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SENATE BILL 6400

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State of Washington                      54th Legislature                      1996 Regular Session

By Senators Hargrove, Owen, Schow, Hochstatter and Roach

Read first time 01/15/96. Referred to Committee on Law & Justice.

1            AN ACT Relating to child support; and amending RCW 26.19.071,  
2 26.19.075, and 26.19.080.

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

4            **Sec. 1.** RCW 26.19.071 and 1993 c 358 s 4 are each amended to read  
5 as follows:

6            (1) **Consideration of all income.** All income and resources of each  
7 parent's household shall be disclosed (~~and considered by the court~~  
8 ~~when the court determines the child support obligation of each~~  
9 ~~parent.~~) but only the income of the parents of the children whose  
10 support is at issue shall be calculated for purposes of calculating the  
11 basic support obligation. Income and resources of any other person  
12 shall not be included in calculating the basic support obligation.

13            (2) **Verification of income.** Tax returns for the preceding two  
14 years and current paystubs shall be provided to verify income and  
15 deductions. Other sufficient verification shall be required for income  
16 and deductions which do not appear on tax returns or paystubs.

17            (3) **Income sources included in gross monthly income.** Except as  
18 specifically excluded in subsection (4) of this section, monthly gross  
19 income shall include income from any source, including:

- 1 (a) Salaries;
- 2 (b) Wages;
- 3 (c) Commissions;
- 4 (d) Deferred compensation;
- 5 (e) Overtime;
- 6 (f) Contract-related benefits;
- 7 (g) Income from second jobs;
- 8 (h) Dividends;
- 9 (i) Interest;
- 10 (j) Trust income;
- 11 (k) Severance pay;
- 12 (l) Annuities;
- 13 (m) Capital gains;
- 14 (n) Pension retirement benefits;
- 15 (o) Workers' compensation;
- 16 (p) Unemployment benefits;
- 17 (q) Spousal maintenance actually received;
- 18 (r) Bonuses;
- 19 (s) Social security benefits; and
- 20 (t) Disability insurance benefits.

21 (4) **Income sources excluded from gross monthly income.** The  
22 following income and resources shall be disclosed but shall not be  
23 included in gross income:

- 24 (a) Income of a new spouse or income of other adults in the  
25 household;
- 26 (b) Overtime, whether mandatory or voluntary;
- 27 (c) If the parent has at least one full-time job that requires the  
28 parent to work a minimum of forty hours per week, income derived from  
29 a second job or additional jobs other than the full-time job;
- 30 (d) Child support received from other relationships;
- 31 ~~((e))~~ (e) Gifts and prizes;
- 32 ~~((d))~~ (f) Aid to families with dependent children;
- 33 ~~((e))~~ (g) Supplemental security income;
- 34 ~~((f))~~ (h) General assistance; and
- 35 ~~((g))~~ (i) Food stamps.

36 Receipt of income and resources from aid to families with dependent  
37 children, supplemental security income, general assistance, and food  
38 stamps shall not be a reason to deviate from the standard calculation.

1       (5) **Determination of net income.** The following expenses shall be  
2 disclosed and deducted from gross monthly income to calculate net  
3 monthly income:

4       (a) Federal and state income taxes;

5       (b) Federal insurance contributions act deductions;

6       (c) Mandatory pension plan payments;

7       (d) Mandatory union or professional dues;

8       (e) State industrial insurance premiums;

9       (f) Court-ordered spousal maintenance to the extent actually paid;

10       (g) Up to two thousand dollars per year in voluntary pension  
11 payments actually made if the contributions were made for the two tax  
12 years preceding the earlier of the (i) tax year in which the parties  
13 separated with intent to live separate and apart or (ii) tax year in  
14 which the parties filed for dissolution; and

15       (h) Normal business expenses and self-employment taxes for self-  
16 employed persons. Justification shall be required for any business  
17 expense deduction about which there is disagreement.

18       Items deducted from gross income under this subsection shall not be  
19 a reason to deviate from the standard calculation.

20       (6) **Imputation of income.** The court shall impute income to a  
21 parent when the parent is voluntarily unemployed or voluntarily  
22 underemployed. The court shall determine whether the parent is  
23 voluntarily underemployed or voluntarily unemployed based upon that  
24 parent's work history, education, health, and age, or any other  
25 relevant factors. A court shall not impute income to a parent who is  
26 gainfully employed on a full-time basis, unless the court finds that  
27 the parent is voluntarily underemployed and finds that the parent is  
28 purposely underemployed to reduce the parent's child support  
29 obligation. Income shall not be imputed for an unemployable parent.  
30 Income shall not be imputed to a parent to the extent the parent is  
31 unemployed or significantly underemployed due to the parent's efforts  
32 to comply with court-ordered reunification efforts under chapter 13.34  
33 RCW or under a voluntary placement agreement with an agency supervising  
34 the child. In the absence of information to the contrary, a parent's  
35 imputed income shall be based on the median income of year-round full-  
36 time workers as derived from the United States bureau of census,  
37 current populations reports, or such replacement report as published by  
38 the bureau of census.

1       **Sec. 2.** RCW 26.19.075 and 1993 c 358 s 5 are each amended to read  
2 as follows:

3       (1) Reasons for deviation from the standard calculation include but  
4 are not limited to the following:

5       (a) **Sources of income and tax planning.** The court may deviate from  
6 the standard calculation after consideration of the following:

7       (i) Income of a new spouse if the parent who is married to the new  
8 spouse is asking for a deviation based on any other reason. Income of  
9 a new spouse is not, by itself, a sufficient reason for deviation;

10       (ii) Income of other adults in the household if the parent who is  
11 living with the other adult is asking for a deviation based on any  
12 other reason. Income of the other adults in the household is not, by  
13 itself, a sufficient reason for deviation;

14       (iii) Child support actually received from other relationships;

15       (iv) Gifts;

16       (v) Prizes;

17       (vi) Possession of wealth, including but not limited to savings,  
18 investments, real estate holdings and business interests, vehicles,  
19 boats, pensions, bank accounts, insurance plans, or other assets;

20       (vii) Extraordinary income of a child; or

21       (viii) Tax planning considerations. A deviation for tax planning  
22 may be granted only if the child would not receive a lesser economic  
23 benefit due to the tax planning.

24       (b) **Nonrecurring income.** The court may deviate from the standard  
25 calculation based on a finding that a particular source of income  
26 included in the calculation of the basic support obligation is not a  
27 recurring source of income. (~~Depending on the circumstances,~~  
28 ~~nonrecurring income may include overtime, contract-related benefits,~~  
29 ~~bonuses, or income from second jobs.~~) Deviations for nonrecurring  
30 income shall be based on a review of the nonrecurring income received  
31 in the previous two calendar years.

32       (c) **Debt and high expenses.** The court may deviate from the  
33 standard calculation after consideration of the following expenses:

34       (i) Extraordinary debt not voluntarily incurred;

35       (ii) A significant disparity in the living costs of the parents due  
36 to conditions beyond their control;

37       (iii) Special needs of disabled children;

38       (iv) Special medical, educational, or psychological needs of the  
39 children; or

1 (v) Costs incurred or anticipated to be incurred by the parents in  
2 compliance with court-ordered reunification efforts under chapter 13.34  
3 RCW or under a voluntary placement agreement with an agency supervising  
4 the child.

5 (d) (~~**Residential schedule.**~~—The court may deviate from the  
6 standard calculation if the child spends a significant amount of time  
7 with the parent who is obligated to make a support transfer payment.  
8 The court may not deviate on that basis if the deviation will result in  
9 insufficient funds in the household receiving the support to meet the  
10 basic needs of the child or if the child is receiving aid to families  
11 with dependent children. When determining the amount of the deviation,  
12 the court shall consider evidence concerning the increased expenses to  
13 a parent making support transfer payments resulting from the  
14 significant amount of time spent with that parent and shall consider  
15 the decreased expenses, if any, to the party receiving the support  
16 resulting from the significant amount of time the child spends with the  
17 parent making the support transfer payment.

18 (e)) **Children from other relationships.** The court may deviate  
19 from the standard calculation when either or both of the parents before  
20 the court have children from other relationships to whom the parent  
21 owes a duty of support.

22 (i) The child support schedule shall be applied to the mother,  
23 father, and children of the family before the court to determine the  
24 presumptive amount of support.

25 (ii) (~~Children from other relationships shall not be counted in~~  
26 ~~the number of children for purposes of determining the basic support~~  
27 ~~obligation and the standard calculation.~~

28 (iii) ~~When considering a deviation from the standard calculation~~  
29 ~~for children from other relationships, the court may consider only~~  
30 ~~other children to whom the parent owes a duty of support. The court~~  
31 ~~may consider court-ordered payments of child support for children from~~  
32 ~~other relationships only to the extent that the support is actually~~  
33 ~~paid.~~

34 (iv)) When the court has determined that either or both parents  
35 have children from other relationships, deviations under this section  
36 shall be based on consideration of the total circumstances of both  
37 households. All child support obligations paid, received, and owed for  
38 all children shall be disclosed and considered.

1 (2) All income and resources of the parties before the court, new  
2 spouses, and other adults in the households shall be disclosed and  
3 considered as provided in this section. The presumptive amount of  
4 support shall be determined according to the child support schedule.  
5 Unless specific reasons for deviation are set forth in the written  
6 findings of fact and are supported by the evidence, the court shall  
7 order each parent to pay the amount of support determined by using the  
8 standard calculation.

9 (3) The court shall enter findings that specify reasons for any  
10 deviation or any denial of a party's request for any deviation from the  
11 standard calculation made by the court. The court shall not consider  
12 reasons for deviation until the court determines the standard  
13 calculation for each parent.

14 (4) When reasons exist for deviation, the court shall exercise  
15 discretion in considering the extent to which the factors would affect  
16 the support obligation.

17 (5) Agreement of the parties is not by itself adequate reason for  
18 any deviations from the standard calculation.

19 **Sec. 3.** RCW 26.19.080 and 1990 1st ex.s. c 2 s 7 are each amended  
20 to read as follows:

21 (1) The basic child support obligation derived from the economic  
22 table shall be allocated between the parents based on each parent's  
23 share of the combined monthly net income.

24 (2) Ordinary health care expenses are included in the economic  
25 table. Monthly health care expenses that exceed five percent of the  
26 basic support obligation shall be considered extraordinary health care  
27 expenses. Extraordinary health care expenses shall be shared by the  
28 parents in the same proportion as the basic child support obligation.

29 (3) Day care and special child rearing expenses, such as tuition  
30 and long-distance transportation costs to and from the parents for  
31 visitation purposes, are not included in the economic table. These  
32 expenses shall be shared by the parents in the same proportion as the  
33 basic child support obligation. If an obligor parent pays for day care  
34 or special child rearing expenses that are not actually incurred, the  
35 obligee must reimburse the obligor for the overpayment. The  
36 reimbursement may be in the form of a credit against future support  
37 payments upon agreement of both parties or pursuant to a court or  
38 administrative order. Absent agreement of the obligee, nothing in this

1 section entitles an obligor to pay more than his or her proportionate  
2 share of day care or other special child rearing expenses in advance  
3 and then deduct the overpayment from future support transfer payments.

4 (4) Expenses incurred by the nonresidential parent when the child  
5 or children are with that parent pursuant to the residential schedule  
6 are not included in the economic table. The court shall grant to the  
7 nonresidential parent a residential credit against the amount of the  
8 transfer payment due under the standard calculation. The amount of the  
9 residential credit shall be the amount of the transfer payment under  
10 the standard calculation multiplied by the fraction whose numerator is  
11 the number of overnight visits per year the children for whom support  
12 is paid are scheduled to have with the nonresidential parent as set  
13 forth in the parenting plan and whose denominator is three hundred  
14 sixty-five. The amount of residential credit shall be divided by  
15 twelve and the monthly transfer payment adjusted accordingly. The  
16 court shall not grant a residential credit if the child to whom the  
17 obligation of support is owed, or the parent with whom the child  
18 resides, is receiving aid to families with dependent children benefits.

19 (5) The court may exercise its discretion to determine the  
20 necessity for and the reasonableness of all amounts ordered in excess  
21 of the basic child support obligation.

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