

# SENATE BILL REPORT

## ESB 5086

---

As Passed Senate, March 11, 1997

**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:** Senators Roach, McDonald, Schow, Swecker, Johnson, McCaslin, Oke and Long.

**Brief History:**

**Committee Activity:** Law & Justice: 1/21/97, 2/10/97 [DP, DNP].  
Passed Senate, 3/11/97, 27-22.

---

### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Haugen, Long, McCaslin and Stevens.

**Minority Report:** Do not pass.

Signed by Senators Fairley and Kline.

**Staff:** Aldo Melchiori (786-7439)

**Background:** In 1978, the Washington Supreme Court ruled in *Childers v. Childers* that judges have the discretion to require a parent to support a child beyond the age of 18 if the child remains dependent on his or her parents for support. The parent in that case was required to pay child support to assist in the college education of his sons. By statute, a court may order a parent to pay child support for postsecondary education until the child is 23 years old.

It has been suggested that since the court has no authority to require a parent in an intact family to pay the expenses of a child's postsecondary education, divorced parents should not be required by the court to pay for these expenses either. It also has been suggested, however, that courts should have the ability to order this type of support where the child has special needs due to extraordinary medical circumstances.

**Summary of Bill:** The Legislature encourages all parents to assist their children with postsecondary education, and declares that the decision to provide such support to adult children is primarily the responsibility of the parents. The Legislature further finds that this subject should be the subject of judicial consideration when extraordinary medical circumstances exist. As such, the Legislature modifies the ruling in *Childers v. Childers* and its progeny.

A court may not order a parent to pay support for postsecondary education of a child over the age of 18 years unless extraordinary medical circumstances exist such as the existence of a developmental or chronic functional disability. In such a case, the court may enter an order for such amount and under such circumstances as are reasonable, considering the circumstances of all parties.

Existing statutory guidelines for the award of postsecondary support are repealed.

A petition for modification of an existing order to pay postsecondary child support may be brought without showing a substantial change of circumstances. Modification of existing orders for children currently enrolled in college must be delayed one year or until the enrollment ends, whichever occurs first, unless the petitioner 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 bill involves the question of equal protection because it treats divorced parents differently than married parents. It is unfair to assume that noncustodial parents will refuse to assist in paying these expenses. Young adults should learn the value of working for their education. This is adult support– not child support.– You cannot give to one person without taking from another.

**Testimony Against:** The system has correctable flaws, correct them; do not scrap the whole system. Children should not be harmed as a result of divorce. The courts may be the only independent third party watching out for the child’s best interest. Not all cases merit such an order, but judges should be allowed to examine each case. This is not an equal protection issue.

**Testified:** Bob Hoyden, Keith Ellis, WA Families for Non-Custodial Rights (pro); CON: Patricia Morgan, WA State Bar Assn., Family Law Section; Martha Harden, Superior Court Judges Assn.; Judy Turpin, NW Women’s Law Center; George LcClair, Children’s Alliance; Sandra Sebis.