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**SUBSTITUTE HOUSE BILL 1916**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Kilduff, Leavitt, Ortiz-Self, and Ormsby; by request of Department of Social and Health Services)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to improving the delivery of child support  
2 services to families by increasing flexibility and efficiency; and  
3 amending RCW 26.19.025, 26.09.170, and 74.20A.059.

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

5 **PART I**

6 **CHILD SUPPORT GUIDELINES**

7 **Sec. 1.** RCW 26.19.025 and 2011 c 21 s 2 are each amended to read  
8 as follows:

9 (1) Beginning in 2011 and every four years thereafter, the  
10 division of child support shall convene a work group to review the  
11 child support guidelines and the child support review report  
12 (~~prepared under RCW 26.19.026 and 26.18.210~~) described in  
13 subsection (7) of this section, consider the data required under  
14 subsection (8) of this section, and determine if the application of  
15 the child support guidelines results in appropriate support orders.  
16 Membership of the work group shall be determined as provided in this  
17 subsection.

18 (a) The president of the senate shall appoint one member from  
19 each of the two largest caucuses of the senate;

1 (b) The speaker of the house of representatives shall appoint one  
2 member from each of the two largest caucuses of the house of  
3 representatives;

4 (c) The governor, in consultation with the division of child  
5 support, shall appoint the following members:

6 (i) The director of the division of child support;

7 (ii) A professor of law specializing in family law;

8 (iii) A representative from the Washington state bar  
9 association's family law executive committee;

10 (iv) An economist;

11 (v) A representative of the tribal community;

12 (vi) Two representatives from the superior court judges'  
13 association, including a superior court judge and a court  
14 commissioner who is familiar with child support issues;

15 (vii) A representative from the administrative office of the  
16 courts;

17 (viii) A prosecutor appointed by the Washington association of  
18 prosecuting attorneys;

19 (ix) A representative from legal services;

20 (x) Three noncustodial parents, each of whom may be a  
21 representative of an advocacy group, an attorney, or an individual,  
22 with at least one representing the interests of low-income,  
23 noncustodial parents;

24 (xi) Three custodial parents, each of whom may be a  
25 representative of an advocacy group, an attorney, or an individual,  
26 with at least one representing the interests of low-income, custodial  
27 parents; and

28 (xii) An administrative law judge appointed by the office of  
29 administrative hearings.

30 (2) Appointments to the work group shall be made by December 1,  
31 2010, and every four years thereafter. The governor shall appoint the  
32 chair from among the work group membership.

33 (3) The division of child support shall provide staff support to  
34 the work group, and shall carefully consider all input received from  
35 interested organizations and individuals during the review process.

36 (4) The work group may form an executive committee, create  
37 subcommittees, designate alternative representatives, and define  
38 other procedures, as needed, for operation of the work group.

39 (5) Legislative members of the work group shall be reimbursed for  
40 travel expenses under RCW 44.04.120. Nonlegislative members, except

1 those representing an employee or organization, are entitled to be  
2 reimbursed for travel expenses in accordance with RCW 43.03.050 and  
3 43.03.060.

4 (6) By October 1, 2011, and every four years thereafter, the work  
5 group shall report its findings and recommendations to the  
6 legislature, including recommendations for legislative action, if  
7 necessary.

8 (7) The division of child support must prepare a child support  
9 review report for the use of each quadrennial work group. This  
10 report, along with the data described in subsection (8) of this  
11 section, must be used in the review of the child support guidelines  
12 to ensure that deviations from the guidelines are limited and  
13 guideline amounts are appropriate based on criteria established by  
14 the division of child support, as directed by relevant state and  
15 federal law.

16 (8) During the quadrennial review, the data considered by the  
17 work group must include:

18 (a) Economic data on the cost of raising children; labor market  
19 data by occupation and skill level for the state and local job  
20 markets including, but not limited to, unemployment rates, employment  
21 rates, hours worked, and earnings; the impact of the guidelines'  
22 policies and amounts on parents who have family incomes below two  
23 hundred percent of the federal poverty level; and factors that  
24 influence employment rates and compliance with child support orders  
25 among parents who are obligated to pay support; and

26 (b) Case data, gathered through sampling or other methods, on the  
27 application of, and deviations from, the child support guidelines, as  
28 well as the rates of default and imputed child support orders and  
29 orders determined using the low-income adjustment. The analysis must  
30 also include a comparison of payments on child support orders by case  
31 characteristics, including whether the order was entered by default,  
32 based on imputed income, or determined using the low-income  
33 adjustment.

## 34 PART II

### 35 CRITERIA FOR MODIFICATION OR ADJUSTMENT OF CHILD SUPPORT ORDERS

36 **Sec. 2.** RCW 26.09.170 and 2010 c 279 s 1 are each amended to  
37 read as follows:

1           (1) Except as otherwise provided in RCW 26.09.070(7), the  
2 provisions of any decree respecting maintenance or support may be  
3 modified: (a) Only as to installments accruing subsequent to the  
4 petition for modification or motion for adjustment except motions to  
5 compel court-ordered adjustments, which shall be effective as of the  
6 first date specified in the decree for implementing the adjustment;  
7 and, (b) except as otherwise provided in this section, only upon a  
8 showing of a substantial change of circumstances. The provisions as  
9 to property disposition may not be revoked or modified, unless the  
10 court finds the existence of conditions that justify the reopening of  
11 a judgment under the laws of this state.

12           (2) Unless otherwise agreed in writing or expressly provided in  
13 the decree the obligation to pay future maintenance is terminated  
14 upon the death of either party or the remarriage of the party  
15 receiving maintenance or registration of a new domestic partnership  
16 of the party receiving maintenance.

17           (3) Unless otherwise agreed in writing or expressly provided in  
18 the decree, provisions for the support of a child are terminated by  
19 emancipation of the child or by the death of the parent obligated to  
20 support the child.

21           (4) Unless expressly provided by an order of the superior court  
22 or a court of comparable jurisdiction, provisions for the support of  
23 a child are terminated upon the marriage or registration of a  
24 domestic partnership to each other of parties to a paternity order,  
25 or upon the remarriage or registration of a domestic partnership to  
26 each other of parties to a decree of dissolution. The remaining  
27 provisions of the order, including provisions establishing paternity,  
28 remain in effect.

29           (5) (a) A party to an order of child support may petition for a  
30 modification based upon a showing of substantially changed  
31 circumstances at any time.

32           (b) An obligor's voluntary unemployment or voluntary  
33 underemployment, by itself, is not a substantial change of  
34 circumstances.

35           (6) An order of child support may be modified one year or more  
36 after it has been entered without a showing of substantially changed  
37 circumstances:

38           (a) If the order in practice works a severe economic hardship on  
39 either party or the child;

1 (b) (~~If a party requests an adjustment in an order for child~~  
2 ~~support which was based on guidelines which determined the amount of~~  
3 ~~support according to the child's age, and the child is no longer in~~  
4 ~~the age category on which the current support amount was based;~~

5 ~~(e))~~ If a child is still in high school, upon a finding that  
6 there is a need to extend support beyond the eighteenth birthday to  
7 complete high school; or

8 (~~(d))~~ (c) To add an automatic adjustment of support provision  
9 consistent with RCW 26.09.100.

10 (7)(a) If twenty-four months have passed from the date of the  
11 entry of the order or the last adjustment or modification, whichever  
12 is later, the order may be adjusted without a showing of  
13 substantially changed circumstances based upon:

14 (i) Changes in the income of the parents; or

15 (ii) Changes in the economic table or standards in chapter 26.19  
16 RCW.

17 (b) Either party may initiate the adjustment by filing a motion  
18 and child support worksheets.

19 (c) If the court adjusts or modifies a child support obligation  
20 pursuant to this subsection by more than thirty percent and the  
21 change would cause significant hardship, the court may implement the  
22 change in two equal increments, one at the time of the entry of the  
23 order and the second six months from the entry of the order. Twenty-  
24 four months must pass following the second change before a motion for  
25 another adjustment under this subsection may be filed.

26 (8)(a) The department of social and health services may file an  
27 action to modify or adjust an order of child support if public  
28 assistance money is being paid to or for the benefit of the child and  
29 the department has determined that the child support order is at  
30 least (~~twenty-five~~) fifteen percent above or below the appropriate  
31 child support amount set forth in the standard calculation as defined  
32 in RCW 26.19.011 (~~and reasons for the deviation are not set forth in~~  
33 ~~the findings of fact or order~~).

34 (b) The department of social and health services may file an  
35 action to modify or adjust an order of child support in a  
36 nonassistance case if:

37 (i) The department has determined that the child support order is  
38 at least (~~twenty-five~~) fifteen percent above or below the  
39 appropriate child support amount set forth in the standard  
40 calculation as defined in RCW 26.19.011;

1 (ii) The department has determined the case meets the  
2 department's review criteria; and

3 (iii) A party to the order or another state or jurisdiction has  
4 requested a review.

5 (c) If incarceration of the parent who is obligated to pay  
6 support is the basis for the difference between the existing child  
7 support order amount and the proposed amount of support determined as  
8 a result of a review, the department may file an action to modify or  
9 adjust an order of child support even if:

10 (i) There is no other change of circumstances; and

11 (ii) The change in support does not meet the fifteen percent  
12 threshold.

13 (d) The determination of (~~twenty-five percent or more shall~~)  
14 whether the child support order is at least fifteen percent above or  
15 below the appropriate child support amount must be based on the  
16 current income of the parties (~~and the department shall not be~~  
17 required to show a substantial change of circumstances if the reasons  
18 for the deviations were not set forth in the findings of fact or  
19 order)).

20 (9) The department of social and health services may file an  
21 action to modify or adjust an order of child support under  
22 subsections (5) through (7) of this section if:

23 (a) Public assistance money is being paid to or for the benefit  
24 of the child;

25 (b) A party to the order in a nonassistance case has requested a  
26 review; or

27 (c) Another state or jurisdiction has requested a modification of  
28 the order.

29 (10) If testimony other than affidavit is required in any  
30 proceeding under this section, a court of this state shall permit a  
31 party or witness to be deposed or to testify under penalty of perjury  
32 by telephone, audiovisual means, or other electronic means, unless  
33 good cause is shown.

34 **Sec. 3.** RCW 74.20A.059 and 2018 c 150 s 109 are each amended to  
35 read as follows:

36 (1) The department, the physical custodian, or the responsible  
37 parent may petition for a prospective modification of a final  
38 administrative order if:

1 (a) The administrative order has not been superseded by a  
2 superior court order; and

3 (b) There has been a substantial change of circumstances, except  
4 as provided under RCW 74.20A.055(4)(d) or subsection (2) of this  
5 section.

6 (2) An order of child support may be modified at any time without  
7 a showing of substantially changed circumstances if incarceration of  
8 the parent who is obligated to pay support is the basis for the  
9 inconsistency between the existing child support order amount and the  
10 amount of support determined as a result of a review.

11 (3) An order of child support may be modified one year or more  
12 after it has been entered without showing a substantial change of  
13 circumstances:

14 (a) If the order in practice works a severe economic hardship on  
15 either party or the child; or

16 (b) ~~((If a party requests an adjustment in an order for child~~  
17 ~~support that was based on guidelines which determined the amount of~~  
18 ~~support according to the child's age, and the child is no longer in~~  
19 ~~the age category on which the current support amount was based; or~~

20 ~~(e))~~ If a child is a full-time student and reasonably expected  
21 to complete secondary school or the equivalent level of vocational or  
22 technical training before the child becomes nineteen years of age  
23 upon a finding that there is a need to extend support beyond the  
24 eighteenth birthday.

25 ~~((3))~~ (4) An order may be modified without showing a  
26 substantial change of circumstances if the requested modification is  
27 to:

28 (a) Require medical support under RCW 26.09.105 for a child  
29 covered by the order; or

30 (b) Modify an existing order for health care coverage.

31 ~~((4))~~ (5) Support orders may be adjusted once every twenty-four  
32 months based upon changes in the income of the parents without a  
33 showing of substantially changed circumstances.

34 ~~((5))~~ (6)(a) All administrative orders entered on, before, or  
35 after September 1, 1991, may be modified based upon changes in the  
36 child support schedule established in chapter 26.19 RCW without a  
37 substantial change of circumstances. The petition may be filed based  
38 on changes in the child support schedule after twelve months has  
39 expired from the entry of the administrative order or the most recent  
40 modification order setting child support, whichever is later.

1 However, if a party is granted relief under this provision, twenty-  
2 four months must pass before another petition for modification may be  
3 filed pursuant to subsection (~~(4)~~) (5) of this section.

4 (b) If, pursuant to subsection (~~(4)~~) (5) of this section or (a)  
5 of this subsection, the order modifies a child support obligation by  
6 more than thirty percent and the change would cause significant  
7 hardship, the change may be implemented in two equal increments, one  
8 at the time of the entry of the order and the second six months from  
9 the entry of the order. Twenty-four months must pass following the  
10 second change before a petition for modification under subsection  
11 (~~(4)~~) (5) of this section may be filed.

12 (~~(6)~~) (7) An increase in the wage or salary of the parent or  
13 custodian who is receiving the support transfer payments is not a  
14 substantial change in circumstances for purposes of modification  
15 under subsection (1)(b) of this section. An obligor's voluntary  
16 unemployment or voluntary underemployment, by itself, is not a  
17 substantial change of circumstances.

18 (~~(7)~~) (8) The department shall file the petition and a  
19 supporting affidavit with the secretary or the secretary's designee  
20 when the department petitions for modification.

21 (~~(8)~~) (9) The responsible parent or the physical custodian  
22 shall follow the procedures in this chapter for filing an application  
23 for an adjudicative proceeding to petition for modification.

24 (~~(9)~~) (10) Upon the filing of a proper petition or application,  
25 the secretary or the secretary's designee shall issue an order  
26 directing each party to appear and show cause why the order should  
27 not be modified.

28 (~~(10)~~) (11) If the presiding or reviewing officer finds a  
29 modification is appropriate, the officer shall modify the order and  
30 set current and future support under chapter 26.19 RCW.

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