

RCW 74.20A.059 Modification of administrative orders establishing child support—Petition—Grounds—Procedure. (1) The department, the payee under the order or the person entitled to receive support, or the person required to pay support may petition for a prospective modification of a final administrative order if:

(a) The administrative order has not been superseded by a superior court order; and

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

(2) The department, the person entitled to receive support, the payee under the order, or the person required to pay support may petition for a prospective modification of a final administrative order if the person required to pay support is currently confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility, and the support order does not contain language regarding abatement due to incarceration.

(a) The petition may be filed at any time after the administrative support order became a final order, as long as the person required to pay support is currently incarcerated.

(b) As part of the petition for modification, the petitioner may also request that the support obligation be abated to ten dollars per month per order due to incarceration, as provided in RCW 26.09.320.

(3) An order of child support may be modified at any time without a showing of substantially changed circumstances if incarceration of the person required to pay support is the basis for the inconsistency between the existing child support order amount and the amount of support determined as a result of a review.

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

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

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

(5) An order may be modified without showing a substantial change of circumstances if the requested modification is to:

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

(b) Modify an existing order for health care coverage; or

(c) Modify an existing order when the person required to pay support has been released from incarceration, as provided in RCW 26.09.320(3)(d).

(6) Support orders may be adjusted once every twenty-four months based upon changes in the income of the parties to the order without a showing of substantially changed circumstances. This provision does not mean that the income of a person entitled to receive support who is not a parent of the child or children covered by the order must be disclosed or be included in the calculations under chapter 26.19 RCW when determining the support obligation.

(7) (a) All administrative orders entered on, before, or after September 1, 1991, may be modified based upon changes in the child

support schedule established in chapter 26.19 RCW without a substantial change of circumstances. The petition may be filed based on changes in the child support schedule after twelve months has expired from the entry of the administrative order or the most recent modification order setting child support, whichever is later. However, if a party is granted relief under this provision, twenty-four months must pass before another petition for modification may be filed pursuant to subsection (6) of this section.

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

(8) An increase in the wage or salary of the person entitled to receive the support transfer payments is not a substantial change in circumstances for purposes of modification under subsection (1)(b) of this section. The voluntary unemployment or voluntary underemployment of the person required to pay support, by itself, is not a substantial change of circumstances. The income of the person entitled to receive support is only disclosed or considered if that person is a parent of the child or children covered by the order.

(9) The department shall file the petition and a supporting affidavit with the office of administrative hearings when the department petitions for modification.

(10) The person required to pay support or the payee under the order or the person entitled to receive support shall follow the procedures in this chapter for filing an application for an adjudicative proceeding to petition for modification.

(11) Upon the filing of a proper petition or application, the office of administrative hearings shall issue an order directing each party to appear and show cause why the order should not be modified.

(12) If the presiding or reviewing officer finds a modification is appropriate, the officer shall modify the order and set current and future support under chapter 26.19 RCW. [2020 c 227 s 12; 2019 c 275 s 3; 2018 c 150 s 109; 2009 c 476 s 9; 1991 c 367 s 47.]

Effective date—2020 c 227 ss 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

Rule-making authority—2020 c 227: See RCW 26.09.916.

Effective date—2009 c 476: See note following RCW 26.09.105.

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.