

# HOUSE BILL REPORT

## E2SSB 5120

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*As Reported By House Committee on:  
Judiciary*

**Title:** An act relating to child support.

**Brief Description:** Making adjustments to child support guidelines.

**Sponsor(s):** Senate Committee on Ways & Means (originally sponsored by Senators Nelson, Rasmussen, Thorsness, Stratton, Saling, McCaslin, Hayner, Erwin, L. Smith, Newhouse, Amondson, Johnson, Bailey, Gaspard, Vognild, Matson, West, Owen, Bauer, Snyder, Roach and Oke).

**Brief History:**

Reported by House Committee on:  
Judiciary, April 5, 1991, DPA.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *Do pass as amended.* Signed by 10 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; Inslee; Mielke; H. Myers; and Scott.

**Minority Report:** *Do not pass.* Signed by 5 members: Representatives Padden, Ranking Minority Member; Belcher; R. Meyers; D. Sommers; and Tate.

**Staff:** Pat Shelledy (786-7149).

**Background:**

FEDERAL LAW. The Social Security Act, Title IV-D, requires the State to have a state plan for determining child support amounts. Failure to comply with federal law regarding child support places the state's federal funding for all the state's Title IV-D programs at risk. The Legislature adopted a child support schedule in the 1988 legislative session, which took effect July 1, 1988. At the same time the Legislature adopted a provision, known as the "Hayner amendment," that allows counties to adopt an alternative schedule for parents with combined monthly net incomes above \$2,500. The local table may vary by up to 25 percent from

the state table. A number of counties have adopted a local table.

The federal government has advised the State that the state plan is out of compliance with federal law that requires the State to adopt one uniform table.

THE CHILD SUPPORT SCHEDULE. The child support schedule is based upon an "income shares" model which combines the net incomes of the parents and determines respective parental support obligations based on the parent's percentage of the combined income. The support is calculated by reference to an economic table and a set of standards. The intent of the Legislature when adopting the table was to set support at an amount that would meet the basic needs of the child and provide an additional amount commensurate with the parents' income and standard of living.

ECONOMIC TABLE. The economic table establishes a presumptive basic support obligation for parents with combined monthly incomes up to \$7,000 per month. The presumptive amounts vary depending upon the number of children and the children's ages.

STANDARDS. The schedule provides 16 standards for determining child support. The standards are as follows:

1. The Washington Child Support Schedule is applied as follows:
  - a. in each county of the state;
  - b. in judicial and administrative proceedings;
  - c. in all proceedings in which child support is determined or modified;
  - d. for setting temporary and permanent support; and
  - e. for adjusting support orders instead of using a cost-of-living or escalation provision.
2. The parents' obligation for support is based on their combined net income, resources and special child rearing costs.
3. Monthly gross income includes income from any source: salaries, wages, commissions, deferred compensation, bonuses, overtime, dividends, interest, trust income, severance pay, annuities, capital gains, Social Security benefits, workers compensation, unemployment, disability insurance benefits, gifts and prizes. AFDC, SSI, general assistance, and food stamps must be disclosed but may not be included in gross income or be a reason to deviate from the schedule. Spousal

maintenance or child support received from other relationships must be disclosed and may be a reason to deviate, but may not be included in gross income.

4. Allowable deductions from gross income are income taxes, FICA, mandatory pension plan payments, and mandatory union/professional dues. Payment of child support or maintenance involving other relationships must be disclosed and considered for deviation purposes, but may not be included as a deduction from gross income.

For self-employed persons, normal business expenses and self-employment taxes may be deducted. Justification is required for any business expense deduction about which there is disagreement.

Nonrecurring overtime/bonus income may be separately identified and allowed as a discretionary deduction from gross income.

5. Tax returns for the preceding three years and current pay stubs must be provided to verify income and deductions. Other sufficient verification is required for income and deductions which do not appear on tax returns or pay stubs.

In the absence of information to the contrary, a parent's income is based on the median income of year-round, full-time workers as derived from the United States Bureau of Census, Current Population Reports.

6. The basic child support obligation derived from the table must be allocated between the parents based on each parent's share of the total family net income.
7. Ordinary health care expenses are included in the economic table. Expenses exceeding the amount set forth in the instructions are considered extraordinary and are shared by the parents in the same proportion as the basic child support obligation.

Day-care and special child rearing expenses such as tuition and long-distance transportation costs are not included in the economic table. These expenses are shared by the parents in the same proportion as the basic child support obligation and must be listed as a specific dollar amount.

Discretion may be exercised to determine the reasonableness and necessity of extraordinary and special expenses.

8. When combined monthly net income is less than \$600, a support order not less than \$25 per month per child must be entered.

When combined monthly net income exceeds \$7,000, child support must be determined by that amount from the table, together with an additional amount to be determined on an individual basis.

9. Neither parent's child support obligation may exceed 50 percent of net earnings unless good cause is shown. Good cause includes possession of substantial wealth, children with day-care expenses, special medical, educational, or psychological needs, and larger families.
10. Basic child support must be allocated between the parents when a child stays overnight with the parent over 25 percent of the year. When this adjustment is sought, and the parents are not in agreement, the parent seeking the adjustment must provide evidence to demonstrate the parents' actual past involvement with the child. However, the support payment may not be reduced if there will be insufficient funds available to meet the basic needs of the child in the house receiving the support, or if the child is receiving Aid to Families with Dependent Children payments.
11. The presumptive amount of support is determined according to the schedule. Deviations must be explained in writing and supported by evidence. When reasons exist for deviation, discretion must be exercised in considering the extent to which the factors would affect the support obligation.
12. Reasons for deviation may include the possession of wealth, shared living arrangements, extraordinary debt involuntarily incurred, extraordinarily high income of a child, a significant disparity in the living costs of the parents due to conditions beyond their control, special needs of disabled children, and tax planning. The transfer payment amount may deviate if tax planning results in greater benefit to the child.
13. When there are children from other relationships, the schedule must be applied to the mother, father, and children of the relationship being considered. Deviations from the amount of support derived from this

application must be based upon all the circumstances of both households. All income, resources, and support obligations paid and received must be disclosed and considered. Support obligations include children in the home and children outside of the home.

14. The schedule is advisory and not presumptive for children who have attained the age of 18 and have completed their secondary education. In 1989, the Legislature adopted a statute that incorporated most of the case law on award of support for post-secondary education but placed some limitations on the award.
15. Wage income is imputed for parents who are voluntarily unemployed or voluntarily underemployed. A parent is not deemed underemployed as long as that parent is gainfully employed on a full-time basis. Income is not imputed for an unemployable parent.
16. There must be full disclosure of each parent's household financial information. The work sheets must be completed under penalty of perjury and filed with the court.

The parents must complete work sheets to calculate income and credits due and then use the table to determine the dollar amount of support.

***Summary of Amended Bill:***

DEFINITIONS. Definitions are added and amended. New definitions include "court" to apply to both judicial and administrative proceedings, "multiple families" to define the possible combinations of families with children to whom a parent may owe a duty of support, and "support transfer payment" to define the payment that one parent transfers to the other parent. Other definitions currently referred to in the child support schedule are included in the statute with appropriate references to the sections in the bill.

CALCULATION OF CHILD SUPPORT. As provided in current law, the court first determines the "basic support obligation" which is the monthly child support obligation determined from the economic table based on the parents' combined monthly net incomes and the number of children. The parents' share of the basic support obligation is allocated to each parent based upon each parent's share of the combined monthly net income. After determination of the basic support obligation, each parent's proportionate share of any extraordinary expenses are added and credits deducted to obtain the "standard calculation." Then the court considers

reasons for deviation from the standard calculation and determines each parent's child support obligation.

THE TABLE. The economic table is the same as current law for combined monthly net incomes between \$0 and \$2,500. For combined monthly net incomes between \$2,600 to \$7,000, the table in the bill is a gradual 15 percent reduction from the state table.

CAP AT THE UPPER END OF THE TABLE. The cap on the table is at \$7,000 combined monthly net income as provided in current law.

COMBINED MONTHLY NET INCOMES THAT EXCEED \$7,000. As provided in current law child support for parents with combined monthly net income that exceeds \$7,000 shall be set at the presumptive amount of support for parents with a combined monthly net income of \$7,000. The court may exceed that amount in the court's discretion, but must find a basis for deviation to award less support than the presumptive amount set for \$7,000.

CAP AT LOWER END OF THE TABLE. The amount of support ordered may not reduce the monthly net income of the parent making the transfer payment to an amount lower than the federal needs standard except for a mandatory minimum payment of \$25 in support per child per month.

CAP AT 50 PERCENT OF A PARENT'S NET INCOME. As provided in current law, the total amount of child support a parent is obligated to pay is 50 percent of the parent's net income except for good cause shown. Good cause includes day-care expenses, larger families, and special needs.

TREATMENT OF HEALTH CARE EXPENSES. As provided in current law, ordinary health care expenses are included in the economic table. Monthly health care expenses that exceed 5 percent of the basic support obligation are considered extraordinary expenses.

TREATMENT OF EXTRAORDINARY EXPENSES. As provided in current law, day-care expenses, extraordinary health care expenses, long-distance transportation expenses, and special child rearing expenses, are not included in the economic table. The parents must share these expenses in the same proportion as the basic support obligation.

STANDARDS FOR DETERMINATION OF INCOME: DIFFERENCES FROM CURRENT LAW.

a. Verification of income. Tax returns for two years rather than three are required to verify income.

b. Sources of income previously not considered in gross income. Spousal maintenance actually received is included in income rather than considered as a basis for deviation.

c. Sources of income previously considered in gross income, now excluded. Overtime, whether mandatory or voluntary, is excluded from gross income but may be a basis for deviation. If a parent has at least one job that is 40 hours a week, income from other jobs is excluded from gross income but may be a reason to deviate. Nonrecurring bonuses, contract related cash benefits, gifts, and prizes are excluded from gross income but may be a basis for deviation. Veterans aid and attendance allowance is excluded from gross income and may not be a reason to deviate.

d. Sources of income that are deducted from gross income that were previously not an allowable deduction. A parent may deduct up to \$2,000 per year in voluntary pension payments made if the contributions were made for the two tax years preceding the earlier of the tax year in which the parties separated with intent to live separate and apart or the tax year in which the parties filed for divorce. A parent may also deduct court ordered spousal maintenance to the extent the maintenance is actually paid.

e. Imputation of income. The court must impute income to any parent when the parent is voluntarily unemployed or underemployed based upon that parent's work history, education, health, and age.

BASIS FOR DEVIATION BASED UPON INCOME: CHANGES FROM CURRENT LAW. In addition to existing grounds for deviation the court may deviate from the standard calculation based upon receipt of income that was excluded from gross income: overtime, voluntary or mandatory; contract related cash benefits; gifts; prizes; and income derived from a second job or additional jobs if the parent has at least one 40-hour-per-week job.

RESIDENTIAL SCHEDULE CHANGES. The court may deviate from the basic support obligation if the child spends a significant amount of time with the parent that transfers child support funds to the other parent. The court may not make this adjustment if the receiving household receives Aid to Families with Dependent Children or if the household where the child resides the majority of the time would receive insufficient funds. The court must consider the increased expenses to a parent resulting from the significant time spent with the parent and the decreased expenses, if any, to the parent receiving support when determining the amount of the deviation.

DEVIATION FOR MULTIPLE FAMILIES. The rules governing deviations for children from other relationships are not changed but are clarified. The court may deviate from the standard calculation if the parent owes a duty to support children from other relationships if the parent actually supports them. Any deviation for other children must be based on the circumstances of both households.

STATED GROUNDS FOR DEVIATION OR FAILURE TO DEVIATE UPON REQUEST. In addition to specifying reasons in writing why the court has deviated from the basic support obligation, the court must enter written findings of fact about why the court has denied any deviation requested by a party.

HAYNER AMENDMENT REPEALED. The ability of the local jurisdictions to deviate from the state table by up to 25 percent for combined monthly net incomes above \$2,500 is repealed.

MISCELLANEOUS SECTIONS. A number of existing sections in the current chapter on child support are repealed, including the intent section, some provisions that set forth some of the standards for application of the schedule, and the definition section. A severability clause is included.

***Amended Bill Compared to Substitute Bill:*** Substantial revisions are made. The economic table is changed from the Clark County table to the state table with a gradual 15 percent reduction. The cap is set at \$7,000 instead of \$5,000. The presumptive amounts of support for parents with combined monthly net incomes above \$7,000 is set at that amount, although the court can exceed that amount in the court's discretion and deviate below that amount. Several changes are made in the classification of income, deductions, and basis for deviation. The accountability, reimbursement, and accountability of extraordinary expenses, and post-secondary education provisions are stricken. The residential credit provisions are revised. A delayed effective date is added.

***Fiscal Note:*** Available.

***Effective Date of Amended Bill:*** The bill takes effect September 1, 1991.

***Testimony For:*** The support schedule set amounts of support too high. The local table is adopted in most of the counties now and should be the basis for the economic table, or lower. The standard should be what it costs to raise a child. The economic data is erroneous. The law is unfair to fathers and is punitive. A number of second families are suffering economically due to support going to the first

family. A number of changes are necessary to make the schedule more fair.

**Testimony Against:** The best available data shows that actual payments for child support are much lower than amounts claimed by proponents of lowering support amounts. The amounts of support as demonstrated from the actual data on real cases demonstrates that support is not too high. Suggested reductions in support would result in awards that would be less than amounts under the 1981 schedule and would be less than the cost of inflation.

**Witnesses:** Senator Nelson, prime sponsor (pro); Bob Hoyden, POPS (with comments); Brent Whiting, POPS (with comments); Jan Morford, POPS (with comments); Lonnie Johns Brown, NOW (con); Sharon Dodge, Need for Support Enforcement (con); Delphine Lucas, citizen (con); Nancy Hawkins, Northwest Womens' Law Center (con); David Spangler, citizen (con); Kim Prochnau, Washington State Bar Association Family Law Center (con in part, pro in part, neutral in part); Elizabeth Jones, citizen (con); Lisa Jones, citizen (con); Jerry Short, POPS (pro); Mark and Alice Althuaser, citizens (pro); Anne Simons, Washington Women United (con); Merlin Forney, POPS; Pamela Roberts, POPS (pro); Robert Liesik, POPS (pro); Liz Hennick, citizen (con); Robert Santos-Cucalon, POPS; Dave Hogan, DSHS (con); Bill Harrington, Fathers' Rights (pro); Denise Clifford, POPS (pro); Ron Main, King County Executive's Office (con); Denise Hoosier, POPS (pro); Gary Williams, POPS (pro); Cynthia Cofield, citizen (pro); Gary Huff, citizen (pro); Don Webb, citizen (pro); Colleen Grady, family law attorney (pro); and Pat Luders, citizen (pro).