed, or is anticipated to perform, services for pay for the service provider.

(2) Service recipients shall report by any means authorized by the WSSR which will result in timely reporting.

(3) Service recipients shall submit reports to the WSSR within 20 days of the earlier of:

- (a) Paying, or anticipating paying, \$600 or more to the service provider in a calendar year; or
 - (b) Entering into a contract with the service provider for \$600 or more in a calendar year.
- (4) The service recipient is not required to report the service provider to the WSSR if:
- (a) The service recipient has previously reported the service provider to the WSSR; and
 - (b) Has paid the service provider within the previous 60 calendar days.
- (5) The report shall contain the following information:
- (a) The service provider's:
 - (i) Name;
 - (ii) Address;
 - (iii) Date of birth; and
 - (iv) Social security number or other identifying number assigned under section 6109 of the internal revenue code of 1986.
 - (b) An indication that the person is being reported as a service provider and not as an employee.
 - (c) The service recipient's:
 - (i) Name;
 - (ii) Address; and
 - (iii) Identifying number assigned under section 6109 of the internal revenue code of 1986.
- (6) If the division of child support (DCS) sends an income withholding order under chapter 26.23 RCW or an order to withhold and deliver under chapter 74.20A to the service recipient regarding a child support obligation owed by the service provider, the service recipient shall:
- (a) Withhold from the payment or payments due to the service provider according to the terms of the notice or order issued by DCS; and
 - (b) Remit amounts withheld from the payment or payments to the registry within seven days.
- (7) A service provider who fails to report as required under this section shall be subject to a civil penalty of:
- (a) \$25 per month per service provider; or
 - (b) \$500, if the failure to report is the result of a conspiracy between the service recipient and the service provider not to supply the required report, or to supply a false report.
- All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the division of child support under RCW 74.20A.350.
- (8) The registry shall retain or destroy reports it receives from service recipients, as appropriate.
- (a) The registry must retain the information for a particular service provider only if the registry is responsible for establishing, enforcing, or collecting a support debt of the service provider. The registry may, however, retain information for a particular service provider for as long as may be necessary to:

(i) Transmit the information to the national directory of new hires as required under federal law; or

(ii) Provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law.

(b) Information that is not permitted to be retained shall be promptly destroyed. Agencies that obtain information from the department of social and health services under this section shall maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities.

(9) The secretary of the department of social and health services may adopt rules to implement this section and may establish exemptions if needed to reduce unnecessary or burdensome reporting, such as:

(a) Working with service recipients on implementation strategies that extend beyond the January 1, 2027, effective date of this act; or

(b) Developing a process a service recipient may use to request an exception to the requirement.

Sec. 3. RCW 26.23.060 and 2023 c 248 s 3 are each amended to read as follows:

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

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

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

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

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

(b) By certified mail, return receipt requested;

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

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

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

(a) If the income withholding order is not for a lump sum payment under RCW 26.23.063, the employer or employment security department shall thereafter deduct each pay period the amount stated in the order divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed 50 percent of the responsible parent's disposable earnings; or

(b) If the income withholding order is for a lump sum payment under RCW 26.23.063, the employer shall withhold the lump sum payment or the amount stated in the order, whichever is less, unless a portion of the lump sum payment is disposable earnings. If a portion of the lump sum payment is comprised of disposable earnings, 50 percent of the portion considered disposable earnings is not subject to the income withholding order.

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

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

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

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

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

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

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

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

(7) An employer or employment security department that receives an income withholding order shall make immediate deductions 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.

(8) An employer, or the employment security department, upon whom an income withholding order is served, shall make an answer to the division of child support within 20 days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives benefit payments from the employment security department, whether the employer or employment security department anticipates paying earnings or benefits and the amount of earnings or benefit payments. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving benefit payments from the employment security department, the answer shall state the present employer's name and address, if known.

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

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the income withholding order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) ~~Ten dollars~~\$10 for the first disbursement made to the Washington state support registry; and (b) ~~one dollar~~\$1 for each subsequent disbursement to the registry.

(10) The income withholding order shall remain in effect until released by the division of child support, the court enters an order terminating the income withholding order and approving an alternate arrangement under RCW 26.23.050, or until 60 days after the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the income withholding order. For the employment security department, the income withholding order shall remain in effect until released by the division of child support or until the court enters an order terminating the income withholding order.

(11) The division of child support must use income withholding forms adopted and required by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state.

(12) For the purposes of this chapter and chapter 74.20A RCW, a service recipient must honor an income withholding order or order to withhold and deliver in the same manner as an employer. The actions of withholding and remitting pursuant to an income withholding order or order to withhold and deliver do not, by themselves, create an employer-employee relationship between a service provider and service recipient.

Sec. 4. RCW 74.20A.080 and 2021 c 35 s 19 are each amended to read as follows:

(1) The secretary may issue to any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States, an order to withhold and deliver property of any kind, including but not restricted to earnings which are or might become due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States property which is or might become due, owing, or belonging to said debtor. Such order to withhold and deliver may be issued:

(a) At any time, if a responsible parent's support order:

(i) Contains notice that withholding action may be taken against earnings, wages, or assets without further notice to the parent; or

(ii) Includes a statement that other income-withholding action under this chapter may be taken without further notice to the responsible parent;

(b) ~~Twenty-one~~21 days after service of a notice of support debt under RCW 74.20A.040;

(c) ~~Twenty-one~~ 21 days after service of a notice and finding of parental responsibility under RCW 74.20A.056;

(d) ~~Twenty-one days~~ 21 after service of a notice of support owed under RCW 26.23.110;

(e) ~~Twenty-one days~~ 21 after service of a notice and finding of financial responsibility under RCW 74.20A.055; or

(f) When appropriate under RCW 74.20A.270.

(2) The order to withhold and deliver shall:

(a) State the amount to be withheld on a periodic basis if the order to withhold and deliver is being served to secure payment of monthly current support;

(b) State the amount of the support debt accrued;

(c) State in summary the terms of RCW 74.20A.090 and 74.20A.100;

(d) Be served:

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

(ii) By certified mail, return receipt requested;

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

(iv) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (d)(i) or (ii) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement; or

(v) By regular mail to an address if designated by the financial institution as a central levy or garnishment address, and if the notice is clearly identified as a levy or garnishment order. Before the division of child support may initiate an action for noncompliance with a withholding action against a financial institution, the division of child support must serve the order to withhold and deliver on the financial institution in the manner described in (d)(i) or (ii) of this subsection.

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

(4) Any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States upon whom service has been made is hereby required to:

(a) Answer said order to withhold and deliver within ~~twenty~~ 20 days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein; and

(b) Provide further and additional answers when requested by the secretary.

(5) The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the order to withhold and deliver in the case where the order was served by regular mail.

(6) Any such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States in possession of any property which may be subject to the claim of the department shall:

- (a)(i) Immediately withhold such property upon receipt of the order to withhold and deliver; and
- (ii) Within seven working days deliver the property to the secretary;
- (iii) Continue to withhold earnings payable to the debtor at each succeeding disbursement interval as provided for in RCW 74.20A.090, and deliver amounts withheld from earnings to the secretary within seven working days of the date earnings are payable to the debtor;
- (iv) Deliver amounts withheld from periodic payments to the secretary within seven working days of the date the payments are payable to the debtor;
- (v) Inform the secretary of the date the amounts were withheld as requested under this section; or
- (b) Furnish to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.
- (7) An order to withhold and deliver served under this section shall not expire until:
- (a) Released in writing by the division of child support;
- (b) Terminated by court order;
- (c) A person or entity, other than an employer as defined in Title 50 RCW, who has received the order to withhold and deliver does not possess property of or owe money to the debtor; or
- (d) ~~An~~ 60 days after an employer who has received the order to withhold and deliver no longer employs, contracts, or owes money to the debtor under a contract of employment, express or implied.
- (8) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision, or department of the state, or agency, subdivision, or instrumentality of the United States subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary.
- (9) Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver.
- (10) A person, firm, corporation, or association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States that complies with the order to withhold and deliver under this chapter is not civilly liable to the debtor for complying with the order to withhold and deliver under this chapter.
- (11) The secretary may hold the money or property delivered under this section in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability.
- (12) Exemptions contained in RCW 74.20A.090 apply to orders to withhold and deliver issued under this section.
- (13) The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy

of the order shall be mailed or served together with a concise explanation of the right to petition for judicial review. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

(14) An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment, garnishment, attachment, or other legal process.

(15) The division of child support shall notify any person, firm, corporation, association, or political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States required to withhold and deliver the earnings of a debtor under this action that they may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ~~ten dollars~~ \$10 for the first disbursement to the department and ~~one dollar~~ \$1 for each subsequent disbursement under the order to withhold and deliver.

(16) For the purposes of this chapter and chapter 26.23 RCW, a service recipient must honor an income withholding order or order to withhold and deliver in the same manner as an employer. The actions of withholding and remitting pursuant to an income withholding order or order to withhold and deliver do not, by themselves, create an employer-employee relationship between a service provider and service recipient.

Sec. 5. RCW 74.20A.350 and 2021 c 35 s 19 are each amended to read as follows:

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

(a) An income withholding order issued under chapter 26.23 RCW;

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

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

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

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

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

(g) The duty to report the hiring or use of a service provider imposed by section 2 of this act; or

(h) The duty of a business, employer, or payroll processor that has received an income withholding order from the department of social and health services requiring payment to the Washington state support registry to remit withheld funds by electronic means imposed by RCW 26.23.065.

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

(3) Fines for noncompliance by a business, employer, or payroll processor with the duty to remit withheld funds by electronic means imposed by RCW 26.23.065 are governed by subsection (4)(c) of this section.

(4) The division of child support may impose fines of up to ~~one hundred dollars~~ \$100 per occurrence for:

(a) Noncompliance with a subpoena or an information request issued by the division of child support, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act;

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

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

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

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

(c) A business, employer, or payroll processor's noncompliance with the duty to remit withheld funds by electronic means imposed by RCW 26.23.065. The division of child support may not impose fines for failure to comply with this requirement unless it has provided the person, firm, entity, or agency of state or federal government with written warning:

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

(ii) Explaining the potential for fines for failure to remit withheld payments by electronic means when required under RCW 26.23.065; and

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

(5) The division of child support may assess fines according to RCW 26.23.040 and section 2 of this act for failure to comply with ~~employer~~-reporting requirements.

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

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

(8) The liability asserted by the division of child support 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, firm, entity, or agency of state or federal government:

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

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

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

(9) The notice of noncompliance shall contain:

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

(b) Identification of the:

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

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

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

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

(12) After the ~~twenty~~20 days following service of the notice, the person, firm, entity, or agency of state or federal government may petition for a late hearing. A petition for a late hearing does not stay any collection action to recover the debt. A late hearing is available upon a showing of any of the grounds stated in civil rule 60 for the vacation of orders.

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

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

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

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

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

NEW SECTION. Sec. 6. This act takes effect January 1, 2027.

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