

From: Shuster, Jamie  
To: Soura, Christian <ChristianSoura@gov.sc.gov>  
Baker, Josh <JoshBaker@gov.sc.gov>  
Date: 3/6/2012 1:18:03 PM  
Subject: FW: child support employment and training

---

Please let me know if you have any issues with how DSS wants to respond to the LAC on the issue discussed below. I need to know by COB tomorrow.

Thank you,

Jamie Shuster  
Director of Budget and Policy | Office of Governor Nikki Haley  
O: 803.734.5118 | C: 803.767.7953

---

From: Williamson, Virginia [mailto:Virginia.Williamson@dss.sc.gov]  
Sent: Friday, March 02, 2012 1:30 PM  
To: Shuster, Jamie  
Subject: child support employment and training

Jamie: We were considering options for addressing the state law requirement for fines against employers who do not comply with the new hire reporting requirements. I gather that you are aware of the problems associated with enforcement. We looked at implementing regulations that would provide for an enforcement mechanism. Then, we came up with another idea. Lillian wanted to get your reaction.

The Child Support Enforcement Division has several proposals for amendment to state statute that are necessary to comply with federal law, including a change to the new hire reporting requirements. We thought we might add the following to those proposals.

Amend Section 43-5-598 by deleting subsection (G), which reads:

(G) If an employer fails to report the hiring of an employee pursuant to this section, the employer is subject to a civil penalty of no more than:

(1) twenty-five dollars for the second offense and every offense thereafter unless the employer can demonstrate good cause for not reporting the hiring; or

(2) five hundred dollars for each and every offense, if the failure is the result of a conspiracy between the employer and the employee not to supply the required report or to supply a false or incomplete report. Fines imposed pursuant to this subsection must be enforced as provided for in Section 63-3-530(A)(43) and distributed according to Section 63-17-520."

This would be an employer-friendly amendment. The state could couple the changes related to reporting with removal of the threat of fines. DSS believes working with employers through outreach efforts will result in substantially improved compliance, and the need for a monetary penalty to assure compliance would be reduced. The cost to enforce the penalty outweighs the benefits because data systems and matching reports used to identify possible non-compliance produce false positives.

Federal law makes imposition of civil fines optional for states, so removing this provision from state law would not put SC out of compliance with the Title IVD (child support) State Plan. DSS has contacted federal officials at the National Directory of New Hires (NDNH) to determine what other states are doing relative to enforcement. At this point, they are aware of only two states that may impose fines, Utah and North Dakota.

The accuracy of the new hire data and matching processes used to detect failure to report new hires is an ongoing national discussion. The NDNH acknowledges that enforcement is difficult because there are no quantitatively reliable methods for identifying non-compliant employers. The issues of multi-state employers and employers using multiple FEINs to report on the same employee(s) for New Hires and Quarterly Wages create uncertainty in identifying non-compliant employers. The NDNH is aware of the accuracy issues and discussed the issues with states in a recent conference call in November 2011. During the call, they invited ideas and solutions from the states.

The statute makes enforcement efforts complicated and cumbersome. Even if an offending employer is identified, DSS is required to issue warnings and identify each employee for which the employer failed to report to the SDNH. Then, with the burden of proof on DSS, all evidence must be presented by DSS to a family court judge who would determine if a fine is appropriate.

Once a fine is imposed and collected, 66% of the amount collected must be forwarded to the Federal government and the remaining 34% would be retained by DSS. Therefore, the time and effort needed to enforce through fines is not economically efficient. The cost overwhelmingly outweighs the return.

What do you think?

Ginny

Virginia E Williamson  
General Counsel  
South Carolina Department of Social Services  
1536 Confederate Ave. Ext.  
Columbia, S.C. 29201  
Phone (803) 898-7368  
FAX (803) 898-7245