

HOUSE BILL REPORT

HB 1552

As Reported By House Committee On:

Law & Justice

Title: An act relating to prohibiting mandatory child support for postsecondary education of adult children.

Brief Description: Prohibiting mandatory child support for postsecondary education of adult children.

Sponsors: Representatives Sherstad, Mulliken, Koster, Cairnes, D. Sommers, Cooke, Smith, Boldt, Mielke, Delvin, McMorris and Thompson.

Brief History:

Committee Activity:

Law & Justice: 2/25/97, 3/5/97 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 8 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Carrell; Lambert; Radcliff; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 5 members: Representatives Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney and Lantz.

Staff: Trudes Hutcheson (786-7384).

Background: A court generally establishes a child support order using Washington's child support schedule. Unless the parents agree in writing or the court decree orders otherwise, provisions for child support are terminated by emancipation of the child. Emancipation generally occurs when the child reaches majority, or earlier if some event terminates the child's economic dependence. In Washington, the age of majority is 18.

Washington's current child support schedule gives the court the discretion to order parents to pay postsecondary educational support. This is probably a codification of early case law. In 1978, the state supreme court held that judges have the discretion

to order a parent to pay postsecondary educational support when the child is over the age of 18 but remains dependent. *Childers v. Childers*.

The child support schedule establishes the factors the court must consider when determining whether postsecondary educational support should be ordered and how long it should continue. Those factors are: (1) the age of the child; (2) the child's needs; (3) the expectations of the parties for their children when the parents were together; (4) the child's prospects, desires, aptitudes, abilities, or disabilities; (5) the nature of the education sought; (6) the parents' level of education, standard of living, and current and future resources; and (7) the amount and type of support the child would have been afforded had the parents stayed together.

The court cannot order the payment of postsecondary educational expenses beyond the child's 23rd birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities. The child has the obligation to enroll in an accredited academic or vocational school, actively pursue a course of study, be in good academic standing, and make all academic records and grades available to both parents. Payments should be made directly to the educational institution if feasible, or to the child.

Except under certain circumstances, a parent may seek to modify an existing child support order only upon a showing of a substantial change of circumstances.

Summary of Bill: The Legislature finds that it is the parents' sole and exclusive prerogative to determine what support they will provide to their children for postsecondary education. The Legislature finds that ordering divorced parents to financially assist their children's postsecondary education infringes on the right of divorced parents to choose the level of assistance the parents would otherwise provide if they remained married. The Legislature disapproves of the ruling in *Childers*.

A court may not order a parent to pay postsecondary educational support of a child over the age of 18. The existing postsecondary educational support provisions in the child support schedule are repealed.

A parent currently required to pay postsecondary educational support under a court order may petition the court to modify the order to reflect the repeal without showing a substantial change in circumstances. However, if the child is currently enrolled in a postsecondary educational institution, the modification order shall be delayed one year or until the enrollment ends, whichever occurs first, unless the parent makes a showing of a substantial change of circumstances.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The courts should not require divorced parents to pay for postsecondary educational expenses when it does not require married parents to do the same. Parents rather than the courts should make decisions about their child's college education. Adult children can work their way through college and self-sufficiency should be encouraged. Although the current law requires the courts to consider certain factors, the courts do not always adhere to those factors.

Testimony Against: Prohibiting postsecondary educational support will place children at a disadvantage.

Testified: Representative Sherstad, prime sponsor; Clyde Roberts, citizen (pro); Fred Fakkema, citizen (pro); Kurt Wharton, citizen (pro); Bob Hoyden, Doug Lacey, and Jamaica Filgo, Washington Families for Noncustodial Rights (pro); and Judy Turpin, Northwest Women's Law Center (con).