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**SUBSTITUTE HOUSE BILL 1670**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Lambert, Appelwick, Romero, Keiser, Wolfe, Mitchell, Gombosky, Blalock and Scott)

Read first time 03/05/97.

1       AN ACT Relating to restricting child support for postsecondary  
2 education of adult children; amending RCW 26.19.090; and creating a new  
3 section.

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

5       **Sec. 1.** RCW 26.19.090 and 1991 sp.s. c 28 s 7 are each amended to  
6 read as follows:

7       (1) The child support schedule shall ~~((be advisory and not~~  
8 ~~mandatory for))~~ not apply to awards of postsecondary educational  
9 support.

10       (2) The court shall not order either or both parents to pay  
11 postsecondary educational support if both parents agree not to pay  
12 postsecondary educational expenses. The court may not enter an initial  
13 order of child support if the child is no longer dependent before the  
14 petition is filed.

15       (3) When considering whether to order support for postsecondary  
16 educational expenses, the court shall determine whether the child is in  
17 fact dependent and is relying upon the parents for the reasonable  
18 necessities of life. Except as limited in subsections (4) and (5) of  
19 this section, the court shall exercise its discretion when determining

1 whether and for how long to award postsecondary educational support  
2 based upon consideration of factors that include but are not limited to  
3 the following: Age of the child; the child's needs; the expectations  
4 of the parties for their children when the parents were together; the  
5 child's prospects, desires, aptitudes, abilities or disabilities; the  
6 nature of the postsecondary education sought; and the parents' level of  
7 education, standard of living, and current and future resources. Also  
8 to be considered are the amount and type of support that the child  
9 would have been afforded if the parents had stayed together. If the  
10 parents have other children who are dependent upon the parents for  
11 support, the court shall ensure that adequate provision is made for  
12 such children in determining whether and for how long to award  
13 postsecondary support.

14 ((+3)) (4) Unless the parents have entered into an agreement  
15 otherwise, postsecondary educational support shall not be awarded  
16 beyond the child's twenty-third birthday; beyond the child's completion  
17 of a four-year undergraduate college degree program; or during periods  
18 of nonenrollment. Regularly scheduled summer and vacation breaks are  
19 not periods of nonenrollment.

20 (5)(a) Postsecondary educational support shall not be awarded for  
21 amounts in excess of the highest cost at a Washington state public  
22 university for resident students for: (i) Tuition; (ii) books, fees,  
23 education supplies; and (iii) dormitory room and board when the child  
24 will actually incur dormitory room and board expenses.

25 (b) This subsection shall not apply when: (i) Parents have agreed  
26 to exceed these costs; or (ii) the child wishes to attend a private  
27 postsecondary educational institution, and the parents have agreed that  
28 the child should attend a private postsecondary educational  
29 institution, or either or both parents attended private postsecondary  
30 educational institutions, and either or both parents have the financial  
31 capability to pay for a private postsecondary education.

32 (6) The student shall have an affirmative obligation to seek  
33 financial aid through the postsecondary educational institution. The  
34 court shall consider any aid obtained in determining the parents'  
35 support obligation.

36 (7) The amount of support established may be apportioned between  
37 the parents on the basis of net income in the same manner as if the  
38 child was under age eighteen and receiving child support under this  
39 chapter.

1       (8) The court may adjust support for earnings of a child in excess  
2 of the amount necessary to support the child during periods of  
3 nonenrollment. The court may require the child to contribute  
4 financially to his or her educational expenses and support commensurate  
5 with the child's abilities and academic schedule.

6       (9) The court may order the child to notify each parent paying  
7 postsecondary educational support in writing regarding the child's  
8 academic plans, progress, and changes in academic schedule.

9       (10) Upon finding that the child willfully failed to provide the  
10 information required under subsection (12) of this section, the court  
11 may terminate or suspend support.

12       (11) The child must enroll in an accredited academic or vocational  
13 school, must be actively pursuing a course of study commensurate with  
14 the child's vocational goals, and must be in good academic standing as  
15 defined by the institution. The court-ordered postsecondary  
16 educational support shall be automatically suspended during the period  
17 or periods the child fails to comply with these conditions. For  
18 purposes of this subsection, "actively pursuing a course of study"  
19 means that the child completes the period of enrollment for which the  
20 parents have paid support. If the child fails for whatever reason to  
21 complete the academic period, the parents shall have no obligation to  
22 resume payment of support until the child has made up the incomplete  
23 period.

24       ~~((4))~~ (12) The child shall also make available all academic  
25 records and grades to both parents as a condition of receiving  
26 postsecondary educational support. Each parent shall have full and  
27 equal access to the postsecondary education records as provided in RCW  
28 26.09.225.

29       ~~((5) The court shall not order the payment of postsecondary~~  
30 ~~educational expenses beyond the child's twenty-third birthday, except~~  
31 ~~for exceptional circumstances, such as mental, physical, or emotional~~  
32 ~~disabilities.~~

33       ~~(6))~~ (13) The court shall direct that either or both parents'  
34 payments for postsecondary educational expenses be made directly to the  
35 educational institution if feasible. If direct payments are not  
36 feasible, then the court in its discretion may order that either or  
37 both parents' payments be made directly to the child if the child does  
38 not reside with either parent. If the child resides with one of the  
39 parents the court may direct that the parent making the support

1 transfer payments make the payments to the child or to the parent who  
2 has been receiving the support transfer payments.

3 NEW SECTION. **Sec. 2.** This act applies prospectively only and not  
4 retroactively. It applies only to causes of action that are commenced  
5 on or after the effective date of this act.

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