

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2784

Chapter 229, Laws of 1992

52nd Legislature
1992 Regular Session

DOMESTIC RELATIONS--TECHNICAL AMENDMENTS

EFFECTIVE DATE: 6/11/92

Passed by the House March 11, 1992
Yeas 96 Nays 0

JOE KING
**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1992
Yeas 46 Nays 0

JOEL PRITCHARD
President of the Senate

Approved April 2, 1992

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2784 as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

April 2, 1992 - 12:25 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2784

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Judiciary (originally sponsored by Representative Appelwick)

Read first time 02/07/92.

1 AN ACT Relating to technical and clarifying amendments to domestic
2 relations provisions; and amending RCW 26.09.006, 26.09.170, 26.09.175,
3 26.10.015, 26.18.220, 26.19.035, 26.26.065, 26.26.160, and 26.09.060.

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

5 **Sec. 1.** RCW 26.09.006 and 1990 1st ex.s. c 2 s 26 are each amended
6 to read as follows:

7 (1) Effective January 1, 1992, a party shall not file any pleading
8 with the clerk of the court in an action commenced under this chapter
9 unless on forms approved by the administrator for the courts.

10 (2) The parties shall comply with requirements for submission to
11 the court of forms as provided in RCW 26.18.220.

12 **Sec. 2.** RCW 26.09.170 and 1991 sp.s. c 28 s 2 are each amended to
13 read as follows:

1 (1) Except as otherwise provided in subsection (7) of RCW
2 26.09.070, the provisions of any decree respecting maintenance or
3 support may be modified: (a) Only as to installments accruing
4 subsequent to the ~~((motion))~~ petition for modification or motion for
5 adjustment except motions to compel court-ordered adjustments, which
6 shall be effective as of the first date specified in the decree for
7 implementing the adjustment; and, (b) except as otherwise provided in
8 subsections (4), (5), (8), and (9) of this section, only upon a showing
9 of a substantial change of circumstances. The provisions as to
10 property disposition may not be revoked or modified, unless the court
11 finds the existence of conditions that justify the reopening of a
12 judgment under the laws of this state.

13 (2) Unless otherwise agreed in writing or expressly provided in the
14 decree the obligation to pay future maintenance is terminated upon the
15 death of either party or the remarriage of the party receiving
16 maintenance.

17 (3) Unless otherwise agreed in writing or expressly provided in the
18 decree, provisions for the support of a child are terminated by
19 emancipation of the child or by the death of the parent obligated to
20 support the child.

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

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

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

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

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

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

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

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

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

14 (7) The department of social and health services may file an action
15 to modify an order of child support if public assistance money is being
16 paid to or for the benefit of the child and the child support order is
17 twenty-five percent or more below the appropriate child support amount
18 set forth in the standard calculation as defined in RCW 26.19.011 and
19 reasons for the deviation are not set forth in the findings of fact or
20 order. The determination of twenty-five percent or more shall be based
21 on the current income of the parties and the department shall not be
22 required to show a substantial change of circumstances if the reasons
23 for the deviations were not set forth in the findings of fact or order.

24 (8)(a) (~~Except as provided in (b) and (c) of this subsection,~~)
25 All child support decrees may be adjusted once every twenty-four months
26 based upon changes in the income of the parents without a showing of
27 substantially changed circumstances. Either party may initiate the
28 (modification pursuant to procedures of RCW 26.09.175) adjustment by
29 filing a motion and child support worksheets.

1 (b) (~~Parents whose decrees are entered before July 1, 1990, may~~
2 ~~petition the court for a modification after twelve months has expired~~
3 ~~from the entry of the decree or the most recent modification setting~~
4 ~~child support, whichever is later. However, if a party is granted~~
5 ~~relief under this provision, twenty four months must pass before~~
6 ~~another petition for modification may be filed pursuant to (a) of this~~
7 ~~subsection.~~

8 (e)) A party may petition for modification in cases of
9 substantially changed circumstances((~~7~~)) under subsection (1) of this
10 section((~~7~~)) at any time. However, if relief is granted under
11 subsection (1) of this section, twenty-four months must pass before a
12 ((~~petition~~)) motion for ((~~modification~~)) an adjustment under (a) of
13 this subsection may be filed.

14 ((~~d~~)) (c) If, pursuant to (a) of this subsection or subsection
15 (9) of this section, the court adjusts or modifies a child support
16 obligation by more than thirty percent and the change would cause
17 significant hardship, the court may implement the change in two equal
18 increments, one at the time of the entry of the order and the second
19 six months from the entry of the order. Twenty-four months must pass
20 following the second change before a ((~~petition~~)) motion for
21 ((~~modification~~)) an adjustment under (a) of this subsection may be
22 filed.

23 ((~~e~~)) (d) A parent who is receiving transfer payments who
24 receives a wage or salary increase may not bring a modification action
25 pursuant to ((~~a~~)) subsection (1) of this ((~~subsection~~)) section
26 alleging that increase constitutes a substantial change of
27 circumstances ((~~under subsection (1) of this section~~)).

28 (9) An order of child support may be ((~~modified~~)) adjusted twenty-
29 four months from the date of the entry of the decree or the last

1 adjustment or modification, whichever is later, based upon changes in
2 the economic table or standards in chapter 26.19 RCW.

3 **Sec. 3.** RCW 26.09.175 and 1991 c 367 s 6 are each amended to read
4 as follows:

5 (1) A proceeding for the modification of an order of child support
6 shall commence with the filing of a petition and worksheets. The
7 petition shall be in ((~~substantially~~)) the form prescribed by the
8 administrator for the courts. There shall be a fee of twenty dollars
9 for the filing of a petition for modification of dissolution.

10 (2) The petitioner shall serve upon the other party the summons, a
11 copy of the petition, and the worksheets in the form prescribed by the
12 administrator for the courts. If the modification proceeding is the
13 first action filed in this state, service shall be made by personal
14 service. If the decree to be modified was entered in this state,
15 service shall be by personal service or by any form of mail requiring
16 a return receipt. If the support obligation has been assigned to the
17 state pursuant to RCW 74.20.330 or the state has a subrogated interest
18 under RCW 74.20A.030, the summons, petition, and worksheets shall also
19 be served on the attorney general. Proof of service shall be filed
20 with the court.

21 (3) The responding party's answer and worksheets shall be served
22 and the answer filed within twenty days after service of the petition
23 or sixty days if served out of state. The responding party's failure
24 to file an answer within the time required shall result in entry of a
25 default judgment for the petitioner.

26 (4) At any time after responsive pleadings are filed, either party
27 may schedule the matter for hearing.

28 (5) Unless both parties stipulate to arbitration or the presiding
29 judge authorizes oral testimony pursuant to subsection (6) of this

1 section, a petition for modification of an order of child support shall
2 be heard by the court on affidavits, the petition, answer, and
3 worksheets only.

4 (6) A party seeking authority to present oral testimony on the
5 petition to modify a support order shall file an appropriate motion not
6 later than ten days after the time of notice of hearing. Affidavits
7 and exhibits setting forth the reasons oral testimony is necessary to
8 a just adjudication of the issues shall accompany the petition. The
9 affidavits and exhibits must demonstrate the extraordinary features of
10 the case. Factors which may be considered include, but are not limited
11 to: (a) Substantial questions of credibility on a major issue; (b)
12 insufficient or inconsistent discovery materials not correctable by
13 further discovery; or (c) particularly complex circumstances requiring
14 expert testimony.

15 ~~((7) The administrator for the courts shall develop and prepare,~~
16 ~~in consultation with interested persons, model forms or notices for the~~
17 ~~use of the procedure provided by this section, including a notice~~
18 ~~advising of the right of a party to proceed with or without benefit of~~
19 ~~counsel.))~~

20 **Sec. 4.** RCW 26.10.015 and 1990 1st ex.s. c 2 s 27 are each amended
21 to read as follows:

22 (1) Effective January 1, 1992, a party shall not file any pleading
23 with the clerk of the court in an action commenced under this chapter
24 unless on forms approved by the administrator for the courts.

25 (2) The parties shall comply with requirements for submission to
26 the court of forms as provided in RCW 26.18.220.

27 **Sec. 5.** RCW 26.18.220 and 1990 1st ex.s. c 2 s 25 are each amended
28 to read as follows:

1 (1) The administrator for the courts shall develop not later than
2 July 1, 1991, standard court forms and format rules for mandatory use
3 by litigants in all actions commenced under chapters 26.09, 26.10, and
4 26.26 RCW effective January 1, 1992. The administrator for the courts
5 shall develop mandatory forms for financial affidavits for integration
6 into the worksheets. The forms shall be developed and approved not
7 later than September 1, 1992. The parties shall use the mandatory form
8 for financial affidavits for actions commenced on or after September 1,
9 1992. The administrator for the courts has continuing responsibility
10 to develop and revise mandatory forms and format rules as appropriate.

11 (2) A party may delete unnecessary portions of the forms according
12 to the rules established by the administrator for the courts. A party
13 may supplement the mandatory forms with additional material.

14 (3) A party's failure to use the mandatory forms or follow the
15 format rules shall not be a reason to dismiss a case, refuse a filing,
16 or strike a pleading. However, the court may require the party to
17 submit a corrected pleading and may impose terms payable to the
18 opposing party or payable to the court, or both.

19 (4) The administrator for the courts shall distribute a master copy
20 of the forms to all county court clerks. The administrator for the
21 courts and county clerks shall distribute the mandatory forms to the
22 public upon request and may charge for the cost of production and
23 distribution of the forms. Private vendors may distribute the
24 mandatory forms. Distribution may be in printed or electronic form.

25 **Sec. 6.** RCW 26.19.035 and 1991 c 367 s 27 are each amended to read
26 as follows:

27 **(1) Application of the child support schedule.** The child support
28 schedule shall be applied:

29 (a) In each county of the state;

1 (b) In judicial and administrative proceedings under this title or
2 Title 13 or 74 RCW;

3 (c) In all proceedings in which child support is determined or
4 modified;

5 (d) In setting temporary and permanent support;

6 (e) In automatic modification provisions or decrees entered
7 pursuant to RCW 26.09.100; and

8 (f) In addition to proceedings in which child support is determined
9 for minors, to adult children who are dependent on their parents and
10 for whom support is ordered pursuant to RCW 26.09.100.

11 The provisions of this chapter for determining child support and
12 reasons for deviation from the standard calculation shall be applied in
13 the same manner by the court, presiding officers, and reviewing
14 officers.

15 (2) **Written findings of fact supported by the evidence.** An order
16 for child support shall be supported by written findings of fact upon
17 which the support determination is based and shall include reasons for
18 any deviation from the standard calculation and reasons for denial of
19 a party's request for deviation from the standard calculation. The
20 court shall enter written findings of fact in all cases whether or not
21 the court: (a) Sets the support at the presumptive amount, for
22 combined monthly net incomes below five thousand dollars; (b) sets the
23 support at an advisory amount, for combined monthly net incomes between
24 five thousand and seven thousand dollars; or (c) deviates from the
25 presumptive or advisory amounts.

26 (3) **Completion of worksheets.** Worksheets in the form developed by
27 the office of the administrator for the courts shall be completed under
28 penalty of perjury and filed in every proceeding in which child support
29 is determined. The court shall not accept incomplete worksheets or

1 worksheets that vary from the worksheets developed by the office of the
2 administrator for the courts.

3 (4) **Court review of the worksheets and order.** The court shall
4 review the worksheets and the order setting support for the adequacy of
5 the reasons set forth for any deviation or denial of any request for
6 deviation and for the adequacy of the amount of support ordered. Each
7 order shall state the amount of child support calculated using the
8 standard calculation and the amount of child support actually ordered.
9 Worksheets shall be attached to the decree or order or if filed
10 separately shall be initialed or signed by the judge and filed with the
11 order.

12 **Sec. 7.** RCW 26.26.065 and 1990 1st ex.s. c 2 s 28 are each amended
13 to read as follows:

14 (1) Effective January 1, 1992, a party shall not file any pleading
15 with the clerk of the court in an action commenced under this chapter
16 unless on forms approved by the administrator for the courts.

17 (2) The parties shall comply with requirements for submission to
18 the court of forms as provided in RCW 26.18.220.

19 **Sec. 8.** RCW 26.26.160 and 1989 c 360 s 36 are each amended to read
20 as follows:

21 (1) Except as provided in subsection (2) of this section the court
22 has continuing jurisdiction to prospectively modify a judgment and
23 order for future education and future support, and with respect to
24 matters listed in RCW 26.26.130 (3) and (4), and RCW 26.26.150(2) upon
25 showing a substantial change of circumstances. The procedures set
26 forth in RCW 26.09.175 shall be used in modification proceedings under
27 this section.

1 (2) A judgment or order entered under this chapter may be modified
2 without a showing of substantial change of circumstances upon the same
3 grounds as RCW 26.09.170 permits support orders to be modified without
4 a showing of a substantial change of circumstance.

5 (3) The court may modify a parenting plan or residential provisions
6 adopted pursuant to RCW 26.26.130(6) in accordance with the provisions
7 of chapter 26.09 RCW.

8 **Sec. 9.** RCW 26.09.060 and 1989 c 360 s 37 are each amended to read
9 as follows:

10 (1) In a proceeding for:

11 (a) Dissolution of marriage, legal separation, or a declaration of
12 invalidity; or

13 (b) Disposition of property or liabilities, maintenance, or support
14 following dissolution of the marriage by a court which lacked personal
15 jurisdiction over the absent spouse; either party may move for
16 temporary maintenance or for temporary support of children entitled to
17 support. The motion shall be accompanied by an affidavit setting forth
18 the factual basis for the motion and the amounts requested.

19 (2) As a part of a motion for temporary maintenance or support or
20 by independent motion accompanied by affidavit, either party may
21 request the court to issue a temporary restraining order or preliminary
22 injunction, providing relief proper in the circumstances, and
23 restraining or enjoining any person from:

24 (a) Transferring, removing, encumbering, concealing, or in any way
25 disposing of any property except in the usual course of business or for
26 the necessities of life, and, if so restrained or enjoined, requiring
27 him to notify the moving party of any proposed extraordinary
28 expenditures made after the order is issued;

1 (b) Molesting or disturbing the peace of the other party or of any
2 child and, upon a showing by clear and convincing evidence that the
3 party so restrained or enjoined has used or displayed or threatened to
4 use a deadly weapon as defined in RCW 9A.04.110 in an act of violence
5 or has previously committed acts of domestic violence and is likely to
6 use or display or threaten to use a deadly weapon in an act of domestic
7 violence, requiring the party to surrender any deadly weapon in his
8 immediate possession or control or subject to his immediate possession
9 or control to the sheriff of the county having jurisdiction of the
10 proceeding or to the restrained or enjoined party's counsel or to any
11 person designated by the court. The court may order temporary
12 surrender of deadly weapons without notice to the other party only if
13 it finds on the basis of the moving affidavit or other evidence that
14 irreparable injury could result if an order is not issued until the
15 time for response has elapsed;

16 (c) Entering the family home or the home of the other party upon a
17 showing of the necessity therefor;

18 (d) Removing a child from the jurisdiction of the court.

19 (3) The court may issue a temporary restraining order without
20 requiring notice to the other party only if it finds on the basis of
21 the moving affidavit or other evidence that irreparable injury could
22 result if an order is not issued until the time for responding has
23 elapsed.

24 (4) The court may issue a temporary restraining order or
25 preliminary injunction and an order for temporary maintenance or
26 support in such amounts and on such terms as are just and proper in the
27 circumstances. The court may in its discretion waive the filing of the
28 bond or the posting of security.

29 (5) Restraining orders issued under this section restraining the
30 person from molesting or disturbing another party or from entering a

1 party's home shall bear the legend: VIOLATION OF THIS ORDER WITH
2 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09
3 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

4 (6) The court may order that any temporary restraining order
5 granted under this section be forwarded by the clerk of the court on or
6 before the next judicial day to the appropriate law enforcement agency
7 specified in the order. Upon receipt of the order, the law enforcement
8 agency shall forthwith enter the order for one year into any computer-
9 based criminal intelligence information system available in this state
10 used by law enforcement agencies to list outstanding warrants. Entry
11 into the law enforcement information system constitutes notice to all
12 law enforcement agencies of the existence of the order. The order is
13 fully enforceable in any county in the state.

14 (7) A temporary order, temporary restraining order, or preliminary
15 injunction:

16 (a) Does not prejudice the rights of a party or any child which are
17 to be adjudicated at subsequent hearings in the proceeding;

18 (b) May be revoked or modified;

19 (c) Terminates when the final decree is entered, except as provided
20 under subsection (8) of this section, or when the petition for
21 dissolution, legal separation, or declaration of invalidity is
22 dismissed;

23 (d) May be entered in a proceeding for the modification of an
24 existing decree.

25 (8) Delinquent support payments accrued under an order for
26 temporary support remain collectible and are not extinguished when a
27 final decree is entered unless the decree contains specific language to
28 the contrary. A support debt under a temporary order owed to the state
29 for public assistance expenditures shall not be extinguished by the
30 final decree if:

1 (a) The obligor was given notice of the state's interest under
2 chapter 74.20A RCW; or

3 (b) The temporary order directs the obligor to make support
4 payments to the office of support enforcement or the Washington state
5 support registry.

Passed the House March 11, 1992.

Passed the Senate March 3, 1992.

Approved by the Governor April 2, 1992.

Filed in Office of Secretary of State April 2, 1992.