

HOUSE BILL REPORT

HB 2462

As Reported by House Committee On:
Juvenile Justice & Family Law

Title: An act relating to establishing work groups to periodically review and update the child support schedule.

Brief Description: Establishing work groups to periodically review and update the child support schedule.

Sponsors: Representatives Moeller, Wallace and Roberts.

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 1/18/06, 1/24/06 [DPS].

Brief Summary of Substitute Bill

- Changes the repository of the order summary report from the Administrative Office of the Courts to the Division of Child Support (DCS).
- Requires the DCS to convene a work group no later than April 1, 2006, to continue the work of the 2005 Child Support Guidelines Work Group.
- Requires the DCS, beginning in 2010 and every four years thereafter, to convene a work group to conduct a review of the existing child support schedule and guidelines.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Moeller, Vice Chair; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Crouse, Lovick and Roberts.

Staff: Kara Durbin (786-7133).

Background:

Division of Child Support:

The Division of Child Support (DCS), which is within the Department of Social and Health Services, is responsible for administering Washington's child support enforcement program.

The DCS provides support enforcement services to parents receiving public assistance and to those non-assistance parents who request support enforcement services.

Mechanism for Review:

Current law states that the Legislature shall review the child support schedule every four years to determine whether the support schedule results in appropriate support orders.

While the Legislature has considered modifications to the child support guidelines over the years, the last major, substantive change made to the existing child support schedule and related guidelines occurred in 1991.

Order Summary Report:

The Order Summary Report is a form that was created in 1990 by the Administrative Office of the Courts, pursuant to RCW 26.18.210. The purpose of the form is to collect data necessary for reviews of the child support schedule. Any party that seeks to establish or modify a child support order is currently required to file the Order Summary Report with the court clerk under RCW 26.09.173 and RCW 26.10.195.

Child Support Work Group:

In March of 2005, the Governor charged the DCS to put together a work group of community members to address several issues related to the review of Washington's child support guidelines. The Governor's request was in response to a letter received by the DCS from the Administrator of the Office of Child Support Enforcement (OCSE). The OCSE expressed concern that Washington's child support guidelines had not been adequately reviewed and revised in several years, as required by 45 CFR § 302.56. Failure to adequately review the child support guidelines could result in a recommendation by the OCSE to disapprove Washington's child support state plan. Disapproval by the OCSE of the child support state plan would result in immediate suspension of all federal payments for the DCS's program, as well as jeopardize a portion of the federal block grant for the Temporary Assistance for Needy Families program.

In response to the Governor's request, the DCS established a Child Support Guidelines Work Group (CSGWG) in April of 2005, to examine a number of issues related to child support, including the adequacy of the current child support schedule. The purpose of the work group was to formulate recommendations and report to the Legislature on those recommendations no later than January 15, 2006. The report was to include:

- recommendations for needed amendments to the state's child support guidelines statutes;
- a process for improving record keeping of orders entered; and
- a better method of ensuring that the state's child support guidelines are reviewed and updated as federally required.

The CSGWG met monthly from April 2005 until December of 2005. In its Child Support Schedule Review Report issued January 16, 2006, the CSGWG made a number of final recommendations to the Legislature:

- (1) revise the Order Summary Report to include the necessary data elements for future review of the support schedule;
- (2) revise the mechanism for reviewing the support schedule under current law by requiring the DCS to convene a work group every four years with a prescribed list of member representation;
- (3) treat children not before the court using the Whole Family Formula;
- (4) update the Economic Table using the mid-point between the Rothbarth-Betson and the Engle estimator; and
- (5) raise the presumptive level for combined net income to be used when calculating the child support obligation.

Summary of Substitute Bill:

Order Summary Report:

The format of the Order Summary Report is revised. The report must be included at the top of the first page of the child support worksheets, but it is not to be considered part of the worksheet. The Order Summary Report must contain all necessary data in order for the Division of Child Support (DCS) to perform a quadrennial review of the Washington State Child Support Schedule. On at least a monthly basis, the clerk of the superior court must transmit all child support worksheets that have been filed with the court to the DCS. The DCS must store and maintain all of the order summary report data and prepare a report at least every four years.

Joint Legislative Audit and Review Committee Review (JLARC):

Beginning in 2010, and every four years thereafter, JLARC, or any other entity designated by the Legislature, must review the following: the data collected in the order summary report; the recommendations of the prior work group; data related to the cost of child rearing; and research and data regarding the application of, and deviation from, the child support guidelines. After conducting a review, JLARC must submit a report to the Legislature no later than July 1, 2010, and every four years thereafter.

Mechanism for Review:

By April 1, 2006, the DCS shall convene a work group to review the current laws, administrative rules and practices surrounding child support. The objective of the work group shall be to continue the work of the 2005 CSGWG, and produce findings and recommendations to the Legislature, including recommendations for legislative action, by December 1, 2006.

The CSGWG shall include the following members:

- the Director of the DCS;
- a professor of law specializing in family law;
- a representative from the Washington State Bar Association's Family Law executive committee;
- an economist;

- a representative of the tribal community;
- two representatives from the Superior Court Judges' Association, including a superior court judge and a court commissioner familiar with child support issues;
- a representative from the Administrative Office of the Courts;
- a prosecutor;
- a representative from legal services;
- three non-custodial parents;
- three custodial parents;
- four legislators; and
- an administrative law judge.

The Director of the DCS shall serve as chair of the CSGWG.

At a minimum, the 2006 work group shall review and make recommendations to the Legislature on the following issues:

- (1) how the support schedule and guidelines treat children from other relationships, including whether the whole family formula should be applied presumptively;
- (2) whether the economic table for calculating child support should include combined income greater than \$5,000;
- (3) whether the economic table should start at 125 percent of the federal poverty guidelines, and move upward in \$100 increments;
- (4) whether the economic table should distinguish between children under 12 years of age and over 12 years of age;
- (5) whether child care costs and ordinary medical costs should be included in the economic table, or treated separately;
- (6) whether the estimated cost of child rearing, as reflected in the economic table, should be based on the Rothbarth estimate, the Engle estimator, or some other basis for calculating the cost of child rearing;
- (7) whether the self-support reserve should be tied to the federal poverty level;
- (8) how to treat imputation of income for purposes of calculating the child support obligation, including whether minimum wage should be imputed in the absence of adequate information regarding income;
- (9) how extraordinary medical expenses should be addressed, either through basic child support obligation or independently;
- (10) whether the amount of the presumptive minimum order should be adjusted;
- (11) whether gross or net income should be used for purposes of calculating the child support obligation;
- (12) how to treat overtime income or income from a second job for purposes of calculating the child support obligation;
- (13) whether the non-custodial parent's current child support obligation should be limited to 45 percent of net income; and
- (14) whether the residential schedule should affect the amount of the child support obligation.

Beginning in 2010, and every four years thereafter, the DCS must convene a work group with similar membership to review the current laws, administrative rules and practices surrounding child support.

Substitute Bill Compared to Original Bill:

The substitute bill changes the start date for the quadrennial review from 2008 to 2010. It also adds two custodial parents to the membership of the quadrennial child support work group and the 2006 child support work group. The substitute bill also increases the proportion of the parent representation on both work groups, which results in three non-custodial parents and three custodial parents. The substitute bill also clarifies the duty of the JLARC to review the data collected in the order summary report; the recommendations of the prior work group, and other relevant research and data. The substitute bill corrects internal references in the bill by replacing "child support schedule" with "child support guidelines" to maintain consistency with federal law.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Many of these issues are interrelated and need to be addressed together. Selecting individual issues and making changes would do a disservice to the current system. Having an ongoing mechanism for review is important. The prior work group got close to resolving some of these issues; that effort should continue and result in an omnibus bill for next session. The Order Summary Report, right now, is often not filled out. The substitute bill makes it the top half of the work sheet, which will make it easier to collect the data. We support continuance of the work group, and we like the representation on the work group. We support this bill, but want it to go a step further. We would like more representation from parents on the work group. We would like to see one-quarter of the work group be custodial parents and one-quarter be non-custodial parents. There should be more balance. We would like to see more focus on meeting the needs of the children and examining how the money is being spent. The current guidelines should reflect the cost of maintaining two households, not just the cost of maintaining one household. There are two parents that incur expenses in raising children, not just one parent. There should be more parents on the work group.

Testimony Against: Federal law does require the state to review the state child support schedule every four years and make adjustments if orders no longer result in adequate awards. A large amount of federal money could be at stake, and amounts to approximately \$85 million. A fiscal note is on its way. Because the bill does create a fiscal cost and it is not in the Governor's budget, the Department cannot support this bill. Many sections of the bill are consistent with the work group's recommendations; other sections are not. In particular,

the responsibility for the DCS to convene the work group is not consistent with what the work group recommended.

Persons Testifying: (In support of substitute bill) Representative Moeller, prime sponsor; Rick Bartholomew, Washington State Bar Association, Family Law Services; Kevin Turner, Washington Civil Rights Council; and Lisa Scott, Taking Action Against Bias in the System.

(Opposed to substitute bill) David Stillman, Director of the Department of Child Services, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.