

# HOUSE BILL ANALYSIS

## HB 1670

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**Title:** An act relating to restricting child support for postsecondary education of adult children.

**Brief Description:** Restricting child support for postsecondary education of adult children.

**Sponsors:** Representatives Sheahan, Lambert, Appelwick, Romero, Keiser, Wolfe, Mitchell, Gombosky, Blalock and Scott.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**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*, 89 Wn.2d 592, 601 (1978).

The child support schedule establishes 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.

**Summary of Bill:** The court's discretion to order postsecondary educational support is restricted. The court cannot order either or both parents to pay postsecondary educational support if both parents agree not to pay postsecondary educational expenses, or if the child is emancipated.

When considering whether to order postsecondary educational support and for how long, the court must consider the variety of factors currently listed in the child support schedule. However, the court cannot order postsecondary educational support beyond the child's 23rd birthday or beyond the child's completion of a four-year undergraduate college degree. In addition, support will not be ordered during periods of nonenrollment.

If the parents have minor children for whom they owe support under a child support order, the court shall ensure adequate provision is made for the support of the minor children before ordering postsecondary educational support for an adult sibling of the minor children.

Postsecondary educational support cannot exceed the highest cost of tuition, books, fees, supplies, and dormitory room and board at a state public university for a resident student. However, the court may order postsecondary educational support in excess of that amount if: (a) the parents agree; (b) the child wishes to attend a private institution and the parents have agreed to that decision; (c) if either or both parents attended private postsecondary educational institutions; or (d) if either or both parents have the financial capability to pay for a private postsecondary education. The postsecondary educational support will be shared by the parents in the same proportion as the child support obligation.

The child has an obligation to seek financial aid. The court must adjust the amount of support based on any loans, scholarships, or grants actually available to the child for that year. In addition, the court may adjust the amount of support based on the child's earnings that exceed the amount necessary to support the child during periods of nonenrollment. The court may require that the child contribute to the educational expenses based on the child's abilities and academic schedule.

In addition to the existing requirement that the child make available all academic records and grades to both parents, the court may order the child to consult with each parent regarding the child's academic plans and progress. If the child willfully fails to make the required records and grades available to both parents, the court may terminate the postsecondary educational support.

The child is required to complete the academic period of enrollment for which the parents have paid support. If, for whatever reason, the child fails to complete the academic period, the parents have no further obligation to pay postsecondary educational support until the child has made up the incomplete period.

**Fiscal Note:** Not requested.

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

Office of Program Research