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SENATE BILL 5852

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State of Washington                      55th Legislature                      1997 Regular Session

By Senators Spanel, Long, Fairley, Roach, Haugen, McCaslin and Kohl

Read first time 02/17/97. Referred to Committee on Law & Justice.

1            AN ACT Relating to requiring financial information with petitions  
2 to modify support orders; and amending RCW 26.09.175.

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

4            **Sec. 1.** RCW 26.09.175 and 1992 c 229 s 3 are each amended to read  
5 as follows:

6            (1) A proceeding for the modification of an order of child support  
7 shall commence with the filing of a petition and worksheets. The  
8 petition shall be in the form prescribed by the administrator for the  
9 courts. There shall be a fee of twenty dollars for the filing of a  
10 petition for modification of dissolution.

11            (2) The petitioner shall serve upon the other party the summons, a  
12 copy of the petition, all financial documentation required to make a  
13 determination under RCW 26.19.071, and the worksheets in the form  
14 prescribed by the administrator for the courts. If the modification  
15 proceeding is the first action filed in this state, service shall be  
16 made by personal service. If the decree to be modified was entered in  
17 this state, service shall be by personal service or by any form of mail  
18 requiring a return receipt. If the support obligation has been  
19 assigned to the state pursuant to RCW 74.20.330 or the state has a

1 subrogated interest under RCW 74.20A.030, the summons, petition, all  
2 financial documentation required to make a determination under RCW  
3 26.19.071, and worksheets shall also be served on the attorney general.  
4 Proof of service shall be filed with the court.

5 (3) The responding party's answer, all financial documentation  
6 required to make a determination under RCW 26.19.071, and worksheets  
7 shall be served and the answer filed within twenty days after service  
8 of the petition or sixty days if served out of state. The responding  
9 party's failure to file an answer within the time required shall result  
10 in entry of a default judgment for the petitioner.

11 (4) At any time after responsive pleadings are filed, either party  
12 may schedule the matter for hearing.

13 (5) Unless both parties stipulate to arbitration or the presiding  
14 judge authorizes oral testimony pursuant to subsection (6) of this  
15 section, a petition for modification of an order of child support shall  
16 be heard by the court on affidavits, the petition, answer, and  
17 worksheets only.

18 (6) A party seeking authority to present oral testimony on the  
19 petition to modify a support order shall file an appropriate motion not  
20 later than ten days after the time of notice of hearing. Affidavits  
21 and exhibits setting forth the reasons oral testimony is necessary to  
22 a just adjudication of the issues shall accompany the petition. The  
23 affidavits and exhibits must demonstrate the extraordinary features of  
24 the case. Factors which may be considered include, but are not limited  
25 to: (a) Substantial questions of credibility on a major issue; (b)  
26 insufficient or inconsistent discovery materials not correctable by  
27 further discovery; or (c) particularly complex circumstances requiring  
28 expert testimony.

29 (7) The court may require payment of attorneys' fees and may  
30 dismiss the petition without prejudice if a party fails to provide  
31 information required under this section.

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