

# SENATE BILL REPORT

## HB 2683

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As of February 19, 1996

**Title:** An act relating to the inclusion of overtime in income used to calculate child support.

**Brief Description:** Including mandatory overtime wages, but excluding voluntary overtime wages in the determination of income for child support.

**Sponsors:** Representatives Lambert, Wolfe, Carrell, Morris, Mitchell, Patterson, Sheahan, Cooke and Scott.

**Brief History:**

**Committee Activity:** Law & Justice: 2/21/96.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Susan Carlson (786-7418)

**Background:** Washington's child support schedule contains an economic table. The economic table establishes a presumptive basic child support amount based on the combined monthly net income of the parents and the number and ages of the children. Each parent's share of the presumptive amount is based on each parent's share of the combined monthly net income.

Each parent's monthly net income is determined by subtracting specified expenses (such as taxes, mandatory pension payments, and mandatory union or professional dues) from the parent's monthly gross income. Monthly gross income includes income from any source, such as salaries, wages, commissions, overtime, income from second jobs, benefits, dividends and interest, bonuses, and worker's compensation and retirement benefits.

If the court determines that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income, such as overtime, bonuses, or income from second jobs, the court may deviate from the standard support calculation.

**Summary of Bill:** Mandatory overtime required as a condition of employment is included in a parent's gross income for purposes of calculating the child support obligation. Voluntary overtime not required as a condition of employment is not included in income used to calculate support. All overtime is presumed to be mandatory overtime, and the burden is on the party seeking to exclude the overtime to prove that the overtime is voluntary and not required as a condition of employment.

In determining whether overtime is mandatory or voluntary, the court must consider all evidence, including the employment contract and pay stubs, number of hours worked, how the employer classifies the hours worked, and the standard industry practice. The fact that the employee's employment contract or employment manual does not explicitly require mandatory overtime for the party's employment position is not by itself proof that the

overtime is voluntary. The fact that the employer has supplied a written statement that the disputed income is voluntary overtime is not by itself proof that the overtime is voluntary.

The court may not exclude overtime income if to do so would result in the inclusion of income of less than that of a 40-hour work week or the industry standard work week for the party's type of employment.

**Appropriation:** None.

**Fiscal Note:** Requested on February 10, 1996.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.