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SENATE BILL 5388

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Darneille, Pedersen, Kohl-Welles, and Chase

Read first time 01/21/15. Referred to Committee on Law & Justice.

1            AN ACT Relating to child support; amending RCW 26.23.035; adding  
2 new sections to chapter 26.23 RCW; adding a new section to chapter  
3 9.46 RCW; adding a new section to chapter 67.16 RCW; and prescribing  
4 penalties.

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

6            **Sec. 1.** RCW 26.23.035 and 2010 2nd sp.s. c 3 s 1 are each  
7 amended to read as follows:

8            (1) The department of social and health services shall adopt  
9 rules for the distribution of support money collected by the division  
10 of child support. These rules shall:

11            (a) Comply with Title IV-D of the federal social security act as  
12 amended by the personal responsibility and work opportunity  
13 reconciliation act of 1996 and the federal deficit reduction act of  
14 2005;

15            (b) Direct the division of child support to distribute support  
16 money within eight days of receipt, unless one of the following  
17 circumstances, or similar circumstances specified in the rules,  
18 prevents prompt distribution:

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

20            (ii) The support debt is in litigation;

1 (iii) The division of child support cannot identify the  
2 responsible parent or the custodian;

3 (c) Provide for proportionate distribution of support payments if  
4 the responsible parent owes a support obligation or a support debt  
5 for two or more Title IV-D cases; and

6 (d) Authorize the distribution of support money, except money  
7 collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to  
8 the IV-D custodian before the debt owed to the state when the  
9 custodian stops receiving a public assistance grant.

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

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

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

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

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

34 ~~(4) ((The division of child support shall ensure that the fifty~~  
35 ~~dollar pass through payment, as required by 42 U.S.C. Sec. 657 before~~  
36 ~~the adoption of P.L. 104 193, is terminated immediately upon July 27,~~  
37 ~~1997, and all rules to the contrary adopted before July 27, 1997, are~~  
38 ~~without force and effect.~~

39 ~~(5) The division of child support shall ensure that the child~~  
40 ~~support pass through payment adopted under section 2, chapter 143,~~

1 ~~Laws of 2007 pursuant to 42 U.S.C. Sec. 657(a) as amended by section~~  
2 ~~7301(b)(7)(B) of the federal deficit reduction act of 2005, is~~  
3 ~~suspended as of May 1, 2011, and all rules to the contrary adopted~~  
4 ~~before May 1, 2011, are without force and effect.))~~ Consistent with  
5 42 U.S.C. Sec. 657(a) as amended by section 7301(b)(7)(B) of the  
6 federal deficit reduction act of 2005, the department shall pass  
7 through child support that does not exceed one hundred dollars per  
8 month collected on behalf of a family, or in the case of a family  
9 that includes two or more children, an amount that is not more than  
10 two hundred dollars per month. The department has rule-making  
11 authority to implement this subsection.

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

14 (1) Any person or entity doing business in the state of  
15 Washington who is required to file a report with the internal revenue  
16 service for services received from an independent contractor in the  
17 course of doing business shall report to the Washington state support  
18 registry the hiring of any independent contractor who resides or  
19 works in this state to whom the person or entity anticipates paying  
20 compensation.

21 (2) Persons or entities may report by any means authorized by the  
22 registry which will result in timely reporting. The following  
23 information must be reported:

24 (a) The independent contractor's name, address, social security  
25 number, and date of birth; and

26 (b) The person or entity's name, address, and, if applicable, the  
27 identifying number assigned under section 6109 of the internal  
28 revenue code of 1986.

29 (3) Persons or entities shall submit reports within twenty days  
30 of either entering into a contract with the independent contractor  
31 for compensation of six hundred dollars or more or making payments to  
32 the independent contractor totaling six hundred dollars or more.

33 (4) A person or entity who fails to report as required under this  
34 section is subject to a civil penalty of:

35 (a) Twenty-five dollars; or

36 (b) Five hundred dollars, if the failure to report is the result  
37 of a conspiracy between the person or entity and the independent  
38 contractor not to supply the required report, or to supply a false

1 report. The penalty may be imposed and collected by the division of  
2 child support under RCW 74.20A.350.

3 (5)(a) The registry must retain the information for a particular  
4 independent contractor only if the registry is responsible for  
5 establishing, enforcing, or collecting a support debt of the  
6 independent contractor. The registry may, however, retain information  
7 for a particular independent contractor for as long as may be  
8 necessary to:

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

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

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

19 (6) For the purposes of this section, "independent contractor"  
20 means an individual who:

21 (a) Is free from direction and control over the performance of  
22 the service;

23 (b) Performs the service either:

24 (i) Outside of the usual course of business for the entity for  
25 which the service is performed; or

26 (ii) Outside of all the places of business for which the service  
27 is performed; and

28 (c) Is customarily engaged in an independently established trade,  
29 occupation, profession, or business of the same nature as that  
30 involved in the service contract.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 26.23  
32 RCW to read as follows:

33 (1) The department shall establish a gambling payment intercept  
34 program to require licensees to withhold payments from winning  
35 players who owe past due child support.

36 (2)(a) The department shall develop and maintain a gambling  
37 payment intercept registry to allow licensees to determine if a  
38 winning player owes past due child support.

1 (b) Information accessed through the registry is confidential.  
2 Licensees shall not use information obtained from the registry except  
3 as needed for the gambling payment intercept program and are subject  
4 to criminal penalties for the misuse of information as provided in  
5 RCW 26.23.120.

6 (3) If a licensee is required to file Form W-2G or a  
7 substantially equivalent form with the internal revenue service for a  
8 winning player who owes past due child support, before the payment of  
9 winnings from any gambling activity, the licensee:

10 (a) May deduct and retain an administrative fee in the amount of  
11 the lesser of three percent of the amount of past due child support  
12 withheld under (b) of this subsection; or one hundred dollars. If  
13 funds are available, the administrative fee shall be in addition to  
14 the amounts withheld in (b) of this subsection;

15 (b) Shall withhold the amount of past due child support owed from  
16 the winnings and within twenty-four hours, transmit the amount  
17 withheld; the full name, address, and social security number of the  
18 obligor parent; and the date, amount of payment, and location of the  
19 licensee to the department;

20 (c) Shall issue the obligor parent a receipt in a form prescribed  
21 by the department with the total amount withheld for past due child  
22 support and any administrative fee.

23 (4) Within two business days of receiving the withheld funds from  
24 the licensee, the department shall notify the obligor parent at the  
25 address provided by the licensee that the department intends to  
26 offset the obligor parent's past due child support with the winnings  
27 and provide the obligor parent with an opportunity to object.

28 (5) A licensee that makes payment under this section is not  
29 liable to the person to whom the winner owes an outstanding debt.

30 (6) As used in this section, "licensee" means a licensee under  
31 chapter 9.46 RCW, a class 1 association licensed to conduct  
32 parimutuel wagering under RCW 67.16.105(2), or an operator of an  
33 advance deposit wagering system licensed under RCW 67.16.260.

34 (7) The department shall work with the Washington state gambling  
35 commission to include participation in the gambling payment intercept  
36 program when the commission is negotiating tribal gaming compacts  
37 with the tribes.

38 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.46 RCW  
39 to read as follows:

1           (1)(a) Any licensee authorized to conduct a gambling activity  
2 under this chapter shall participate in the gambling payment  
3 intercept program as required by section 3 of this act.

4           (b) Any licensee who fails to comply with section 3 of this act  
5 may be subject to suspension of its license or monetary penalties  
6 under this chapter.

7           (2) The commission shall consider the gambling payment intercept  
8 program as provided in section 3 of this act as an element to be  
9 negotiated with federally recognized Indian tribes as provided in RCW  
10 9.46.360.

11           NEW SECTION.   **Sec. 5.** A new section is added to chapter 67.16  
12 RCW to read as follows:

13           (1) Any class 1 association licensed to conduct parimutuel  
14 wagering under RCW 67.16.105(2) and any operator of an advance  
15 deposit wagering system licensed under RCW 67.16.260 shall  
16 participate in the gambling payment intercept program as required by  
17 section 3 of this act.

18           (2) A licensee who fails to comply with section 3 of this act may  
19 be subject to penalties as provided in RCW 67.16.270.

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