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SENATE BILL 5509

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By Senators Hargrove, Owen, Hochstatter, L. Smith, Snyder, Oke, Amondson, Sellar, Jesernig, Nelson, Newhouse, Bauer, Erwin, Roach and McDonald

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1 AN ACT Relating to prohibiting mandatory child support for  
2 postsecondary education of adult children; and amending RCW 26.09.225,  
3 26.18.210, 26.19.035, 26.19.075, and 26.19.090.

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

5 **Sec. 1.** RCW 26.09.225 and 1991 sp.s. c 28 s 3 are each amended to  
6 read as follows:

7 (1) Each parent shall have full and equal access to the education  
8 and health care records of the child absent a court order to the  
9 contrary. Neither parent may veto the access requested by the other  
10 parent.

11 (2) Educational records are limited to academic, attendance, and  
12 disciplinary records of public and private schools in all grades  
13 kindergarten through twelve and any form of alternative school for all  
14 periods for which child support is paid or the child is the dependent  
15 in fact of the parent requesting access to the records.

16 (3) Educational records of postsecondary educational institutions  
17 are limited to enrollment and academic records necessary to determine,  
18 establish, or continue support ordered pursuant to RCW 26.19.090 before  
19 the effective date of this act.

1       **Sec. 2.** RCW 26.18.210 and 1990 1st ex.s. c 2 s 22 are each amended  
2 to read as follows:

3       (1) The administrator for the courts shall develop a child support  
4 order summary report form to provide for the reporting of summary  
5 information in every case in which a child support order is entered or  
6 modified either judicially or administratively. The administrator for  
7 the courts shall attempt to the greatest extent possible to make the  
8 form simple and understandable by the parties. The form shall indicate  
9 the following:

10       (a) The county in which the order was entered and the cause number;

11       (b) Whether it was a judicial or administrative order;

12       (c) Whether the order is an original order or from a modification;

13       (d) The number of children of the parties and the children's ages;

14       (e) The combined monthly net income of parties;

15       (f) The monthly net income of the father as determined by the  
16 court;

17       (g) The monthly net income of the mother as determined by the  
18 court;

19       (h) The basic child support obligation for each child as determined  
20 from the economic table;

21       (i) Whether or not the court deviated from the child support for  
22 each child;

23       (j) The reason or reasons stated by the court for the deviation;

24       (k) The amount of child support after the deviation;

25       (l) Any amount awarded for day care;

26       (m) Any other extraordinary amounts in the order;

27       (n) ~~((Any amount ordered for postsecondary education;~~

28       ~~(+e)))~~ The total amount of support ordered;

29       ~~((+p)))~~ (o) In the case of a modification, the amount of support in  
30 the previous order;

31       ~~((+q)))~~ (p) If the change in support was in excess of thirty  
32 percent, whether the change was phased in;

33       ~~((+r)))~~ (q) The amount of the transfer payment ordered;

34       ~~((+s)))~~ (r) Which parent was ordered to make the transfer payment;

35 and

36       ~~((+t)))~~ (s) The date of the entry of the order.

37       (2) The administrator for the courts shall make the form available  
38 to the parties.

1       **Sec. 3.** RCW 26.19.035 and 1992 c 229 s 6 are each amended to read  
2 as follows:

3       (1) **Application of the child support schedule.** The child support  
4 schedule shall be applied:

5       (a) In each county of the state;

6       (b) In judicial and administrative proceedings under this title or  
7 Title 13 or 74 RCW;

8       (c) In all proceedings in which child support is determined or  
9 modified;

10       (d) In setting temporary and permanent support;

11       (e) In automatic modification provisions or decrees entered  
12 pursuant to RCW 26.09.100; and

13       (f) In addition to proceedings in which child support is determined  
14 for minors, to adult children who are dependent on their parents and  
15 for whom support is ordered pursuant to RCW 26.09.100. However, child  
16 support shall not be made mandatory for postsecondary education of a  
17 child over eighteen years of age.

18       The provisions of this chapter for determining child support and  
19 reasons for deviation from the standard calculation shall be applied in  
20 the same manner by the court, presiding officers, and reviewing  
21 officers.

22       (2) **Written findings of fact supported by the evidence.** An order  
23 for child support shall be supported by written findings of fact upon  
24 which the support determination is based and shall include reasons for  
25 any deviation from the standard calculation and reasons for denial of  
26 a party's request for deviation from the standard calculation. The  
27 court shall enter written findings of fact in all cases whether or not  
28 the court: (a) Sets the support at the presumptive amount, for  
29 combined monthly net incomes below five thousand dollars; (b) sets the  
30 support at an advisory amount, for combined monthly net incomes between  
31 five thousand and seven thousand dollars; or (c) deviates from the  
32 presumptive or advisory amounts.

33       (3) **Completion of worksheets.** Worksheets in the form developed by  
34 the office of the administrator for the courts shall be completed under  
35 penalty of perjury and filed in every proceeding in which child support  
36 is determined. The court shall not accept incomplete worksheets or  
37 worksheets that vary from the worksheets developed by the office of the  
38 administrator for the courts.

1       (4) **Court review of the worksheets and order.** The court shall  
2 review the worksheets and the order setting support for the adequacy of  
3 the reasons set forth for any deviation or denial of any request for  
4 deviation and for the adequacy of the amount of support ordered. Each  
5 order shall state the amount of child support calculated using the  
6 standard calculation and the amount of child support actually ordered.  
7 Worksheets shall be attached to the decree or order or if filed  
8 separately shall be initialed or signed by the judge and filed with the  
9 order.

10       **Sec. 4.** RCW 26.19.075 and 1991 sp.s. c 28 s 6 are each amended to  
11 read as follows:

12       (1) Reasons for deviation from the standard calculation include but  
13 are not limited to the following:

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

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

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

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

24       (iv) Gifts;

25       (v) Prizes;

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

29       (vii) Extraordinary income of a child; or

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

33       (b) **Nonrecurring income.** The court may deviate from the standard  
34 calculation based on a finding that a particular source of income  
35 included in the calculation of the basic support obligation is not a  
36 recurring source of income. Depending on the circumstances,  
37 nonrecurring income may include overtime, contract-related benefits,  
38 bonuses, or income from second jobs. Deviations for nonrecurring

1 income shall be based on a review of the nonrecurring income received  
2 in the previous two calendar years.

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

5 (i) Extraordinary debt not voluntarily incurred;

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

8 (iii) Special needs of disabled children; or

9 (iv) Special medical, educational, or psychological needs of the  
10 children. Special educational needs do not include postsecondary  
11 education of a child over eighteen years of age.

12 (d) **Residential schedule.** The court may deviate from the standard  
13 calculation if the child spends a significant amount of time with the  
14 parent who is obligated to make a support transfer payment. The court  
15 may not deviate on that basis if the deviation will result in  
16 insufficient funds in the household receiving the support to meet the  
17 basic needs of the child or if the child is receiving aid to families  
18 with dependent children. When determining the amount of the deviation,  
19 the court shall consider evidence concerning the increased expenses to  
20 a parent making support transfer payments resulting from the  
21 significant amount of time spent with that parent and shall consider  
22 the decreased expenses, if any, to the party receiving the support  
23 resulting from the significant amount of time the child spends with the  
24 parent making the support transfer payment.

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

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

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

35 (iii) When considering a deviation from the standard calculation  
36 for children from other relationships, the court may consider only  
37 other children to whom the parent owes a duty of support. The court  
38 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. 5.** RCW 26.19.090 and 1991 sp.s. c 28 s 7 are each amended to  
27 read as follows:

28 ~~((1))~~ The child support schedule shall ~~((be advisory and not~~  
29 ~~mandatory))~~ not be used for postsecondary educational support of a  
30 child over eighteen years of age.

31 ~~((2) When considering whether to order support for postsecondary~~  
32 ~~educational expenses, the court shall determine whether the child is in~~  
33 ~~fact dependent and is relying upon the parents for the reasonable~~  
34 ~~necessities of life. The court shall exercise its discretion when~~  
35 ~~determining whether and for how long to award postsecondary educational~~  
36 ~~support based upon consideration of factors that include but are not~~  
37 ~~limited to the following: Age of the child; the child's needs; the~~  
38 ~~expectations of the parties for their children when the parents were~~

1 together; the child's prospects, desires, aptitudes, abilities or  
2 disabilities; the nature of the postsecondary education sought; and the  
3 parents' level of education, standard of living, and current and future  
4 resources. Also to be considered are the amount and type of support  
5 that the child would have been afforded if the parents had stayed  
6 together.

7 (3) The child must enroll in an accredited academic or vocational  
8 school, must be actively pursuing a course of study commensurate with  
9 the child's vocational goals, and must be in good academic standing as  
10 defined by the institution. The court ordered postsecondary  
11 educational support shall be automatically suspended during the period  
12 or periods the child fails to comply with these conditions.

13 (4) The child shall also make available all academic records and  
14 grades to both parents as a condition of receiving postsecondary  
15 educational support. Each parent shall have full and equal access to  
16 the postsecondary education records as provided in RCW 26.09.225.

17 (5) The court shall not order the payment of postsecondary  
18 educational expenses beyond the child's twenty third birthday, except  
19 for exceptional circumstances, such as mental, physical, or emotional  
20 disabilities.

21 (6) The court shall direct that either or both parents' payments  
22 for postsecondary educational expenses be made directly to the  
23 educational institution if feasible. If direct payments are not  
24 feasible, then the court in its discretion may order that either or  
25 both parents' payments be made directly to the child if the child does  
26 not reside with either parent. If the child resides with one of the  
27 parents the court may direct that the parent making the support  
28 transfer payments make the payments to the child or to the parent who  
29 has been receiving the support transfer payments.))

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