
SENATE BILL 5996

State of Washington 52nd Legislature 1991 1st Special Session

By Senators Nelson, Rasmussen and Johnson.

Read first time June 19, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to child support; amending RCW 26.09.010,
2 26.09.100, 26.09.225, and 26.19.090; adding new sections to chapter
3 26.19 RCW; creating a new section; repealing RCW 26.19.010, 26.19.040,
4 26.19.060, 26.19.070, and 26.19.110; providing an effective date; and
5 declaring an emergency.

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

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

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

12 (2) A proceeding for dissolution of marriage, legal separation or
13 a declaration concerning the validity of a marriage shall be entitled
14 "In re the marriage of and" Such proceeding
15 (~~may~~) shall be filed in the superior court of the county where the

1 petitioner or respondent resides. Upon motion and hearing before the
2 superior court of the county where the proceeding is filed, the court
3 may waive venue in that county for good cause shown.

4 (3) In cases where there has been no prior proceeding in this state
5 involving the marital status of the parties or support obligations for
6 a minor child, a separate parenting and support proceeding between the
7 parents shall be entitled "In re the parenting and support of
8" Such proceeding shall be filed in the superior court of
9 the county where the petitioner or respondent resides. Upon motion and
10 hearing before the superior court of the county where the proceeding is
11 filed, the court may waive venue in that county for good cause shown.

12 (4) The initial pleading in all proceedings under this chapter
13 shall be denominated a petition. A responsive pleading shall be
14 denominated a response. Other pleadings, and all pleadings in other
15 matters under this chapter shall be denominated as provided in the
16 civil rules for superior court.

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

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

22 **Sec. 2.** RCW 26.09.100 and 1990 1st ex.s. c 2 s 1 are each amended
23 to read as follows:

24 (1) In a proceeding for dissolution of marriage, legal separation,
25 declaration of invalidity, maintenance, or child support, after
26 considering all relevant factors but without regard to marital
27 misconduct, the court shall order either or both parents owing a duty
28 of support to any child of the marriage dependent upon either or both
29 spouses to pay an amount determined under chapter 26.19 RCW.

1 (2) The court may require periodic (~~adjustments~~) modifications of
2 child support. That portion of any decree that requires periodic
3 modifications of child support shall use the provisions in chapter
4 26.19 RCW as the basis for the modification. Provisions in the decree
5 for periodic modification shall not conflict with RCW 26.09.170 except
6 that the decree may require periodic modifications of support more
7 frequently than the time periods established pursuant to RCW 26.09.170.
8 The (~~adjustment~~) automatic modification provision may be modified by
9 the court due to economic hardship consistent with the provisions of
10 RCW 26.09.170(4)(a).

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

13 (1) Each parent shall have full and equal access to the education
14 and health care records of the child absent a court order to the
15 contrary.

16 (2) Educational records include records of public and private
17 schools in all grades kindergarten through twelve and any form of
18 alternative school or postsecondary educational institution for all
19 periods for which child support is paid or the child is the dependent
20 in fact of the parent requesting access to the records. Neither parent
21 may veto the access requested by the other parent and neither parent
22 nor child nor any educational institution may assert a privilege on
23 behalf of the child.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 26.19 RCW
25 to read as follows:

26 DEFINITIONS. Unless the context clearly requires otherwise, the
27 definitions in this section apply throughout this chapter.

1 (1) "Basic child support obligation" means the monthly child
2 support obligation determined from the economic table based on the
3 parties' combined monthly net income and the number of children for
4 whom support is owed.

5 (2) "Child support schedule" means the standards, economic table,
6 worksheets, and instructions, as defined in this chapter.

7 (3) "Court" means a superior court judge, court commissioner, and
8 presiding and reviewing officers who administratively determine or
9 enforce child support orders.

10 (4) "Deviation" means a child support amount that differs from the
11 standard calculation.

12 (5) "Economic table" means the child support table for the basic
13 support obligation provided in RCW 26.19.020.

14 (6) "Instructions" means the instructions developed by the office
15 of the administrator for the courts pursuant to RCW 26.19.050 for use
16 in completing the worksheets.

17 (7) "Standards" means the standards for determination of child
18 support as provided in this chapter.

19 (8) "Standard calculation" means the presumptive amount of child
20 support owed as determined from the child support schedule before the
21 court considers any reasons for deviation.

22 (9) "Support transfer payment" means the amount of money the court
23 orders one parent to pay to another parent or custodian for child
24 support after determination of the standard calculation and deviations.
25 If certain expenses or credits are expected to fluctuate and the order
26 states a formula or percentage to determine the additional amount or
27 credit on an ongoing basis, the term "support transfer payment" does
28 not mean the additional amount or credit.

1 (10) "Worksheets" means the forms developed by the office of the
2 administrator for the courts pursuant to RCW 26.19.050 for use in
3 determining the amount of child support.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.19 RCW
5 to read as follows:

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

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

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

- 21 (a) Salaries;
- 22 (b) Wages;
- 23 (c) Commissions;
- 24 (d) Deferred compensation;
- 25 (e) Overtime;
- 26 (f) Contract-related benefits;
- 27 (g) Income from second jobs;
- 28 (h) Dividends;
- 29 (i) Interest;

1 (j) Trust income;
2 (k) Severance pay;
3 (l) Annuities;
4 (m) Capital gains;
5 (n) Pension retirement benefits;
6 (o) Workers' compensation;
7 (p) Unemployment benefits;
8 (q) Spousal maintenance actually received; and
9 (r) Bonuses, except that the amount of income included from bonuses
10 shall be an average of the bonuses received in the previous two
11 calendar years.

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

15 (a) Income of a new spouse or income of other adults in the
16 household;

17 (b) Child support received from other relationships;

18 (c) Gifts and prizes;

19 (d) Aid to families with dependent children;

20 (e) Supplemental security income;

21 (f) General assistance; and

22 (g) Food stamps.

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

26 (5) **Determination of net income.** The following expenses shall be
27 disclosed and deducted from gross monthly income to calculate net
28 monthly income:

29 (a) Federal and state income taxes;

30 (b) Federal insurance contributions act deductions;

1 (c) Mandatory pension plan payments;
2 (d) Mandatory union or professional dues;
3 (e) State industrial insurance premiums;
4 (f) Court-ordered spousal maintenance to the extent actually paid;
5 (g) Up to two thousand dollars per year in voluntary pension
6 payments actually made if the contributions were made for the two tax
7 years preceding the earlier of the (i) tax year in which the parties
8 separated with intent to live separate and apart or (ii) tax year in
9 which the parties filed for dissolution; and

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

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

15 (6) **Imputation of income.** The court shall impute income to a
16 parent when the parent is voluntarily unemployed or voluntarily
17 underemployed. The court shall determine whether the parent is
18 voluntarily underemployed or voluntarily unemployed based upon that
19 parent's work history, education, health, age, and other relevant
20 factors. A parent will not be deemed underemployed if that parent is
21 gainfully employed on a full-time basis. Income shall not be imputed
22 for an unemployable parent.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 26.19 RCW
24 to read as follows:

25 STANDARDS FOR DEVIATION FROM THE STANDARD CALCULATION. (1) Reasons
26 for deviation from the standard calculation include but are not limited
27 to the following:

28 (a) **Sources of income and tax planning.** The court may deviate from
29 the standard calculation after consideration of the following:

1 (i) Income of a new spouse if the parent who is married to the new
2 spouse is asking for a deviation based on any other reason. Income of
3 a new spouse is not, by itself, a sufficient reason for deviation;

4 (ii) Income of other adults in the household if the parent who is
5 living with the other adult is asking for a deviation based on any
6 other reason. Income of the other adults in the household is not, by
7 itself, a sufficient reason for deviation;

8 (iii) Child support actually received from other relationships;

9 (iv) Gifts;

10 (v) Prizes;

11 (vi) Possession of wealth, including but not limited to savings,
12 investments, real estate holdings and business interests, vehicles,
13 boats, pensions, bank accounts, insurance plans, or other assets;

14 (vii) Extraordinary income of a child; or

15 (viii) Tax planning considerations. A deviation for tax planning
16 may be granted only if the child would not receive a lesser economic
17 benefit due to the tax planning.

18 (b) **Nonrecurring income.** The court may deviate from the standard
19 calculation based on a finding that a particular source of income
20 included in the calculation of the basic support obligation is not a
21 recurring source of income. Depending on the circumstances,
22 nonrecurring income may include overtime, contract-related benefits, or
23 income from second jobs.

24 (c) **Debt and high expenses.** The court may deviate from the
25 standard calculation after consideration of the following expenses:

26 (i) Extraordinary debt not voluntarily incurred;

27 (ii) A significant disparity in the living costs of the parents due
28 to conditions beyond their control;

29 (iii) Special needs of disabled children; or

1 (iv) Special medical, educational, or psychological needs of the
2 children.

3 (d) **Residential schedule.** The court may deviate from the standard
4 calculation if the child spends a significant amount of time with the
5 parent who is obligated to make a support transfer payment. The court
6 may not deviate on that basis if the deviation will result in
7 insufficient funds in the house receiving the support to meet the basic
8 needs of the child or if the child is receiving aid to families with
9 dependent children. When determining the amount of the deviation, the
10 court shall consider evidence concerning the increased expenses to a
11 parent making support transfer payments resulting from the significant
12 amount of time spent with that parent and shall consider the decreased
13 expenses, if any, to the party receiving the support resulting from the
14 significant amount of time the child spends with the parent making the
15 support transfer payment.

16 (e) **Children from other relationships.** The court may deviate from
17 the standard calculation when either or both of the parents before the
18 court have children from other relationships to whom the parent owes a
19 duty of support.

20 (i) The child support schedule shall be applied to the mother,
21 father, and children of the family before the court to determine the
22 presumptive amount of support.

23 (ii) Children from other relationships shall not be counted in the
24 number of children for purposes of determining the basic support
25 obligation and the standard calculation.

26 (iii) When considering a deviation from the standard calculation
27 for children from other relationships, the court may consider only
28 other children to whom the parent owes a duty of support. The court
29 may consider court-ordered payments of child support for children from

1 other relationships only to the extent that the support is actually
2 paid.

3 (iv) When the court has determined that either or both parents have
4 children from other relationships, deviations under this section shall
5 be based on consideration of the total circumstances of both
6 households. All child support obligations paid, received, and owed for
7 all children shall be disclosed and considered.

8 (2) All income and resources of the parties before the court, new
9 spouses, and other adults in the households shall be disclosed and
10 considered as provided in this section. The presumptive amount of
11 support shall be determined according to the child support schedule.
12 Unless specific reasons for deviation are set forth in the written
13 findings of fact and are supported by the evidence, the court shall
14 order each parent to pay the amount of support determined by using the
15 standard calculation.

16 (3) The court shall enter findings that specify reasons for any
17 deviation or any denial of a party's request for any deviation from the
18 standard calculation made by the court. The court shall not consider
19 reasons for deviation until the court determines the standard
20 calculation for each parent.

21 (4) When reasons exist for deviation, the court shall exercise
22 discretion in considering the extent to which the factors would affect
23 the support obligation.

24 (5) Agreement of the parties is not by itself adequate reason for
25 any deviations from the standard calculation.

26 **Sec. 7.** RCW 26.19.090 and 1990 1st ex.s. c 2 s 9 are each amended
27 to read as follows:

1 STANDARDS FOR POSTSECONDARY EDUCATIONAL SUPPORT AWARDS. (1) The
2 child support schedule shall be advisory and not mandatory for
3 postsecondary educational support.

4 (2) When considering whether to order support for postsecondary
5 educational expenses, the court shall determine whether the child is in
6 fact dependent and is relying upon the parents for the reasonable
7 necessities of life. The court shall exercise its discretion when
8 determining whether and for how long to award postsecondary educational
9 support based upon consideration of factors that include but are not
10 limited to the following: Age of the child; the child's needs; the
11 expectations of the parties for their children when the parents were
12 together; the child's prospects, desires, aptitudes, abilities or
13 disabilities; the nature of the postsecondary education sought; and the
14 parents' level of education, standard of living, and current and future
15 resources. Also to be considered are the amount and type of support
16 that the child would have been afforded if the parents had stayed
17 together.

18 (3) The child must be enrolled in an accredited academic or
19 vocational school, actively pursuing a course of study commensurate
20 with the child's vocational goals, and must be in good academic
21 standing as defined by the institution ((or)). The child shall also
22 make available all academic records and grades to both parents as a
23 condition of receiving postsecondary educational support. Each parent
24 shall have full and equal access to the postsecondary education records
25 as provided in RCW 26.09.225. The court-ordered postsecondary
26 educational support ((may)) shall be automatically suspended during the
27 period or periods the child fails to comply with these conditions.
28 ((The court in its discretion may order that the payment be made
29 directly to the parent who has been receiving the transfer payments, to
30 the educational institution if feasible, or to the child.)) The court

1 shall not order the payment of postsecondary educational expenses
2 beyond the child's twenty-third birthday, except for exceptional
3 circumstances, such as mental, physical, or emotional disabilities.

4 (4) The court shall direct that either or both parents' payments
5 for postsecondary educational expenses be made directly to the
6 educational institution if feasible. If direct payments are not
7 feasible, then the court in its discretion may order that either or
8 both parents' payments be made directly to the child if the child does
9 not reside with either parent. If the child resides with one of the
10 parents the court may direct that the parent making the support
11 transfer payments make the payments to the child or to the parent who
12 has been receiving the support transfer payments.

13 NEW SECTION. Sec. 8. The following acts or parts of acts are
14 each repealed:

15 (1) RCW 26.19.010 and 1988 c 275 s 2;

16 (2) RCW 26.19.040 and 1990 1st ex.s. c 2 s 20, 1988 c 275 s 5, &
17 1987 c 440 s 2;

18 (3) RCW 26.19.060 and 1988 c 275 s 7;

19 (4) RCW 26.19.070 and 1990 1st ex.s. c 2 s 6; and

20 (5) RCW 26.19.110 and 1990 1st ex.s. c 2 s 12.

21 NEW SECTION. Sec. 9. If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. Sec. 10. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect September 1, 1991.

3 NEW SECTION. **Sec. 11.** Captions as used in this act do not
4 constitute any part of the law.