
HOUSE BILL 1666

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Spanel, Belcher, Appelwick, Forner, Jacobsen, Brough, Locke, Wineberry, Scott, Winsley and Broback.

Read first time February 5, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to domestic relations; amending RCW 26.09.080,
2 26.09.090, and 26.09.170; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** Often the most important aspect of
5 marriage concerns changes in the earning capacity of one or both
6 spouses. Homemaking and child rearing often result in foregone or
7 diminished earning capacity for the spouse who performs these roles.
8 The spouse who devotes time to homemaking and child rearing may also
9 contribute to the enhanced earning capacity of the spouse who is freed
10 of these responsibilities and is therefore able to devote more time to
11 work outside the home. It is the intent of the legislature to give
12 express recognition to these significant economic realities to ensure
13 economically equitable results in the event of separation.

1 **Sec. 2.** RCW 26.09.080 and 1989 c 375 s 5 are each amended to read
2 as follows:

3 In a proceeding for dissolution of the marriage, legal separation,
4 declaration of invalidity, or in a proceeding for disposition of
5 property following dissolution of the marriage by a court which lacked
6 personal jurisdiction over the absent spouse or lacked jurisdiction to
7 dispose of the property, the court shall, without regard to marital
8 misconduct, make such disposition of the property and the liabilities
9 of the parties, either community or separate, as shall appear just and
10 equitable after considering all relevant factors including, but not
11 limited to:

12 (1) The nature and extent of the community property;

13 (2) The nature and extent of the separate property;

14 (3) The duration of the marriage; ~~((and))~~

15 (4) The economic circumstances of each spouse at the time the
16 division of property is to become effective, including the desirability
17 of awarding the family home or the right to live therein for reasonable
18 periods to a spouse with whom the children reside the majority of the
19 time; and

20 (5) The past, present, and future earning or economic capacity of
21 each spouse, including the earning or economic capacity of each spouse
22 that was enhanced, diminished, or foregone during marriage.

23 **Sec. 3.** RCW 26.09.090 and 1989 c 375 s 6 are each amended to read
24 as follows:

25 ~~((1))~~ In a proceeding for dissolution of marriage, legal
26 separation, declaration of invalidity, or in a proceeding for
27 maintenance following dissolution of the marriage by a court which
28 lacked personal jurisdiction over the absent spouse, the court may
29 grant a maintenance order for either spouse. The maintenance order

1 shall be in such amounts and for such periods of time as the court
2 deems just, without regard to marital misconduct, after considering all
3 relevant factors including but not limited to:

4 ~~((a))~~ (1) The financial resources of the party seeking
5 maintenance, including separate or community property apportioned to
6 ~~((him))~~ the party, and ~~((his))~~ the party's ability to meet his or her
7 needs independently, including the extent to which a provision for
8 support of a child living with the party includes a sum for that party;

9 ~~((b))~~ (2) The time necessary to acquire sufficient education or
10 training to enable the party seeking maintenance to find employment
11 appropriate to his or her skill, interests, style of life, and other
12 attendant circumstances;

13 ~~((c))~~ (3) The standard of living established during the marriage;

14 ~~((d))~~ (4) The duration of the marriage;

15 ~~((e))~~ (5) The age, physical and emotional condition, and
16 financial obligations of the spouse seeking maintenance; ~~((and~~

17 ~~((f))~~ (6) Past, present, and future earning or economic capacity of
18 each spouse, including the earning or economic capacity of each spouse
19 that was enhanced, diminished, or foregone during marriage;

20 (7) The standard of living each spouse will experience after
21 dissolution of the marriage; and

22 (8) The ability of the spouse from whom maintenance is sought to
23 meet his or her needs and financial obligations while meeting those of
24 the spouse seeking maintenance.

25 **Sec. 4.** RCW 26.09.170 and 1990 1st ex.s. c 2 s 2 are each amended
26 to read as follows:

27 (1) Except as otherwise provided in subsection (7) of RCW
28 26.09.070, the provisions of any decree respecting maintenance or
29 support may be modified only as to installments accruing subsequent to

1 the motion for modification and, except as otherwise provided in
2 subsections (4), (5), and (8) of this section, only upon a showing of
3 a substantial change of circumstances. The remarriage of the party
4 receiving maintenance may be, but is not necessarily, considered to be
5 such a change. The provisions as to property disposition may not be
6 revoked or modified, unless the court finds the existence of conditions
7 that justify the reopening of a judgment under the laws of this state.

8 (2) Unless otherwise agreed in writing or expressly provided in the
9 decree the obligation to pay future maintenance is terminated upon the
10 death of either party (~~or the remarriage of the party receiving~~
11 ~~maintenance~~)).

12 (3) Unless otherwise agreed in writing or expressly provided in the
13 decree, provisions for the support of a child are terminated by
14 emancipation of the child or by the death of the parent obligated to
15 support the child.

16 (4) An order of child support may be modified one year or more
17 after it has been entered without showing a substantial change of
18 circumstances:

19 (a) If the order in practice works a severe economic hardship on
20 either party or the child;

21 (b) If a party requests an adjustment in an order for child support
22 which was based on guidelines which determined the amount of support
23 according to the child's age, and the child is no longer in the age
24 category on which the current support amount was based;

25 (c) If a child is still in high school, upon a finding that there
26 is a need to extend support beyond the eighteenth birthday to complete
27 high school; or

28 (d) To add an automatic adjustment of support provision consistent
29 with RCW 26.09.100.

1 (5) An order or decree entered prior to June 7, 1984, may be
2 modified without showing a substantial change of circumstances if the
3 requested modification is to:

4 (a) Require health insurance coverage for a child named therein; or

5 (b) Modify an existing order for health insurance coverage.

6 (6) An obligor's voluntary unemployment or voluntary
7 underemployment, by itself, is not a substantial change of
8 circumstances.

9 (7) The department of social and health services may file an action
10 to modify an order of child support if public assistance money is being
11 paid to or for the benefit of the child and the child support order is
12 twenty-five percent or more below the appropriate child support amount
13 set forth in the standard calculation as defined in section 4(2) of
14 this act and reasons for the deviation are not set forth in the
15 findings of fact or order. The determination of twenty-five percent or
16 more shall be based on the current income of the parties and the
17 department shall not be required to show a substantial change of
18 circumstances if the reasons for the deviations were not set forth in
19 the findings of fact or order.

20 (8)(a) Except as provided in (b) and (c) of this subsection, all
21 child support decrees may be adjusted once every twenty-four months
22 based upon changes in the income of the parents without a showing of
23 substantially changed circumstances. Either party may initiate the
24 modification pursuant to procedures of RCW 26.09.175.

25 (b) Parents whose decrees are entered before (~~the effective date~~
26 ~~of this act~~) July 1, 1990 may petition the court for a modification
27 after twelve months has expired from the entry of the decree or the
28 most recent modification setting child support, whichever is later.
29 However, if a party is granted relief under this provision, twenty-four

1 months must pass before another petition for modification may be filed
2 pursuant to (a) of this subsection.

3 (c) A party may petition for modification in cases of substantially
4 changed circumstances, under subsection (1) of this section, at any
5 time. However, if relief is granted under subsection (1) of this
6 section, twenty-four months must pass before a petition for
7 modification under (a) of this subsection may be filed.

8 (d) If, pursuant to (a) of this subsection, the court modifies a
9 child support obligation by more than thirty percent and the change
10 would cause significant hardship, the court may implement the change in
11 two equal increments, one at the time of the entry of the order and the
12 second six months from the entry of the order. Twenty-four months must
13 pass following the second change before a petition for modification
14 under (a) of this subsection may be filed.

15 (e) A parent who is receiving transfer payments who receives a wage
16 or salary increase may not bring a modification action pursuant to (a)
17 of this subsection alleging that increase constitutes a substantial
18 change of circumstances under subsection (1) of this section.