
HOUSE BILL 2564

State of Washington 56th Legislature 2000 Regular Session

By Representatives Carrell, Schindler and Talcott

Read first time 01/17/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to terminating legal responsibilities of
2 nonparents; and amending RCW 26.16.200, 26.16.205, 74.20A.020,
3 26.26.040, and 26.26.060.

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

5 **Sec. 1.** RCW 26.16.200 and 1983 1st ex.s. c 41 s 2 are each amended
6 to read as follows:

7 Neither husband or wife is liable for the debts or liabilities of
8 the other incurred before marriage, nor for the separate debts of each
9 other, nor is the rent or income of the separate property of either
10 liable for the separate debts of the other: PROVIDED, That the
11 earnings and accumulations of the husband shall be available to the
12 legal process of creditors for the satisfaction of debts incurred by
13 him prior to marriage, and the earnings and accumulations of the wife
14 shall be available to the legal process of creditors for the
15 satisfaction of debts incurred by her prior to marriage. For the
16 purpose of this section, neither the husband nor the wife shall be
17 construed to have any interest in the earnings of the other: PROVIDED
18 FURTHER, That no separate debt, except a child support or maintenance
19 obligation, may be the basis of a claim against the earnings and

1 accumulations of either a husband or wife unless the same is reduced to
2 judgment within three years of the marriage of the parties. The
3 obligation of a natural or adoptive parent (~~((or stepparent))~~) to support
4 a child may be collected out of the parent's (~~((or stepparent's))~~)
5 separate property, the parent's (~~((or stepparent's))~~) earnings and
6 accumulations, and the parent's (~~((or stepparent's))~~) share of community
7 personal and real property. Funds in a community bank account which
8 can be identified as the earnings of the nonobligated spouse are exempt
9 from satisfaction of the child support obligation of the debtor spouse.

10 **Sec. 2.** RCW 26.16.205 and 1990 1st ex.s. c 2 s 13 are each amended
11 to read as follows:

12 The expenses of the family and the education of the children,
13 including stepchildren, are chargeable upon the property of both
14 husband and wife, or either of them, and they may be sued jointly or
15 separately. (~~((When a petition for dissolution of marriage or a
16 petition for legal separation is filed, the court may, upon motion of
17 the stepparent, terminate the obligation to support the stepchildren.))~~)
18 The obligation to support stepchildren shall cease upon the (~~((entry of
19 a decree of dissolution, decree of legal separation, or death))~~)
20 termination of the relationship of husband and wife.

21 **Sec. 3.** RCW 74.20A.020 and 1997 c 58 s 805 are each amended to
22 read as follows:

23 Unless a different meaning is plainly required by the context, the
24 following words and phrases as hereinafter used in this chapter and
25 chapter 74.20 RCW shall have the following meanings:

26 (1) "Department" means the state department of social and health
27 services.

28 (2) "Secretary" means the secretary of the department of social and
29 health services, the secretary's designee or authorized representative.

30 (3) "Dependent child" means any person:

31 (a) Under the age of eighteen who is not self-supporting, married,
32 or a member of the armed forces of the United States; or

33 (b) Over the age of eighteen for whom a court order for support
34 exists.

35 (4) "Support obligation" means the obligation to provide for the
36 necessary care, support, and maintenance, including medical expenses,

1 of a dependent child or other person as required by statutes and the
2 common law of this or another state.

3 (5) "Superior court order" means any judgment, decree, or order of
4 the superior court of the state of Washington, or a court of comparable
5 jurisdiction of another state, establishing the existence of a support
6 obligation and ordering payment of a set or determinable amount of
7 support moneys to satisfy the support obligation. For purposes of RCW
8 74.20A.055, orders for support which were entered under the uniform
9 reciprocal enforcement of support act by a state where the responsible
10 parent no longer resides shall not preclude the department from
11 establishing an amount to be paid as current and future support.

12 (6) "Administrative order" means any determination, finding,
13 decree, or order for support pursuant to RCW 74.20A.055, or by an
14 agency of another state pursuant to a substantially similar
15 administrative process, establishing the existence of a support
16 obligation and ordering the payment of a set or determinable amount of
17 support moneys to satisfy the support obligation.

18 (7) "Responsible parent" means a natural parent(~~(7)~~) or adoptive
19 parent(~~(7 or stepparent)~~) of a dependent child or a person who has
20 signed an affidavit acknowledging paternity which has been filed with
21 the state office of vital statistics.

22 (~~(8) ("Stepparent" means the present spouse of the person who is~~
23 ~~either the mother, father, or adoptive parent of a dependent child, and~~
24 ~~such status shall exist until terminated as provided for in RCW~~
25 ~~26.16.205.~~

26 (~~(9)~~) "Support moneys" means any moneys or in-kind providings paid
27 to satisfy a support obligation whether denominated as child support,
28 spouse support, alimony, maintenance, or any other such moneys intended
29 to satisfy an obligation for support of any person or satisfaction in
30 whole or in part of arrears or delinquency on such an obligation.

31 (~~(10)~~) (9) "Support debt" means any delinquent amount of support
32 moneys which is due, owing, and unpaid under a superior court order or
33 an administrative order, a debt for the payment of expenses for the
34 reasonable or necessary care, support, and maintenance, including
35 medical expenses, of a dependent child or other person for whom a
36 support obligation is owed; or a debt under RCW 74.20A.100 or
37 74.20A.270. Support debt also includes any accrued interest, fees, or
38 penalties charged on a support debt, and attorneys fees and other costs

1 of litigation awarded in an action to establish and enforce a support
2 obligation or debt.

3 ~~((11))~~ (10) "State" means any state or political subdivision,
4 territory, or possession of the United States, the District of
5 Columbia, and the Commonwealth of Puerto Rico.

6 ~~((12))~~ (11) "Account" means a demand deposit account, checking or
7 negotiable withdrawal order account, savings account, time deposit
8 account, or money-market mutual fund account.

9 ~~((13))~~ (12) "Child support order" means a superior court order or
10 an administrative order.

11 ~~((14))~~ (13) "Financial institution" means:

12 (a) A depository institution, as defined in section 3(c) of the
13 federal deposit insurance act;

14 (b) An institution-affiliated party, as defined in section 3(u) of
15 the federal deposit insurance act;

16 (c) Any federal or state credit union, as defined in section 101 of
17 the federal credit union act, including an institution-affiliated party
18 of such credit union, as defined in section 206(r) of the federal
19 deposit insurance act; or

20 (d) Any benefit association, insurance company, safe deposit
21 company, money-market mutual fund, or similar entity.

22 ~~((15))~~ (14) "License" means a license, certificate, registration,
23 permit, approval, or other similar document issued by a licensing
24 entity to a licensee evidencing admission to or granting authority to
25 engage in a profession, occupation, business, industry, recreational
26 pursuit, or the operation of a motor vehicle. "License" does not mean
27 the tax registration or certification issued under Title 82 RCW by the
28 department of revenue.

29 ~~((16))~~ (15) "Licensee" means any individual holding a license,
30 certificate, registration, permit, approval, or other similar document
31 issued by a licensing entity evidencing admission to or granting
32 authority to engage in a profession, occupation, business, industry,
33 recreational pursuit, or the operation of a motor vehicle.

34 ~~((17))~~ (16) "Licensing entity" includes any department, board,
35 commission, or other organization authorized to issue, renew, suspend,
36 or revoke a license authorizing an individual to engage in a business,
37 occupation, profession, industry, recreational pursuit, or the
38 operation of a motor vehicle, and includes the Washington state supreme

1 court, to the extent that a rule has been adopted by the court to
2 implement suspension of licenses related to the practice of law.

3 ~~((18))~~ (17) "Noncompliance with a child support order" for the
4 purposes of the license suspension program authorized under RCW
5 74.20A.320 means a responsible parent has:

6 (a) Accumulated arrears totaling more than six months of child
7 support payments;

8 (b) Failed to make payments pursuant to a written agreement with
9 the department towards a support arrearage in an amount that exceeds
10 six months of payments; or

11 (c) Failed to make payments required by a superior court order or
12 administrative order towards a support arrearage in an amount that
13 exceeds six months of payments.

14 ~~((19))~~ (18) "Noncompliance with a residential or visitation
15 order" means that a court has found the parent in contempt of court
16 under RCW 26.09.160(3) for failure to comply with a residential
17 provision of a court-ordered parenting plan.

18 **Sec. 4.** RCW 26.26.040 and 1997 c 58 s 938 are each amended to read
19 as follows:

20 (1) A man is presumed to be the natural father of a child for all
21 intents and purposes if:

22 (a) He and the child's natural mother are or have been married to
23 each other and the child is born during the marriage, or within three
24 hundred days after the marriage is terminated by death, annulment,
25 declaration of invalidity, divorce, or dissolution, or after a decree
26 of separation is entered by a court; or

27 (b) Before the child's birth, he and the child's natural mother
28 have attempted to marry each other by a marriage solemnized in apparent
29 compliance with law, although the attempted marriage is or could be
30 declared invalid, and the child is born within three hundred days after
31 the termination of cohabitation;

32 (c) After the child's birth, he and the child's natural mother have
33 married, or attempted to marry, each other by a marriage solemnized in
34 apparent compliance with law, although the attempted marriage is or
35 could be declared invalid, and

36 (i) He has acknowledged his paternity of the child in writing filed
37 with the state registrar of vital statistics,

1 (ii) With his consent, he is named as the child's father on the
2 child's birth certificate, or

3 (iii) He is obligated to support the child under a written
4 voluntary promise or by court order;

5 (d) While the child is under the age of majority, he receives the
6 child into his home and openly holds out the child as his child;

7 (e) He acknowledges his paternity of the child pursuant to RCW
8 70.58.080 or in a writing filed with the state registrar of vital
9 statistics, which shall promptly inform the mother of the filing of the
10 acknowledgment, if she does not dispute the acknowledgment within a
11 reasonable time after being informed thereof, in a writing filed with
12 the state registrar of vital statistics. An acknowledgment of
13 paternity under RCW 70.58.080 shall be a legal finding of paternity of
14 the child sixty days after the acknowledgment is filed with the center
15 for health statistics unless the acknowledgment is sooner rescinded or
16 challenged. After the sixty-day period has passed, the acknowledgment
17 may be challenged in court only on the basis of fraud, duress, or
18 material mistake of fact, with the burden of proof upon the challenger.
19 Legal responsibilities of the challenger, including child support
20 obligations, may not be suspended during the challenge, except for good
21 cause shown. Judicial and administrative proceedings are neither
22 required nor permitted to ratify an unchallenged acknowledgment of
23 paternity filed after July 27, 1997. In order to enforce rights of
24 residential time, custody, and visitation, a man presumed to be the
25 father as a result of filing a written acknowledgment must seek
26 appropriate judicial orders under this title;

27 (f) The United States immigration and naturalization service made
28 or accepted a determination that he was the father of the child at the
29 time of the child's entry into the United States and he had the
30 opportunity at the time of the child's entry into the United States to
31 admit or deny the paternal relationship; or

32 (g) Genetic testing indicates a ninety-eight percent or greater
33 probability of paternity.

34 (2) A presumption under this section may be rebutted in an
35 appropriate action ((only)) by ((clear, cogent, and convincing)) the
36 preponderance of the evidence. If two or more presumptions arise which
37 conflict with each other, the presumption which on the facts is founded
38 on the weightier considerations of policy and logic controls. The

1 presumption is rebutted by a court decree establishing paternity of the
2 child by another man.

3 **Sec. 5.** RCW 26.26.060 and 1983 1st ex.s. c 41 s 5 are each amended
4 to read as follows:

5 (1)(a) A child, a child's natural mother, a man alleged or alleging
6 himself to be the father, a child's guardian, a child's personal
7 representative, the state of Washington, or any interested party may
8 bring an action at any time for the purpose of declaring the existence
9 or nonexistence of the father and child relationship.

10 (b) A man presumed to be a child's father under RCW 26.26.040 may
11 bring an action for the purpose of declaring the nonexistence of the
12 father and child relationship (~~only if the action is brought within a~~
13 ~~reasonable time after obtaining knowledge of relevant facts~~) at any
14 time. After the presumption has been rebutted, paternity of the child
15 by another man may be determined in the same action, if he has been
16 made a party.

17 (2) In an action brought by the state pursuant to this chapter, the
18 state may be represented by either the prosecuting attorney for the
19 county where the action is brought or by the attorney general.

20 (3) Regardless of its terms, no agreement between an alleged or
21 presumed father and the mother or child, shall bar an action under this
22 section.

23 (4) If an action under this section is brought before the birth of
24 the child, all proceedings may be stayed until after the birth, except
25 service of process and discovery, including the taking of depositions
26 to perpetuate testimony.

27 (5) Actions under this chapter may be maintained as to any child,
28 whether born before or after the enactment of this chapter.

--- END ---