

SHB 3016 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 03/05/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 26.09.170 and 2008 c 6 s 1017 are each amended to  
4 read as follows:

5 (1) Except as otherwise provided in (~~subsection (7) of~~) RCW  
6 26.09.070(7), the provisions of any decree respecting maintenance or  
7 support may be modified: (a) Only as to installments accruing  
8 subsequent to the petition for modification or motion for adjustment  
9 except motions to compel court-ordered adjustments, which shall be  
10 effective as of the first date specified in the decree for implementing  
11 the adjustment; and, (b) except as otherwise provided in (~~subsections~~  
12 ~~(5), (6), (9), and (10) of~~) this section, only upon a showing of a  
13 substantial change of circumstances. The provisions as to property  
14 disposition may not be revoked or modified, unless the court finds the  
15 existence of conditions that justify the reopening of a judgment under  
16 the laws of this state.

17 (2) Unless otherwise agreed in writing or expressly provided in the  
18 decree the obligation to pay future maintenance is terminated upon the  
19 death of either party or the remarriage of the party receiving  
20 maintenance or registration of a new domestic partnership of the party  
21 receiving maintenance.

22 (3) Unless otherwise agreed in writing or expressly provided in the  
23 decree, provisions for the support of a child are terminated by  
24 emancipation of the child or by the death of the parent obligated to  
25 support the child.

26 (4) Unless expressly provided by an order of the superior court or  
27 a court of comparable jurisdiction, provisions for the support  
28 (~~provisions of the order~~) of a child are terminated upon the marriage  
29 or registration of a domestic partnership to each other of parties to  
30 a paternity order, or upon the remarriage or registration of a domestic

1 partnership to each other of parties to a decree of dissolution. The  
2 remaining provisions of the order, including provisions establishing  
3 paternity, remain in effect.

4 (5)(a) A party to an order of child support may petition for a  
5 modification based upon a showing of substantially changed  
6 circumstances at any time.

7 (b) An obligor's voluntary unemployment or voluntary  
8 underemployment, by itself, is not a substantial change of  
9 circumstances.

10 (6) An order of child support may be modified one year or more  
11 after it has been entered without a showing ((a-substantial-change)) of  
12 substantially changed circumstances:

13 (a) If the order in practice works a severe economic hardship on  
14 either party or the child;

15 (b) If a party requests an adjustment in an order for child support  
16 which was based on guidelines which determined the amount of support  
17 according to the child's age, and the child is no longer in the age  
18 category on which the current support amount was based;

19 (c) If a child is still in high school, upon a finding that there  
20 is a need to extend support beyond the eighteenth birthday to complete  
21 high school; or

22 (d) To add an automatic adjustment of support provision consistent  
23 with RCW 26.09.100.

24 ~~((6) An order or decree entered prior to June 7, 1984, may be~~  
25 ~~modified without showing a substantial change of circumstances if the~~  
26 ~~requested modification is to:~~

27 ~~(a) Require health insurance coverage for a child named therein; or~~

28 ~~(b) Modify an existing order for health insurance coverage.~~

29 ~~(7) An obligor's voluntary unemployment or voluntary~~  
30 ~~underemployment, by itself, is not a substantial change of~~  
31 ~~circumstances.))~~

32 (7)(a) If twenty-four months have passed from the date of the entry  
33 of the order or the last adjustment or modification, whichever is  
34 later, the order may be adjusted without a showing of substantially  
35 changed circumstances based upon:

36 (i) Changes in the income of the parents; or

37 (ii) Changes in the economic table or standards in chapter 26.19

38 RCW.

1        (b) Either party may initiate the adjustment by filing a motion and  
2 child support worksheets.

3        (c) If the court adjusts or modifies a child support obligation  
4 pursuant to this subsection by more than thirty percent and the change  
5 would cause significant hardship, the court may implement the change in  
6 two equal increments, one at the time of the entry of the order and the  
7 second six months from the entry of the order. Twenty-four months must  
8 pass following the second change before a motion for another adjustment  
9 under this subsection may be filed.

10        (8)(a) The department of social and health services may file an  
11 action to modify or adjust an order of child support if public  
12 assistance money is being paid to or for the benefit of the child and  
13 the child support order is at least twenty-five percent (~~(or more)~~)  
14 above or below the appropriate child support amount set forth in the  
15 standard calculation as defined in RCW 26.19.011 and reasons for the  
16 deviation are not set forth in the findings of fact or order. (~~The~~  
17 ~~determination of twenty five percent or more shall be based on the~~  
18 ~~current income of the parties and the department shall not be required~~  
19 ~~to show a substantial change of circumstances if the reasons for the~~  
20 ~~deviations were not set forth in the findings of fact or order.~~

21        ~~(9)(a) All child support decrees may be adjusted once every twenty-~~  
22 ~~four months based upon changes in the income of the parents without a~~  
23 ~~showing of substantially changed circumstances. Either party may~~  
24 ~~initiate the adjustment by filing a motion and child support~~  
25 ~~worksheets.~~

26        ~~(b) A party may petition for modification in cases of substantially~~  
27 ~~changed circumstances under subsection (1) of this section at any time.~~  
28 ~~However, if relief is granted under subsection (1) of this section,~~  
29 ~~twenty four months must pass before a motion for an adjustment under~~  
30 ~~(a) of this subsection may be filed.~~

31        ~~(c) If, pursuant to (a) of this subsection or subsection (10) of~~  
32 ~~this section, the court adjusts or modifies a child support obligation~~  
33 ~~by more than thirty percent and the change would cause significant~~  
34 ~~hardship, the court may implement the change in two equal increments,~~  
35 ~~one at the time of the entry of the order and the second six months~~  
36 ~~from the entry of the order. Twenty four months must pass following~~  
37 ~~the second change before a motion for an adjustment under (a) of this~~  
38 ~~subsection may be filed.~~

1 ~~(d) A parent who is receiving transfer payments who receives a wage~~  
2 ~~or salary increase may not bring a modification action pursuant to~~  
3 ~~subsection (1) of this section alleging that increase constitutes a~~  
4 ~~substantial change of circumstances.~~

5 ~~(e) The department of social and health services may file an action~~  
6 ~~at any time to modify an order of child support in cases of~~  
7 ~~substantially changed circumstances if public assistance money is being~~  
8 ~~paid to or for the benefit of the child. The determination of the~~  
9 ~~existence of substantially changed circumstances by the department that~~  
10 ~~lead to the filing of an action to modify the order of child support is~~  
11 ~~not binding upon the court.~~

12 ~~(10) An order of child support may be adjusted twenty-four months~~  
13 ~~from the date of the entry of the decree or the last adjustment or~~  
14 ~~modification, whichever is later, based upon changes in the economic~~  
15 ~~table or standards in chapter 26.19 RCW.))~~

16 (b) The department of social and health services may file an action  
17 to modify or adjust an order of child support in a nonassistance case  
18 if:

19 (i) The child support order is at least twenty-five percent above  
20 or below the appropriate child support amount set forth in the standard  
21 calculation as defined in RCW 26.19.011;

22 (ii) The department has determined the case meets the department's  
23 review criteria; and

24 (iii) A party to the order or another state or jurisdiction has  
25 requested a review.

26 (c) The determination of twenty-five percent or more shall be based  
27 on the current income of the parties and the department shall not be  
28 required to show a substantial change of circumstances if the reasons  
29 for the deviations were not set forth in the findings of fact or order.

30 (9) The department of social and health services may file an action  
31 to modify or adjust an order of child support under subsections (5)  
32 through (7) of this section if:

33 (a) Public assistance money is being paid to or for the benefit of  
34 the child;

35 (b) A party to the order in a nonassistance case has requested a  
36 review; or

37 (c) Another state or jurisdiction has requested a modification of  
38 the order.

1       (10) If testimony other than affidavit is required in any  
2 proceeding under this section, a court of this state shall permit a  
3 party or witness to be deposed or to testify under penalty of perjury  
4 by telephone, audiovisual means, or other electronic means, unless good  
5 cause is shown.

6       **Sec. 2.** RCW 26.09.175 and 2002 c 199 s 2 are each amended to read  
7 as follows:

8       (1) A proceeding for the modification of an order of child support  
9 shall commence with the filing of a petition and worksheets. The  
10 petition shall be in the form prescribed by the administrator for the  
11 courts. There shall be a fee of twenty dollars for the filing of a  
12 petition for modification of dissolution.

13       (2)(a) The petitioner shall serve upon the other party the summons,  
14 a copy of the petition, and the worksheets in the form prescribed by  
15 the administrator for the courts. If the modification proceeding is  
16 the first action filed in this state, service shall be made by personal  
17 service. If the decree to be modified was entered in this state,  
18 service shall be by personal service or by any form of mail requiring  
19 a return receipt. Proof of service shall be filed with the court.

20       (b) If the support obligation has been assigned to the state  
21 pursuant to RCW 74.20.330 or the state has a subrogated interest under  
22 RCW 74.20A.030, the summons, petition, and worksheets shall also be  
23 served on the attorney general; except that notice shall be given to  
24 the office of the prosecuting attorney for the county in which the  
25 action is filed in lieu of the office of the attorney general in those  
26 counties and in the types of cases as designated by the office of the  
27 attorney general by letter sent to the presiding superior court judge  
28 of that county. ~~((Proof of service shall be filed with the court.))~~

29       (3) ~~((The))~~ As provided for under RCW 26.09.170, the department of  
30 social and health services may file an action to modify or adjust an  
31 order of child support if:

32       (a) Public assistance money is being paid to or for the benefit of  
33 the child;

34       (b) A party to the order in a nonassistance case has requested a  
35 review; or

36       (c) Another state or jurisdiction has requested a modification of  
37 the order.

1        (4) A responding party's answer and worksheets shall be served and  
2 the answer filed within twenty days after service of the petition or  
3 sixty days if served out of state. ~~((The))~~ A responding party's  
4 failure to file an answer within the time required shall result in  
5 entry of a default judgment for the petitioner.

6        ~~((+4))~~ (5) At any time after responsive pleadings are filed,  
7 ~~((either))~~ any party may schedule the matter for hearing.

8        ~~((+5))~~ (6) Unless ~~((both))~~ all parties stipulate to arbitration or  
9 the presiding judge authorizes oral testimony pursuant to subsection  
10 ~~((+6))~~ (7) of this section, a petition for modification of an order of  
11 child support shall be heard by the court on affidavits, the petition,  
12 answer, and worksheets only.

13        ~~((+6))~~ (7) A party seeking authority to present oral testimony on  
14 the petition to modify a support order shall file an appropriate motion  
15 not later than ten days after the time of notice of hearing.  
16 Affidavits and exhibits setting forth the reasons oral testimony is  
17 necessary to a just adjudication of the issues shall accompany the  
18 petition. The affidavits and exhibits must demonstrate the  
19 extraordinary features of the case. Factors which may be considered  
20 include, but are not limited to: (a) Substantial questions of  
21 credibility on a major issue; (b) insufficient or inconsistent  
22 discovery materials not correctable by further discovery; or (c)  
23 particularly complex circumstances requiring expert testimony.

24        (8) If testimony other than affidavit is required in any proceeding  
25 under this section, a court of this state shall permit a party or  
26 witness to be deposed or to testify under penalty of perjury by  
27 telephone, audiovisual means, or other electronic means, unless good  
28 cause is shown.

29        **Sec. 3.** RCW 26.09.100 and 2008 c 6 s 1013 are each amended to read  
30 as follows:

31        (1) In a proceeding for dissolution of marriage or domestic  
32 partnership, legal separation, declaration of invalidity, maintenance,  
33 or child support, after considering all relevant factors but without  
34 regard to misconduct, the court shall order either or both parents  
35 owing a duty of support to any child of the marriage or the domestic  
36 partnership dependent upon either or both spouses or domestic partners  
37 to pay an amount determined under chapter 26.19 RCW.

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

10 (3) Upon motion of a party and without a substantial change of  
11 circumstances, the court shall modify the decree to comply with  
12 subsection (2) of this section as to installments accruing subsequent  
13 to entry of the court's order on the motion for modification.

14 (4) The adjustment or modification provision may be modified by the  
15 court due to economic hardship consistent with the provisions of RCW  
16 26.09.170(~~(+5)~~) (6)(a)."

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**ADOPTED 03/05/2010**

17 On page 1, line 3 of the title, after "requirements;" strike the  
18 remainder of the title and insert "and amending RCW 26.09.170,  
19 26.09.175, and 26.09.100."

EFFECT: Clarifies that DCS may file an action to modify or adjust a child support order at any time authorized by the statute if public assistance money is being paid to or for the benefit of the child, a party to the order in a nonassistance case has requested a review, or another state or jurisdiction has requested a modification of the order. Amends terminology for consistency and reorganizes provisions for clarity.

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