

SENATE BILL REPORT

E2SSB 5120

AS PASSED SENATE, MARCH 14, 1991

Brief Description: Making adjustments to child support guidelines.

SPONSORS: 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).

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5120 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, Madsen, Newhouse, and Rasmussen.

Staff: Susan Carlson (786-7418)

Hearing Dates: January 28, 1991, February 5, 1991

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5120 be substituted therefor, and the second substitute bill do pass.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Bailey, Bauer, Bluechel, Cantu, Hayner, Johnson, Newhouse, Owen, Saling, L. Smith, and West.

Minority Report: Do not pass.

Signed by Senators L. Kreidler, Niemi, Rinehart, Talmadge, Williams, and Wojahn.

Staff: Cindi Holmstrom (786-7115)

Hearing Dates: March 5, 1991; March 6, 1991

HOUSE JUDICIARY COMMITTEE

BACKGROUND:

Currently, the economic table used to determine child support may be varied up to 25 percent by counties. Twenty-six counties have adopted lower economic tables. The federal government has indicated this does not comply with its requirement that state child support guidelines be uniformly applied throughout the state.

Current law does not provide an accountability procedure for determining if the support payment is benefitting the child.

There is also a concern that the current laws do not adequately address situations involving a second family or children from other relationships.

In 1990, legislation was vetoed by the Governor relating to the definition of gross income, application of the child support schedule for combined incomes less than \$600 and those in excess of \$5,000 per month, and payment of day care and other extraordinary expenses.

SUMMARY:

A revised economic table from Clark County is adopted and the ability of local jurisdictions to vary the table is eliminated. The table incorporates reductions from the Child Support Commission table of up to 25 percent for combined net incomes above \$2,500. The top level of combined monthly net income is \$5,000, but the court may order an additional amount of support for higher incomes in unusual cases.

The parent paying child support may file a motion for an accounting of how support is being spent by the receiving parent. If the judge finds at a preliminary hearing that reasonable cause exists to believe that the support is not benefitting the child, a show cause hearing may be held. Costs and attorney fees may be awarded if the motion is brought in bad faith. A motion for accounting may not be filed more than once every twelve months.

Monthly gross income includes spousal maintenance actually received. Deductions from gross income include spousal maintenance to the extent actually paid, up to \$2,000 in voluntary pension payments, and court-ordered payments of child support for children from other relationships to the extent actually paid. Income of a new spouse or other adults in the household must be disclosed but may not be included in gross income.

The court shall consider deviating from the standard calculation if the child spends a significant amount of time with the parent obligated to pay support. The court may also deviate based on children from other relationships or possession of wealth, including savings, real estate holdings and business interests.

The court shall impute income to a parent voluntarily underemployed or voluntarily unemployed based upon that parent's work history.

Payments for postsecondary education must be made to the educational institution, if feasible. A child receiving such support must make available academic records and grades to both parents. Postsecondary support shall be automatically suspended during periods the child fails to comply with conditions.

The parent making the support payment is entitled to proof of amounts paid for day care, transportation costs, extraordinary

health care costs, and other extraordinary expenses of the children. The parent entitled to reimbursement may seek an order compelling payment. Wage assignment orders may be obtained to collect court-ordered money. The Office of Support Enforcement may not request a wage assignment without first obtaining documentation from both parents.

Disability payments subject to collection by the Office of Support Enforcement shall bear a proportionate share of attorney's fees incurred by the injured worker in obtaining disability payments.

A parent filing for modification of child support must provide documentation of changes in expenses or income.

Sections 4 and 7 of the act are made contingent on funding in the omnibus appropriations act. (Section 4 authorizes a parent to file a motion for accounting of the child support; section 7 of the act relates to proof and reimbursement for day care and other extraordinary expenses.)

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR (Law & Justice):

The current child support laws result in support awards that are unfair and punitive to noncustodial parents. The laws inadequately address situations involving income of a new spouse or children from other relationships. The basic support obligation set by the Child Support Commission economic table over-estimates the cost of raising children.

TESTIMONY AGAINST (Law & Justice):

The Child Support Commission economic table provides appropriate child support awards. Counties should not be allowed to deviate from the commission table.

TESTIFIED (Law & Justice): Mike Carrell, Jeri Short, Brent Whiting, Jan Morford, P.O.P.S. (pro); David Hogan, Department of Social and Health Services (con); Deborah Senn, Nancy Hawkins, Northwest Women's Law Center (con)

TESTIMONY FOR (Ways & Means):

This law will bring Washington State into compliance with federal requirements for a uniform statewide child support schedule. Two-thirds of the counties are already using this new schedule.

TESTIMONY AGAINST (Ways & Means):

The current commission schedule is working, as shown in a recent study prepared by the Washington State Institute for Public Policy.

TESTIFIED (Ways & Means): Robert Hoyden, POPS (pro); James Maples (con); Sharon Dodge, Need for Support Enforcement (con); Dave Hogan, DSHS (con)

HOUSE AMENDMENT(S):

All provisions of the Senate bill are deleted and numerous amendments are made to the statutes on child support, modification of child support, and support enforcement.

A dissolution proceeding may be brought in the county where the petitioner or the respondent resides. Venue for proceedings to modify child support may be in the county where the children reside, where the final order was entered, or where the custodian resides.

Mediation required by a parenting plan is subject to all mediation provisions except confidentiality. The mediator may testify about the proceedings.

A parent who conditions payment of child support on an aspect of the parenting plan or refuses to pay support is deemed to be acting in bad faith and may be held in contempt.

Modifications of support are effective as of the date of filing the motion. An increase in custodial parent's salary is not a substantial change in circumstances. Noncustodial parents called to active duty in the war with Iraq may bring a motion for retroactive adjustment of support without showing substantial change in circumstances if their income was reduced while on active duty. Certain minor modifications to the residential schedule are allowed upon showing a substantial change in circumstances.

Both parents have access to all educational records while support is being paid or the child is a dependent. Both parents have full access to health care records absent a court order.

The chapter on family courts is restructured. If counties provide family court services, they are eligible for matching state funding available on a percentage basis, subject to a null and void clause.

Wage assignments remain in effect for one year after an employee leaves employment. An employer who fails to withhold earnings as required by a wage assignment may be held financially liable.

The legislative intent on child support is amended to recognize that parties to a divorce may suffer a reduced

standard of living as a result of a divorce. The Legislature must review the support schedule every four years.

The Clark County economic table is extended up to \$7,000, but is advisory for combined incomes over \$5,000. Nonrecurring bonuses, overtime, contract-related benefits, gifts, prizes, and income from a second job are not included in income but may be a basis for deviation. Income of a new spouse or cohabitant is not included in income, but may be a basis for deviation if deviation is requested on any other ground. Voluntary pension payments up to \$2,000 per year may be deducted from income if made for two tax years before the earlier of the tax year in which the parties separated or in which the parties filed for dissolution.

The court may deviate from the standard calculation based on extraordinary debt not voluntarily incurred, significant disparity in cost of living between parents, or special needs of children.

The court may deviate if the child spends a significant amount of time with the noncustodial parent unless it would result in insufficient funds for the child's basic needs or the child is receiving AFDC.

The maximum award for postsecondary tuition is the amount a Washington resident pays at a state four-year university. Both parents are obligated to pay postsecondary expenses.

The reimbursement procedure for day care, and other extraordinary expenses is restructured. A payor has 30 days to provide documentation to the Office of Support Enforcement before a wage assignment can be sought.

Child support may not reduce a parent below the need standard and cannot exceed 45 percent of the parent's income without good cause. Income may be imputed based on work history, education, health, age, and other relevant factors.

Foreign support orders may be registered in Washington to allow modification and enforcement of the child support provisions. Modification of an administrative support order is subject to the same requirements as court orders. Support Enforcement may proceed against a responsible parent's earnings in Washington regardless of the residence of that parent.

A support debt collected by the state must be distributed first to a custodian who is no longer receiving public assistance, prior to paying the support debt owed the state.

Immediate income withholding may be avoided by a court finding of good cause or approval or a written agreement for an alternative arrangement. The Office of Support Enforcement (OSE) may seek payroll deduction against unemployment benefits.

When representing OSE, the Attorney General or prosecuting attorney represent the state and best interests of children, not the parents. The Attorney General or prosecuting attorney may function as a child's guardian ad litem.

An adjudicative hearing may be requested by a responsible parent up to one year after receiving a notice and finding of financial responsibility.

The act takes effect September 1, 1991.