
SUBSTITUTE HOUSE BILL 2154

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representative Appelwick).

Read first time March 6, 1991.

1 AN ACT Relating to child support and maintenance; and amending RCW
2 26.09.010, 26.09.170, 26.09.225, and 26.09.280.

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

4 **Sec. 1.** RCW 26.09.010 and 1989 c 375 s 1 are each amended to read
5 as follows:

6 (1) Except as otherwise specifically provided herein, the practice
7 in civil action shall govern all proceedings under this chapter, except
8 that trial by jury is dispensed with.

9 (2) A proceeding for dissolution of marriage, legal separation or
10 a declaration concerning the validity of a marriage shall be entitled
11 "In re the marriage of and" Such proceeding may
12 be filed in the superior court of the county where the petitioner
13 resides.

14 (3) In cases where there has been no prior proceeding in this state
15 involving the marital status of the parties or support obligations for

1 a minor child, a separate parenting and support proceeding between the
2 parents shall be entitled "In re the parenting and support of
3". Such proceeding may be filed in the superior court of the
4 county where the petitioner resides.

5 (4) The initial pleading in all proceedings under this chapter
6 shall be denominated a petition. A responsive pleading shall be
7 denominated a response. Other pleadings, and all pleadings in other
8 matters under this chapter shall be denominated as provided in the
9 civil rules for superior court.

10 (5) In this chapter, "decree" includes "judgment".

11 (6) A decree of dissolution, of legal separation, or a declaration
12 concerning the validity of a marriage shall not be awarded to one of
13 the parties, but shall provide that it affects the status previously
14 existing between the parties in the manner decreed.

15 **Sec. 2.** RCW 26.09.170 and 1990 1st ex.s. c 2 s 2 are each amended
16 to read as follows:

17 (1) Except as otherwise provided in subsection (7) of RCW
18 26.09.070, the provisions of any decree respecting maintenance or
19 support may be modified only as to installments accruing subsequent to
20 the filing of the motion for modification and, except as otherwise
21 provided in subsections (4), (5), and (8) of this section, only upon a
22 showing of a substantial change of circumstances. Any modification
23 granted shall be effective as of the date of the filing of the motion.
24 The provisions as to property disposition may not be revoked or
25 modified, unless the court finds the existence of conditions that
26 justify the reopening of a judgment under the laws of this state.

27 (2) Unless otherwise agreed in writing or expressly provided in the
28 decree the obligation to pay future maintenance is terminated upon the

1 death of either party or the remarriage of the party receiving
2 maintenance.

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

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

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

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

16 (c) If a child is still in high school, upon a finding that there
17 is a need to extend support beyond the eighteenth birthday to complete
18 high school; or

19 (d) To add an automatic adjustment of support provision consistent
20 with RCW 26.09.100.

21 (5) An order or decree entered prior to June 7, 1984, may be
22 modified without showing a substantial change of circumstances if the
23 requested modification is to:

24 (a) Require health insurance coverage for a child named therein; or

25 (b) Modify an existing order for health insurance coverage.

26 (6) An obligor's voluntary unemployment or voluntary
27 underemployment, by itself, is not a substantial change of
28 circumstances.

29 (7) The department of social and health services may file an action
30 to modify an order of child support if public assistance money is being

1 paid to or for the benefit of the child and the child support order is
2 twenty-five percent or more below the appropriate child support amount
3 set forth in the standard calculation as defined in section 4(2) of
4 this act and reasons for the deviation are not set forth in the
5 findings of fact or order. The determination of twenty-five percent or
6 more shall be based on the current income of the parties and the
7 department shall not be required to show a substantial change of
8 circumstances if the reasons for the deviations were not set forth in
9 the findings of fact or order.

10 (8)(a) Except as provided in (b) and (c) of this subsection, all
11 child support decrees may be adjusted once every twenty-four months
12 based upon changes in the income of the parents without a showing of
13 substantially changed circumstances. Either party may initiate the
14 modification pursuant to procedures of RCW 26.09.175.

15 (b) Parents whose decrees are entered before (~~the effective date~~
16 ~~of this act~~) July 1, 1990, may petition the court for a modification
17 after twelve months has expired from the entry of the decree or the
18 most recent modification setting child support, whichever is later.
19 However, if a party is granted relief under this provision, twenty-four
20 months must pass before another petition for modification may be filed
21 pursuant to (a) of this subsection.

22 (c) A party may petition for modification in cases of substantially
23 changed circumstances, under subsection (1) of this section, at any
24 time. However, if relief is granted under subsection (1) of this
25 section, twenty-four months must pass before a petition for
26 modification under (a) of this subsection may be filed.

27 (d) If, pursuant to (a) of this subsection, the court modifies a
28 child support obligation by more than thirty percent and the change
29 would cause significant hardship, the court may implement the change in
30 two equal increments, one at the time of the entry of the order and the

1 second six months from the entry of the order. Twenty-four months must
2 pass following the second change before a petition for modification
3 under (a) of this subsection may be filed.

4 (e) A parent who is receiving transfer payments who receives a wage
5 or salary increase may not bring a modification action pursuant to (a)
6 of this subsection alleging that increase constitutes a substantial
7 change of circumstances under subsection (1) of this section.

8 **Sec. 3.** RCW 26.09.225 and 1990 1st ex.s. c 2 s 18 are each amended
9 to read as follows:

10 Each parent shall have full and equal access to the education and
11 health care records of the child absent a court order to the contrary.
12 Educational records include records of public and private schools in
13 all grades kindergarten through twelve and any form of alternative
14 school or postsecondary educational institution for all periods for
15 which child support is paid or the child is the dependent in fact of
16 the parent requesting access to the records. Neither parent may veto
17 the access requested by the other parent and neither parent nor child
18 nor any educational institution nor health care provider may assert a
19 privilege on behalf of the child.

20 **Sec. 4.** RCW 26.09.280 and 1987 c 460 s 20 are each amended to read
21 as follows:

22 ~~((Hereafter))~~ Every action or proceeding to change, modify, or
23 enforce any final order, judgment, or decree ~~((heretofore—or~~
24 ~~hereafter))~~ entered in any dissolution or legal separation or
25 declaration concerning the validity of a marriage, whether under this
26 chapter or prior law, ~~((in relation to))~~ regarding the parenting plan
27 or child support for the minor children of the marriage may be brought
28 in the county where ~~((said))~~ the minor children are then residing, or

1 in the court in which (~~said~~) the final order, judgment, or decree was
2 entered, or in the county where the parent or other person who has the
3 care, custody, or control of the (~~said~~) children is then residing.