

SENATE BILL REPORT

SB 5552

As Reported by Senate Committee On:
Human Services & Corrections, February 20, 2013

Title: An act relating to improving child support collections by requiring reporting of compensation and establishing an intercept program.

Brief Description: Improving child support collections by requiring reporting of compensation and establishing an intercept program.

Sponsors: Senators Darneille, Kline, Chase, Nelson, Hasegawa, Kohl-Welles, Keiser, McAuliffe and Shin.

Brief History:

Committee Activity: Human Services & Corrections: 2/12/13, 2/20/13 [DPS-WM, DNP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5552 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carrell, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove and Harper.

Minority Report: Do not pass.

Signed by Senator Padden.

Staff: Shani Bauer (786-7468)

Background: New Hire Reporting. All employers doing business in Washington State must report to the Washington State Support Registry (Registry) when the business hires or re-hires a person for employment. Employers may report by mailing a copy of the employee's W-4 form or by other means authorized by the Registry. Reports must be submitted within 20 days of the hiring or re-hiring of the person. The reports must include the employee's name, address, social security number, and date of birth. The Department of Social and Health Services (DSHS) transmits the information to the National Directory of New Hires for purposes of enforcing child support obligations. The information is also shared with the Employment Security Department for purposes of verifying employment or non-employment information provided by persons receiving unemployment benefits.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

An employer who fails to report as required is subject to a civil penalty of \$25 per month, per employee; or \$500 if the failure to report is the result of a conspiracy between the employer and the employee.

Private Card Rooms. The Gambling Act authorizes social card games, including house-banked games, when licensed by the Gambling Commission (Commission). A gambling license is legal authority to engage in that gambling activity. A city, town, or county may absolutely prohibit gambling but may not change the scope of a license. There are currently 58 licensed card rooms in the state.

Tribal Gaming. The Indian Gaming Regulatory Act (IGRA) enacted by Congress in 1988 governs gambling on Indian lands. Under IGRA, tribes may not conduct class III gaming on Indian land unless a state/tribal compact governs the specific form of gambling. Class III gaming typically includes banked card games, slot machines, pari-mutual racing, lotteries, and electronic games of chance. The state regulates class III gaming under the terms of state/tribal gaming compacts.

A tribe wanting to conduct class III gaming must request the state to negotiate a compact. IGRA requires the state to negotiate in good faith. If the state refuses to negotiate, or if the tribe alleges the state is not negotiating in good faith, IGRA authorizes the tribe to sue the state in federal court. In 1996 the United States Supreme Court ruled that this provision violates the 11th Amendment to the Constitution. Based on that ruling, if a state asserts its 11th Amendment sovereign immunity defense, this portion of IGRA is rendered inoperable.

There are 29 federally recognized tribes in Washington State and 28 of those have Class III gaming compacts. Twenty-one tribes operate 27 casinos under compact.

Summary of Bill (Recommended Substitute): Reporting of Independent Contractors. Any person or entity doing business in the state who must report services received from an independent contractor to the Internal Revenue Service must report the hiring of that independent contractor to the Registry. Reports may be submitted by any means authorized by the registry that results in the filing of a timely report. The report must include the contractor's name, address, social security number, and date of birth and must be submitted within 20 days of entering into a contract for compensation of \$600 or more. Penalties for the failure to report are the same as a failure to report an employee.

The registry must retain the information only if the independent contractor is responsible for a child support debt. The registry may retain the information as long as necessary to transmit the information to the National Director of New Hires or to provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law. Information that is not permitted to be retained must be destroyed.

Gambling Intercept. Entities licensed by the Commission to conduct gambling activity and entities licensed by the Horse Racing Commission to conduct parimutuel wagering for horse racing must participate in the Gambling Payment Intercept Program to collect past-due child support from winning players. DSHS must establish a registry to allow licensees to determine whether winning players owe child support. Information accessed through the registry must be kept confidential. Licensees must withhold past-due child support from

winnings if the licensee is required to file IRS form W-2G. The licensee may withhold an administrative fee equal to 3 percent of the amount withheld or \$100, whichever is less.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): A person or entity need only report an independent contractor if the services were received in the course of doing business. The definition of independent contractor is simplified. A licensee for purposes of the Gambling Payment Intercept Program is defined to include any entity licensed by the Commission and entities licensed by the Horse Racing Commission to conduct parimutuel wagering for horse racing. Licensees must participate in the program by checking a registry and withholding child support from winnings when a winning player owes past-due support. Support need only be withheld when the licensee is also required to file IRS form W-2G. An administrative fee for withholding is authorized and a delayed effective date is added.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2014.

Staff Summary of Public Testimony on Original Bill: PRO: This bill is looking for ways to increase the collection of child support and relieve the effect of the recession on children. Over the past several years there has been an increase in the amount of contracted work. There aren't good mechanisms for collecting child support from this population. Laws for independent contractors should be similar to those for employees.

CON: The concept of this bill is good, however, as written the reporting requirement would be burdensome on the regular person. Anyone who employs an independent contractor as a housekeeper or yard person would be required to report to child support. It is unclear how they would even be informed of their obligation to report.

OTHER: DSHS has suggested linking reporting to those situations where the gambling establishment must file a federal tax form. This is a good suggestion and is a requirement that gambling establishments are currently familiar with. It would be helpful if the bill further defined card room and amended the Gambling Act. Card room establishments would like a single dollar threshold that would trigger a requirement to report.

Persons Testifying: PRO: Lonnie Johns-Brown, National Organization for Women.

CON: Rick Bartholomew, WA State Bar Assn., Family Law Section.

OTHER: Amy Hunter, WA State Gambling Commission; Dolores Chiechi, Recreational Gaming Assn.