
HOUSE BILL 2683

State of Washington 54th Legislature 1996 Regular Session

By Representatives Lambert, Wolfe, Carrell, Morris, Mitchell,
Patterson, Sheahan, Cooke and Scott

Read first time 01/16/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to the inclusion of overtime in income used to
2 calculate child support; and amending RCW 26.19.071.

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

4 **Sec. 1.** RCW 26.19.071 and 1993 c 358 s 4 are each amended to read
5 as follows:

6 (1) **Consideration of all income.** All income and resources of each
7 parent's household shall be disclosed and considered by the court when
8 the court determines the child support obligation of each parent. Only
9 the income of the parents of the children whose support is at issue
10 shall be calculated for purposes of calculating the basic support
11 obligation. Income and resources of any other person shall not be
12 included in calculating the basic support obligation.

13 (2) **Verification of income.** Tax returns for the preceding two
14 years and current paystubs shall be provided to verify income and
15 deductions. Other sufficient verification shall be required for income
16 and deductions which do not appear on tax returns or paystubs.

17 (3) **Income sources included in gross monthly income.** Except as
18 specifically excluded in subsection (4) of this section, monthly gross
19 income shall include income from any source, including:

- 1 (a) Salaries;
- 2 (b) Wages;
- 3 (c) Commissions;
- 4 (d) Deferred compensation;
- 5 (e) (~~Overtime~~) Mandatory overtime required as a condition of
- 6 employment;
- 7 (f) Contract-related benefits;
- 8 (g) Income from second jobs;
- 9 (h) Dividends;
- 10 (i) Interest;
- 11 (j) Trust income;
- 12 (k) Severance pay;
- 13 (l) Annuities;
- 14 (m) Capital gains;
- 15 (n) Pension retirement benefits;
- 16 (o) Workers' compensation;
- 17 (p) Unemployment benefits;
- 18 (q) Spousal maintenance actually received;
- 19 (r) Bonuses;
- 20 (s) Social security benefits; and
- 21 (t) Disability insurance benefits.

22 (4) **Income sources excluded from gross monthly income.** The
23 following income and resources shall be disclosed but shall not be
24 included in gross income:

25 (a) Income of a new spouse or income of other adults in the
26 household;

27 (b) Voluntary overtime not required as a condition of employment.
28 All overtime of the party is presumed to be mandatory overtime unless
29 the party proves that the overtime is voluntary and not required as a
30 condition of employment. The court must consider all evidence,
31 including but not limited to, employment contracts and pay stubs, the
32 number of hours worked, how the employer classifies the hours worked,
33 and the standard industry practice. The fact that the party's
34 employment contract or employment manual does not explicitly require
35 mandatory overtime for the party's employment position is not by itself
36 proof that the overtime is voluntary and not required as a condition of
37 employment. The fact that the employer has supplied a written
38 statement that the disputed overtime is voluntary overtime is not by
39 itself proof that the overtime is voluntary. The court must not

1 exclude overtime income from the computation of income under subsection
2 (3) of this section if to do so would result in the inclusion of income
3 of less than that of a forty-hour work week or the industry standard
4 work week for the party's type of employment;

5 (c) Child support received from other relationships;

6 (~~(e)~~) (d) Gifts and prizes;

7 (~~(d)~~) (e) Aid to families with dependent children;

8 (~~(e)~~) (f) Supplemental security income;

9 (~~(f)~~) (g) General assistance; and

10 (~~(g)~~) (h) Food stamps.

11 Receipt of income and resources from aid to families with dependent
12 children, supplemental security income, general assistance, and food
13 stamps shall not be a reason to deviate from the standard calculation.

14 (5) **Determination of net income.** The following expenses shall be
15 disclosed and deducted from gross monthly income to calculate net
16 monthly income:

17 (a) Federal and state income taxes;

18 (b) Federal insurance contributions act deductions;

19 (c) Mandatory pension plan payments;

20 (d) Mandatory union or professional dues;

21 (e) State industrial insurance premiums;

22 (f) Court-ordered spousal maintenance to the extent actually paid;

23 (g) Up to two thousand dollars per year in voluntary pension
24 payments actually made if the contributions were made for the two tax
25 years preceding the earlier of the (i) tax year in which the parties
26 separated with intent to live separate and apart or (ii) tax year in
27 which the parties filed for dissolution; and

28 (h) Normal business expenses and self-employment taxes for self-
29 employed persons. Justification shall be required for any business
30 expense deduction about which there is disagreement.

31 Items deducted from gross income under this subsection shall not be
32 a reason to deviate from the standard calculation.

33 (6) **Imputation of income.** The court shall impute income to a
34 parent when the parent is voluntarily unemployed or voluntarily
35 underemployed. The court shall determine whether the parent is
36 voluntarily underemployed or voluntarily unemployed based upon that
37 parent's work history, education, health, and age, or any other
38 relevant factors. A court shall not impute income to a parent who is
39 gainfully employed on a full-time basis, unless the court finds that

1 the parent is voluntarily underemployed and finds that the parent is
2 purposely underemployed to reduce the parent's child support
3 obligation. Income shall not be imputed for an unemployable parent.
4 Income shall not be imputed to a parent to the extent the parent is
5 unemployed or significantly underemployed due to the parent's efforts
6 to comply with court-ordered reunification efforts under chapter 13.34
7 RCW or under a voluntary placement agreement with an agency supervising
8 the child. In the absence of information to the contrary, a parent's
9 imputed income shall be based on the median income of year-round full-
10 time workers as derived from the United States bureau of census,
11 current populations reports, or such replacement report as published by
12 the bureau of census.

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