

RCW 26.09.335 Child support—Department duties when order does not contain abatement language and obligated person is incarcerated—Procedures. (1) When a court or administrative order does not contain language regarding abatement based on incarceration of the person required to pay support and the department receives notice that the person is currently confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility, the department must refer the case to the appropriate forum for a determination of whether the order should be modified to:

(a) Contain abatement language as provided in RCW 26.09.320; and
(b) Abate the person's child support obligation due to current incarceration.

(2) In a proceeding brought under this section, there is a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. The department, the payee under the order, or the person entitled to receive support may rebut the presumption by demonstrating that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(3) Unless the presumption is rebutted, the court or administrative forum must enter an order providing that the child support obligation under the order is abated to ten dollars per month, without regard to the number of children covered by the order, if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(4) The order must:

(a) Include the appropriate language required by RCW 26.09.320 in order to provide for a rebuttable presumption of abatement to ten dollars per month per order;

(b) Provide that the order must be reinstated at fifty percent of the previously ordered support amount but not less than the presumptive minimum obligation of fifty dollars per month per child, effective on the first day of the fourth month after the person's release from confinement, and also provide that the order must be automatically reinstated at one hundred percent of the previously ordered support amount effective one year after release from confinement; and

(c) Include language regarding an action to modify or adjust the underlying order as provided under RCW 26.09.320(3). [2020 c 227 § 7.]

Reviser's note: For the purposes of this section, "department" appears to refer to the department of social and health services, division of child support.

Effective date—2020 c 227 §§ 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.