
SENATE BILL 6325

State of Washington

53rd Legislature

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By Senators Fraser and Hargrove

Read first time 01/19/94. Referred to Committee on Law & Justice.

1 AN ACT Relating to child support; amending RCW 26.19.071 and
2 26.19.075; reenacting and amending RCW 7.06.020; and adding a new
3 section to chapter 26.19 RCW.

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

5 **Sec. 1.** RCW 7.06.020 and 1987 c 212 s 101 and 1987 c 202 s 127 are
6 each reenacted and amended to read as follows:

7 (1) All civil actions, except for appeals from municipal or
8 district courts, which are at issue in the superior court in counties
9 which have authorized arbitration, where the sole relief sought is a
10 money judgment, and where no party asserts a claim in excess of fifteen
11 thousand dollars, or if approved by the superior court of a county by
12 two-thirds or greater vote of the judges thereof, up to thirty-five
13 thousand dollars, exclusive of interest and costs, are subject to
14 mandatory arbitration.

15 (2) If approved by majority vote of the superior court judges of a
16 county which has authorized arbitration, all civil actions which are at
17 issue in the superior court in which the sole relief sought is the
18 establishment((~~7~~)) or termination ((~~or modification~~)) of maintenance or
19 child support payments or the modification of maintenance are subject

1 to mandatory arbitration. The arbitrability of any such action shall
2 not be affected by the amount or number of payments involved.

3 (3) All civil actions that are at issue in the superior court in
4 which the sole relief sought is the modification of child support
5 payments are subject to mandatory arbitration except: (a) The action
6 shall be handled by mediation pursuant to RCW 26.09.015 upon the
7 request of one of the parties, or (b) shall be handled under normal
8 court motion procedures upon agreement of both parties.

9 **Sec. 2.** RCW 26.19.071 and 1993 c 358 s 4 are each amended to read
10 as follows:

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

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

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

- 25 (a) Salaries;
- 26 (b) Wages;
- 27 (c) Commissions;
- 28 (d) Deferred compensation;
- 29 (e) Overtime;
- 30 (f) Contract-related benefits;
- 31 (g) Income from second jobs;
- 32 (h) Dividends;
- 33 (i) Interest;
- 34 (j) Trust income;
- 35 (k) Severance pay;
- 36 (l) Annuities;
- 37 (m) Capital gains;
- 38 (n) Pension retirement benefits;

- 1 (o) Workers' compensation;
- 2 (p) Unemployment benefits;
- 3 (q) Spousal maintenance actually received;
- 4 (r) Bonuses;
- 5 (s) Social security benefits; and
- 6 (t) Disability insurance benefits.

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

- 10 (a) Income of a new spouse or income of other adults in the
11 household;
- 12 (b) Child support received from other relationships;
- 13 (c) Gifts and prizes;
- 14 (d) Aid to families with dependent children;
- 15 (e) Supplemental security income;
- 16 (f) General assistance; and
- 17 (g) Food stamps.

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

21 (5) **Determination of net income.** The following expenses shall be
22 disclosed and deducted from gross monthly income to calculate net
23 monthly income:

- 24 (a) Federal and state income taxes;
- 25 (b) Federal insurance contributions act deductions;
- 26 (c) Mandatory pension plan payments;
- 27 (d) Mandatory union or professional dues;
- 28 (e) State industrial insurance premiums;
- 29 (f) Court-ordered spousal maintenance to the extent actually paid;
- 30 (g) Up to two thousand dollars per year in voluntary pension
31 payments actually made if the contributions were made for the two tax
32 years preceding the earlier of the (i) tax year in which the parties
33 separated with intent to live separate and apart or (ii) tax year in
34 which the parties filed for dissolution; and

35 (h) Normal business expenses and self-employment taxes for self-
36 employed persons. Justification shall be required for any business
37 expense deduction about which there is disagreement. Normal business
38 expenses include unreimbursed business expenses appropriate to a
39 party's particular occupation. It is not intended that this section

1 apply only to self-employed persons, but shall also be applied to
2 unreimbursed business expenses incurred by other persons in the normal
3 course of their employment.

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

6 (6) **Imputation of income.** The court shall impute income to a
7 parent when the parent is voluntarily unemployed or voluntarily
8 underemployed. The court shall determine whether the parent is
9 voluntarily underemployed or voluntarily unemployed based upon that
10 parent's work history, education, health, and age, or any other
11 relevant factors. A court shall not impute income to a parent who is
12 gainfully employed on a full-time basis, unless the court (~~finds~~)
13 enters written findings of fact that the parent is voluntarily
14 underemployed and (~~finds~~) enters written findings of fact that the
15 parent is purposely underemployed to reduce the parent's child support
16 obligation. Income shall not be imputed for an unemployable parent.
17 Income shall not be imputed to a parent to the extent the parent is
18 unemployed or significantly underemployed due to the parent's efforts
19 to comply with court-ordered reunification efforts under chapter 13.34
20 RCW or under a voluntary placement agreement with an agency supervising
21 the child. In the absence of information to the contrary, a parent's
22 imputed income shall be based on the median income of year-round full-
23 time workers as derived from the United States bureau of census,
24 current populations reports, or such replacement report as published by
25 the bureau of census.

26 **Sec. 3.** RCW 26.19.075 and 1993 c 358 s 5 are each amended to read
27 as follows:

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

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

32 (i) Income of a new spouse if the parent who is married to the new
33 spouse is asking for a deviation based on any other reason. Except as
34 provided in (iii) of this subsection, income of a new spouse is not, by
35 itself, a sufficient reason for deviation;

36 (ii) Income of other adults in the household if the parent who is
37 living with the other adult is asking for a deviation based on any
38 other reason. Except as provided in (iii) of this subsection, income

1 of the other adults in the household is not, by itself, a sufficient
2 reason for deviation;

3 (iii) Income of a new spouse where the custodial parent has
4 remarried and the custodial parent's new spouse has a substantial
5 income, or income of another adult in the household of the custodial
6 parent, where the custodial parent is involved in an ongoing, stable
7 relationship with that person and the person has a substantial income.

8 In addition, before deviating under this subsection (1)(a)(iii),
9 the court must find that the noncustodial parent has a modest income,
10 and that there exists a significant disparity in income between the
11 noncustodial parent and the custodial parent's household to the extent
12 that the noncustodial parent is experiencing difficulty maintaining a
13 reasonable lifestyle commensurate with the noncustodial parent's level
14 of income;

15 (iv) Child support actually received from other relationships;

16 (~~(iv)~~) (v) Gifts;

17 (~~(v)~~) (vi) Prizes;

18 (~~(vi)~~) (vii) Possession of wealth, including but not limited to
19 savings, investments, real estate holdings and business interests,
20 vehicles, boats, pensions, bank accounts, insurance plans, or other
21 assets;

22 (~~(vii)~~) (viii) Extraordinary income of a child; or

23 (~~(viii)~~) (ix) Tax planning considerations. A deviation for tax
24 planning may be granted only if the child would not receive a lesser
25 economic benefit due to the tax planning.

26 (b) **Nonrecurring income.** The court may deviate from the standard
27 calculation based on a finding that a particular source of income
28 included in the calculation of the basic support obligation is not a
29 recurring source of income. Depending on the circumstances,
30 nonrecurring income may include overtime, contract-related benefits,
31 bonuses, or income from second jobs. Deviations for nonrecurring
32 income shall be based on a review of the nonrecurring income received
33 in the previous two calendar years.

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

36 (i) Extraordinary debt not voluntarily incurred;

37 (ii) An obligation imposed on one party in a dissolution decree for
38 payment of substantial debt voluntarily incurred before the parties
39 were separated;

1 (iii) A significant disparity in the living costs of the parents
2 due to conditions beyond their control;

3 (~~(iii)~~) (iv) Special needs of disabled children;

4 (~~(iv)~~) (v) Special medical, educational, or psychological needs
5 of the children; or

6 (~~(v)~~) (vi) Costs incurred or anticipated to be incurred by the
7 parents in compliance with court-ordered reunification efforts under
8 chapter 13.34 RCW or under a voluntary placement agreement with an
9 agency supervising the child.

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

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

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

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

33 (iii) When considering a deviation from the standard calculation
34 for children from other relationships, the court may consider only
35 other children to whom the parent owes a duty of support. The court
36 may consider court-ordered payments of child support for children from
37 other relationships only to the extent that the support is actually
38 paid.

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

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

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

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

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

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

26 If the combined monthly net income of the parties exceeds five
27 thousand dollars, the court may in its discretion enter an order
28 requiring that a specific portion of the child support payment be
29 placed in an education trust account. The moneys collected in this
30 account shall only be used for the purpose of payment of educational
31 expenses incurred as a result of attendance at an accredited
32 educational institution. The court may not create an education trust
33 account unless it first determines that the diversion of funds to the
34 account will not affect the basic needs of the child and will not
35 affect the child's ability to sustain a reasonable standard of living.

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