

2 **ESB 5086** - H COMM AMD

3 By Committee on Law & Justice

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5 Strike everything after the enacting clause and insert the
6 following:

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

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

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

17 (3) When considering whether to order support for postsecondary
18 educational expenses, the court shall determine whether the child is in
19 fact dependent and is relying upon the parents for the reasonable
20 necessities of life. Except as limited in subsections (4) and (5) of
21 this section, the court shall exercise its discretion when determining
22 whether and for how long to award postsecondary educational support
23 based upon consideration of factors that include but are not limited to
24 the following: Age of the child; the child's needs; the expectations
25 of the parties for their children when the parents were together; the
26 child's prospects, desires, aptitudes, abilities or disabilities; the
27 nature of the postsecondary education sought; and the parents' level of
28 education, standard of living, and current and future resources. Also
29 to be considered are the amount and type of support that the child
30 would have been afforded if the parents had stayed together. If the
31 parents have other children who are dependent upon the parents for
32 support, the court shall ensure that adequate provision is made for
33 such children in determining whether and for how long to award
34 postsecondary support.

35 ~~((+3))~~ (4) Unless the parents have entered into an agreement
36 otherwise, postsecondary educational support shall not be awarded

1 beyond the child's twenty-third birthday; beyond the child's completion
2 of a four-year undergraduate college degree program; or during periods
3 of nonenrollment. Regularly scheduled summer and vacation breaks are
4 not periods of nonenrollment.

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

10 (b) This subsection shall not apply when: (i) Parents have agreed
11 to exceed these costs; or (ii) the child wishes to attend a private
12 postsecondary educational institution, and the parents have agreed that
13 the child should attend a private postsecondary educational
14 institution, or either or both parents attended private postsecondary
15 educational institutions, and either or both parents have the financial
16 capability to pay for a private postsecondary education.

17 (6) The student shall have an affirmative obligation to seek
18 financial aid through the postsecondary educational institution. The
19 court shall consider any aid obtained in determining the parents'
20 support obligation.

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

25 (8) The court may adjust support for earnings of a child in excess
26 of the amount necessary to support the child during periods of
27 nonenrollment. The court may require the child to contribute
28 financially to his or her educational expenses and support commensurate
29 with the child's abilities and academic schedule.

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

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

36 (11) The child must enroll in an accredited academic or vocational
37 school, must be actively pursuing a course of study commensurate with
38 the child's vocational goals, and must be in good academic standing as
39 defined by the institution. The court-ordered postsecondary

1 educational support shall be automatically suspended during the period
2 or periods the child fails to comply with these conditions. For
3 purposes of this subsection, "actively pursuing a course of study"
4 means that the child completes the period of enrollment for which the
5 parents have paid support. If the child fails for whatever reason to
6 complete the academic period, the parents shall have no obligation to
7 resume payment of support until the child has made up the incomplete
8 period.

9 ((+4)) (12) The child shall also make available all academic
10 records and grades to both parents as a condition of receiving
11 postsecondary educational support. Each parent shall have full and
12 equal access to the postsecondary education records as provided in RCW
13 26.09.225.

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

18 (+6)) (13) The court shall direct that either or both parents'
19 payments for postsecondary educational expenses be made directly to the
20 educational institution if feasible. If direct payments are not
21 feasible, then the court in its discretion may order that either or
22 both parents' payments be made directly to the child if the child does
23 not reside with either parent. If the child resides with one of the
24 parents the court may direct that the parent making the support
25 transfer payments make the payments to the child or to the parent who
26 has been receiving the support transfer payments.

27 NEW SECTION. Sec. 2. This act applies prospectively only and not
28 retroactively. It applies only to causes of action that are commenced
29 on or after the effective date of this act."

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1 On page 1, line 2 of the title, after "children;" strike the
2 remainder of the title and insert "amending RCW 26.19.090; and creating
3 a new section."

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