

HOUSE BILL REPORT

HB 2279

As Reported by House Committee On:

Judiciary
Ways & Means

Title: An act relating to implementing changes to child support based on the child support schedule work group report.

Brief Description: Implementing changes to child support based on the child support schedule work group report.

Sponsors: Representatives Moeller, Pettigrew, Blake, Hasegawa, Carlyle, Fitzgibbon, Dickerson and Ormsby.

Brief History:

Committee Activity:

Judiciary: 1/16/12, 1/30/12 [DPS];

Ways & Means: 2/6/12, 2/7/12 [DP2S(w/o sub JUDI)].

Brief Summary of Second Substitute Bill

- Adopts a new economic table that does not differentiate amounts based on the children's ages.
- Allows for an adjustment of the standard calculation, rather than a deviation, based on "children not before the court."
- Amends the postsecondary educational support statute to, among other things, require the court to consider any grants or scholarships awarded to the child.
- Clarifies the statute on self-support reserve.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Eddy, Hansen, Kirby, Nealey, Orwall, Rivers and Roberts.

Minority Report: Do not pass. Signed by 3 members: Representatives Shea, Assistant Ranking Minority Member; Chandler and Klippert.

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.

Staff: Trudes Tango (786-7384).

Background:

Child Support Workgroup.

Every four years, the Division of Child Support (DCS) must convene a workgroup made up of non-legislative members appointed by the Governor and Legislators to review the state's child support laws. This process was established by the Legislature to comply with federal requirements that states conduct quadrennial reviews of their child support laws.

The final report of the 2011 Child Support Workgroup contains recommendations regarding: (1) adopting a new economic table based on more current data developed by an economist at the request of the workgroup; (2) adjusting child support if the parents have children not before the court; (3) adjusting child support for parents with a shared residential schedule; (4) providing more guidance on postsecondary educational (PSE) support ; and (5) clarifying the statute on self-support reserve.

Establishing Child Support and the Economic Table.

Child support obligations are established through the court or an administrative process with the DCS. The amount of child support is determined using the statutory child support schedule, which includes the economic table and the child support worksheets developed by the Administrative Office of the Courts. First, the judge determines the combined monthly net income (CMNI) of the parents. Second, the judge uses the economic table to determine the basic support obligation (BSO) based on the CMNI, the number of children before the court, and the ages of the children. The table has different amounts, in each income bracket, for children under age 11 and children ages 12 to 18. Each parent's share of the BSO is determined by the parent's proportionate share of the CMNI. Next, the judge considers any medical support, day care, and other special expenses and adjusts the BSO, which results in a presumptive amount of child support called the "standard calculation." The judge then has discretion to consider reasons to deviate from the standard calculation.

Deviations for Children From Other Relationships.

The judge may deviate from the standard calculation when either or both parents have children from other relationships to whom the parent owes support. Deviations for children from other relationships must be based on consideration of the total circumstances of both households. Judges have used what is called the "whole family formula" to determine the amount of deviation, but the statute does not require a particular formula.

Postsecondary Educational Support.

The child support statutes are advisory for PSE support. The judge has discretion regarding whether and for how long to award PSE support based on statutory factors. The child must enroll in an accredited school, be actively pursuing a course of study, and be in good academic standing. The PSE support must be automatically suspended during periods the child is not in compliance with those conditions. The judge may not order PSE support beyond the child's twenty-third birthday, unless there are exceptional circumstances. The judge must direct PSE support payments to be made to the school if feasible, then to the child (if not residing with either parent), then to the child or parent (if the child is residing with a parent).

Limitations on the amount of child support ordered.

When a parent's monthly net income is below 125 percent of the federal poverty guideline, a support order of not less than \$50 per child per month must be ordered unless the parent shows it would be unjust. The BSO of the parent making the payment, excluding health care, day care, and special expenses, may not reduce the parent's net income below the self-support reserve of 125 percent of the federal poverty level, except for the presumptive minimum \$50 per child amount or when it would be unjust to apply the self-support reserve amount.

The references to 125 percent of the federal poverty guideline does not specify whether it is for a one-person family or more.

Summary of Substitute Bill:

Economic Table.

The economic table developed for the workgroup is adopted. The table does not differentiate amounts based on the children's ages.

Children Not Before the Court.

The term "children from other relationships" is changed to "children not before the court." Instead of a deviation, children not before the court (CNBC) is a basis for an adjustment of the standard calculation. The court may adjust the standard calculation when the obligor has CNBC. The court must use the "whole family formula" set forth in statute. Stepchildren are not considered CNBC but may be a reason for a deviation.

Adjustments for CNBC must be made based on considerations of the total circumstances of both households, including the children of the parents who do not live in the household of the parents. The court may not apply an adjustment based on CNBC if: (1) the adjustment would result in insufficient funds to meet the basic needs of the children in the receiving household and, considering the totality of the circumstances, applying the adjustment would be unjust; (2) the obligee's net income before receiving support is at or below 125 percent of the federal poverty level guidelines for the obligee's household size, including children before the court and CNBC; or (3) the obligor parent has not actually paid the support owed for the CNBC unless there is reasonable justification for the nonpayment.

Postsecondary Educational Support.

Before determining the parents' obligations for PSE support, the judge must consider all grants and scholarships awarded to the child, including work-study if an actual work-study position is available, and subtract those amounts from the total cost of PSE support to determine the unmet need for PSE support. If a parent saved separately for PSE support and paid those amounts directly to the school or the child, those amounts should be considered part of the parent's share of PSE support.

Unless the support order provides otherwise, a parent may suspend PSE support if the child fails to comply with the conditions of PSE support. Suspension of PSE support remains in effect until the child is in compliance. A parent or child may file a motion in court if there is

a dispute regarding compliance, unless the order establishing PSE support provides otherwise. When the child is living with a parent, a change in the child's living situation is a basis to change the terms of the PSE support payment to the other parent. If the child is no longer living with either parent, both parents must make payments to the school, if feasible, or the child.

Limitations.

References to 125 percent of the federal poverty guideline in the statute establishing limitations is clarified to refer to 125 percent of the federal poverty guideline for a one-person family.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) removes the residential schedule credit and restores current law allowing the residential schedule to be a basis for deviation; (2) makes it discretionary for the court to adjust the standard calculation based on CNBC; (3) removes the requirement that the child be enrolled as a full-time student to be eligible for PSE support; and (4) removes the requirement that the child provide proof of compliance if PSE support is suspended.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 30, 2012.

Effective Date of Substitute Bill: The bill takes effect on October 1, 2012.

Staff Summary of Public Testimony:

(In support) The Child Support Workgroup (Workgroup) did an immense amount of work and made much more progress than expected. Substantial portions of the bill reflect the consensus of the Workgroup. The economic table is simpler and based on more recent data. Currently, it is difficult to calculate child support using the economic table. The Workgroup tried to simplify the process. The whole family formula provides parents and judges a standardized tool and creates a simpler process. The bill provides clarification for the self-support reserve amount. The residential credit provides a standardized tool to take into account children spending time with the other parent. The changes to the economic table mean that for low income parents, there will be hardly any change, but for middle income parents, if the children are under 12 years old there will be an increase and if the children are over 12 years old there will be some decrease. For higher income amounts, the amounts go up slightly in the overall curve. The delayed effective date is helpful for the DCS.

(With concerns) Raising a parent's child support obligations will just result in more parents being in arrears. The economist who created the table said there is no statistical data to extend the table beyond \$12,000. Regarding the residential credit, the 14 percent threshold means many parents will not qualify for the credit. The residential credit could become a very contentious issue between parties and situations could occur where someone seeks more time in order to reduce child support and then does not follow through with the residential

time. Delay the residential credit for another Work group to tackle. The residential credit language in the bill is not workable. It will increase litigation, be an unfair burden on pro se litigants who will have difficulty doing the complex calculations, and will be a burden on the courts. The court should still have discretion in granting credit for children from other relationships. The bill should address how courts deal with split custody. The bill should not change the statute on PSE support. The economic table should go up to \$20,000.

(Opposed) There is no financial accountability for parents receiving child support payments. There is no public support for raising the child support table. The current table is already too high. The economist research is not reliable. The cost of raising children has actually gone down. The table is raised for young parents with lower incomes. The bill will severely harm children by driving parents to bankruptcy. The law needs to reward parents for spending time with their children. The state should encourage families to stay together rather than enabling families to break up. There should be no obligation on a parent to pay PSE support.

Persons Testifying: (In support) David Stillman, Department of Health and Social Services; and Greg Howe, The Other Parent.

(With concerns) David Ward, Legal Voice; Rick Bartholomew, Washington State Bar Association; and Tom Parker, Washington Superior Court Judges Association.

(Opposed) David Spring, Child Support Workgroup of 2007-2009; and Robert Brett, Dads Divorced By Their Wives.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Judiciary. Signed by 16 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Cody, Dickerson, Haigh, Hudgins, Hunt, Kagi, Kenney, Ormsby, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Haler, Hinkle, Parker, Ross, Schmick and Wilcox.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Judiciary:

The Ways and Means Committee recommended technical corrections to the punctuation and definition of "support transfer payment."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect on October 1, 2012.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.