
HOUSE BILL 2784

State of Washington 52nd Legislature 1992 Regular Session

By Representative Appelwick

Read first time 01/28/92. Referred to Committee on Judiciary.

1 AN ACT Relating to technical and clarifying amendments to domestic
2 relations provisions; and amending RCW 26.09.006, 26.09.170, 26.09.175,
3 26.09.270, 26.10.015, 26.18.070, 26.18.100, 26.18.220, 26.19.035,
4 26.19.071, 26.26.065, and 26.26.160.

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

6 **Sec. 1.** RCW 26.09.006 and 1990 1st ex.s. c 2 s 26 are each amended
7 to read as follows:

8 (1) Effective January 1, 1992, a party shall not file any pleading
9 with the clerk of the court in an action commenced under this chapter
10 unless on forms approved by the administrator for the courts.

11 (2) The parties shall comply with requirements for submission to
12 the court of forms as provided in RCW 26.18.220.

1 **Sec. 2.** RCW 26.09.170 and 1991 sp.s. c 28 s 2 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in subsection (7) of RCW
4 26.09.070, the provisions of any decree respecting maintenance or
5 support may be modified only as to installments accruing subsequent to
6 the (~~motion~~) petition for modification or motion for adjustment and,
7 except as otherwise provided in subsections (4), (5), (8), and (9) of
8 this section, only upon a showing of a substantial change of
9 circumstances. The provisions as to property disposition may not be
10 revoked or modified, unless the court finds the existence of conditions
11 that justify the reopening of a judgment under the laws of this state.

12 (2) Unless otherwise agreed in writing or expressly provided in the
13 decree the obligation to pay future maintenance is terminated upon the
14 death of either party or the remarriage of the party receiving
15 maintenance.

16 (3) Unless otherwise agreed in writing or expressly provided in the
17 decree, provisions for the support of a child are terminated by
18 emancipation of the child or by the death of the parent obligated to
19 support the child.

20 (4) An order of child support may be modified one year or more
21 after it has been entered without showing a substantial change of
22 circumstances:

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

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

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

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

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

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

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

11 (6) An obligor's voluntary unemployment or voluntary
12 underemployment, by itself, is not a substantial change of
13 circumstances.

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

24 (8)(a) (~~Except as provided in (b) and (c) of this subsection,~~)
25 All child support decrees may be adjusted once every twenty-four months
26 based upon changes in the income of the parents without a showing of
27 substantially changed circumstances. Either party may initiate the
28 (modification pursuant to procedures of RCW 26.09.175) adjustment by
29 filing a motion and child support worksheets.

1 (b) (~~Parents whose decrees are entered before July 1, 1990, may~~
2 ~~petition the court for a modification after twelve months has expired~~
3 ~~from the entry of the decree or the most recent modification setting~~
4 ~~child support, whichever is later. However, if a party is granted~~
5 ~~relief under this provision, twenty four months must pass before~~
6 ~~another petition for modification may be filed pursuant to (a) of this~~
7 ~~subsection.~~

8 (e)) A party may petition for modification in cases of
9 substantially changed circumstances((~~7~~)) under subsection (1) of this
10 section((~~7~~)) at any time. However, if relief is granted under
11 subsection (1) of this section, twenty-four months must pass before a
12 ((~~petition~~)) motion for ((~~modification~~)) an adjustment under (a) of
13 this subsection may be filed.

14 ((~~d~~)) (c) If, pursuant to (a) of this subsection or subsection
15 (9) of this section, the court adjusts or modifies a child support
16 obligation by more than thirty percent and the change would cause
17 significant hardship, the court may implement the change in two equal
18 increments, one at the time of the entry of the order and the second
19 six months from the entry of the order. Twenty-four months must pass
20 following the second change before a ((~~petition~~)) motion for
21 ((~~modification~~)) an adjustment under (a) of this subsection may be
22 filed.

23 ((~~e~~)) (d) A parent who is receiving transfer payments who
24 receives a wage or salary increase may not bring a modification action
25 pursuant to ((~~a~~)) subsection (1) of this ((~~subsection~~)) section
26 alleging that increase constitutes a substantial change of
27 circumstances ((~~under subsection (1) of this section~~)).

28 (9) An order of child support may be ((~~modified~~)) adjusted twenty-
29 four months from the date of the entry of the decree or the last

1 adjustment or modification, whichever is later, based upon changes in
2 the economic table or standards in chapter 26.19 RCW.

3 **Sec. 3.** RCW 26.09.175 and 1991 c 367 s 6 are each amended to read
4 as follows:

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

10 (2) The petitioner shall serve upon the other party the summons, a
11 copy of the petition, and the worksheets in the form prescribed by the
12 administrator for the courts. If the modification proceeding is the
13 first action filed in this state, service shall be made by personal
14 service. If the decree to be modified was entered in this state,
15 service shall be by personal service or by any form of mail requiring
16 a return receipt. If the support obligation has been assigned to the
17 state pursuant to RCW 74.20.330 or the state has a subrogated interest
18 under RCW 74.20A.030, the summons, petition, and worksheets shall also
19 be served on the attorney general. Proof of service shall be filed
20 with the court.

21 (3) The responding party's answer and worksheets shall be served
22 and the answer filed within twenty days after service of the petition
23 or sixty days if served out of state. The responding party's failure
24 to file an answer within the time required shall result in entry of a
25 default judgment for the petitioner.

26 (4) At any time after responsive pleadings are filed, either party
27 may schedule the matter for hearing.

28 (5) Unless both parties stipulate to arbitration or the presiding
29 judge authorizes oral testimony pursuant to subsection (6) of this

1 section, a petition for modification of an order of child support shall
2 be heard by the court on affidavits, the petition, answer, and
3 worksheets only.

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

15 ~~((7) The administrator for the courts shall develop and prepare,~~
16 ~~in consultation with interested persons, model forms or notices for the~~
17 ~~use of the procedure provided by this section, including a notice~~
18 ~~advising of the right of a party to proceed with or without benefit of~~
19 ~~counsel.))~~

20 **Sec. 4.** RCW 26.09.270 and 1989 c 375 s 15 are each amended to read
21 as follows:

22 A party seeking a temporary custody order or a temporary parenting
23 plan ~~((or modification of a custody decree or parenting plan))~~ shall
24 submit together with his or her motion, an affidavit setting forth
25 facts supporting the requested order ~~((or modification))~~ and shall give
26 notice, together with a copy of his or her affidavit, to other parties
27 to the proceedings, who may file opposing affidavits. The court shall
28 deny the motion unless it finds that adequate cause for hearing the
29 motion is established by the affidavits, in which case it shall set a

1 date for hearing on an order to show cause why the requested order ((or
2 modification)) should not be granted. Petitions for modification of a
3 parenting plan or custody decree shall be made in accordance with RCW
4 26.09.170 and 26.09.175.

5 **Sec. 5.** RCW 26.10.015 and 1990 1st ex.s. c 2 s 27 are each amended
6 to read as follows:

7 (1) Effective January 1, 1992, a party shall not file any pleading
8 with the clerk of the court in an action commenced under this chapter
9 unless on forms approved by the administrator for the courts.

10 (2) The parties shall comply with requirements for submission to
11 the court of forms as provided in RCW 26.18.220.

12 **Sec. 6.** RCW 26.18.070 and 1987 c 435 s 18 are each amended to read
13 as follows:

14 (1) A petition or motion seeking a mandatory wage assignment in an
15 action under RCW 26.18.040 may be filed by an obligee if the obligor is
16 ((more than fifteen days)) past due in child support payments in an
17 amount equal to or greater than the support payable for one month. The
18 petition or motion shall include a sworn statement by the obligee,
19 stating the facts authorizing the issuance of the wage assignment
20 order, including:

21 (a) That the obligor, stating his or her name and residence, is
22 ((more than fifteen days)) past due in child support payments in an
23 amount equal to or greater than the support payable for one month;

24 (b) A description of the terms of the support order requiring
25 payment of support, and the amount past due;

26 (c) The name and address of the obligor's employer;

27 (d) That notice by personal service or any form of mail requiring
28 a return receipt, has been provided to the obligor at least fifteen

1 days prior to the obligee seeking a mandatory wage assignment, unless
2 the order for support states that the obligee may seek a mandatory wage
3 assignment without notice to the obligor; and

4 (e) In cases not filed by the state, whether the obligee has
5 received public assistance from any source and, if the obligee has
6 received public assistance, that the department of social and health
7 services has been notified in writing of the pending action.

8 (2) If the court in which a mandatory wage assignment is sought
9 does not already have a copy of the support order in the court file,
10 then the obligee shall attach a copy of the support order to the
11 petition or motion seeking the wage assignment.

12 **Sec. 7.** RCW 26.18.100 and 1991 c 367 s 20 are each amended to read
13 as follows:

14 The wage assignment order shall be substantially in the following
15 form:

16 IN THE SUPERIOR COURT OF THE STATE OF
17 WASHINGTON IN AND FOR THE COUNTY OF

18

19,

20 Obligee No.

21 vs.

22,

23 Obligor WAGE ASSIGNMENT
ORDER

1,

2 Employer

3 THE STATE OF WASHINGTON TO:

4 Employer

5 AND TO:

6 Obligor

7 The above-named obligee claims that the above-named obligor is
8 (~~more than fifteen days~~) past due in child support payments in an
9 amount equal to or greater than the child support payable for one
10 month. The amount of the accrued child support debt as of this date is
11 dollars, the amount of arrearage payments specified in the
12 support order (if applicable) is dollars per, and
13 the amount of the current and continuing support obligation under the
14 support order is dollars per

15 You are hereby commanded to answer this order by filling in the
16 attached form according to the instructions, and you must mail or
17 deliver the original of the answer to the court, one copy to the
18 Washington state support registry, one copy to the obligee or obligee's
19 attorney, and one copy to the obligor within twenty days after service
20 of this wage assignment order upon you.

21 If you possess any earnings due and owing to the obligor, then you
22 shall do as follows:

23 (1) Withhold from the obligor's earnings each month, or from each
24 regular earnings disbursement, the lesser of:

25 (a) The sum of the accrued support debt and the current support
26 obligation;

1 (b) The sum of the specified arrearage payment amount and the
2 current support obligation; or

3 (c) Fifty percent of the disposable earnings of the obligor.

4 (2) The total amount withheld above is subject to the wage
5 assignment order, and all other sums may be disbursed to the obligor.

6 (3) Upon receipt of this wage assignment order you shall make
7 immediate deductions from the obligor's earnings and remit to the
8 Washington state support registry the proper amounts at each regular
9 pay interval.

10 You shall continue to withhold the ordered amounts from nonexempt
11 earnings of the obligor until notified by:

12 (a) The court that the wage assignment has been modified or
13 terminated;

14 (b) The Washington state support registry, office of support
15 enforcement that the accrued child support debt has been paid; or

16 (c) The court that has entered an order delaying, modifying, or
17 terminating the wage assignment order and has approved an alternate
18 payment plan as provided in RCW 26.23.050(2).

19 You shall promptly notify the court and the Washington state
20 support registry if and when the employee is no longer employed by you.
21 If you no longer employ the employee, the wage assignment order shall
22 remain in effect for one year after the employee has left your
23 employment or ((~~your~~—{you})) you are no longer in possession of any
24 earnings owed to the employee. You shall continue to hold the wage
25 assignment order during that one-year period. If the employee returns
26 to your employment during the one-year period you shall immediately
27 begin to withhold the employee's earnings according to the terms of the
28 wage assignment order. If the employee has not returned to your
29 employment within one year, the wage assignment will cease to have
30 effect at the expiration of the one-year period.

1 You shall deliver the withheld earnings to the Washington state
2 support registry at each regular pay interval.

3 You shall deliver a copy of this order to the obligor as soon as is
4 reasonably possible. This wage assignment order has priority over any
5 other wage assignment or garnishment, except for another wage
6 assignment or garnishment for child support, or order to withhold or
7 deliver under chapter 74.20A RCW.

8 WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO
9 ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED
10 SUPPORT DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.

11 NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE
12 SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT
13 THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.

14 DATED THIS day of, 19...

15

16 Obligee, Judge/Court Commissioner
17 or obligee's attorney

18 **Sec. 8.** RCW 26.18.220 and 1990 1st ex.s. c 2 s 25 are each amended
19 to read as follows:

20 (1) The administrator for the courts shall develop not later than
21 July 1, 1991, standard court forms and format rules for mandatory use
22 by litigants in all actions commenced under chapters 26.09, 26.10, and
23 26.26 RCW effective January 1, 1992. The administrator for the courts
24 shall develop a mandatory form for financial affidavits for integration
25 into the worksheets or for use as a separate document. The form shall

1 be developed and approved not later than July 1, 1993. The parties
2 shall use the mandatory form for financial affidavits for actions
3 commenced on or after July 1, 1993. The administrator for the courts
4 has continuing responsibility to develop and revise mandatory forms and
5 format rules as appropriate.

6 (2) A party may delete unnecessary portions of the forms according
7 to the rules established by the administrator for the courts. However,
8 if each party is required to submit identical forms for the court's
9 comparison, the parties shall not delete any portion of the forms. A
10 party may supplement the mandatory forms with additional material. The
11 party must follow the format rules when providing supplemental
12 material.

13 (3) If the administrator for the courts has not developed a
14 mandatory form for a particular pleading, a party shall follow the
15 format rules when submitting that pleading to the court.

16 (4) A party's failure to use the mandatory forms or follow the
17 format rules shall not be a reason to dismiss a case, refuse a filing,
18 or strike a pleading. However, the court may require the party to
19 submit a corrected pleading and may impose terms payable to the
20 opposing party or payable to the court, or both.

21 (5) The administrator for the courts and county clerks shall
22 distribute the mandatory forms. Private vendors may distribute the
23 mandatory forms. Distribution may be in printed or electronic form.
24 The administrator for the courts and county clerks may charge
25 reasonable fees for the forms.

26 **Sec. 9.** RCW 26.19.035 and 1991 c 367 s 27 are each amended to read
27 as follows:

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

1 (a) In each county of the state;

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

4 (c) In all proceedings in which child support is determined or
5 modified;

6 (d) In setting temporary and permanent support;

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

9 (f) In addition to proceedings in which child support is determined
10 for minors, to adult children who are dependent on their parents and
11 for whom support is ordered pursuant to RCW 26.09.100.

12 The provisions of this chapter for determining child support and
13 reasons for deviation from the standard calculation shall be applied in
14 the same manner by the court, presiding officers, and reviewing
15 officers.

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

27 (3) **Completion of worksheets.** Worksheets in the form developed by
28 the office of the administrator for the courts shall be completed under
29 penalty of perjury and filed in every proceeding in which child support
30 is determined. The court shall not accept incomplete worksheets or

1 worksheets that vary from the worksheets developed by the office of the
2 administrator for the courts.

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

12 **Sec. 10.** RCW 26.19.071 and 1991 sp.s. c 28 s 5 are each amended to
13 read as follows:

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

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

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

28 (a) Salaries;

29 (b) Wages;

- 1 (c) Commissions;
 - 2 (d) Deferred compensation;
 - 3 (e) Overtime;
 - 4 (f) Contract-related benefits;
 - 5 (g) Income from second jobs;
 - 6 (h) Dividends;
 - 7 (i) Interest;
 - 8 (j) Trust income;
 - 9 (k) Severance pay;
 - 10 (l) Annuities;
 - 11 (m) Capital gains;
 - 12 (n) Pension retirement benefits;
 - 13 (o) Workers' compensation;
 - 14 (p) Unemployment benefits;
 - 15 (q) Spousal maintenance actually received from an exspouse or
 - 16 expartner who is not a party to the action before the court;
 - 17 (r) Bonuses;
 - 18 (s) Social security benefits; and
 - 19 (t) Disability insurance benefits.
- 20 (4) **Income sources excluded from gross monthly income.** The
- 21 following income and resources shall be disclosed but shall not be
- 22 included in gross income:
- 23 (a) Income of a new spouse or income of other adults in the
 - 24 household;
 - 25 (b) Child support received from other relationships;
 - 26 (c) Gifts and prizes;
 - 27 (d) Aid to families with dependent children;
 - 28 (e) Supplemental security income;
 - 29 (f) General assistance; and
 - 30 (g) Food stamps.

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

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

7 (a) Federal and state income taxes;

8 (b) Federal insurance contributions act deductions;

9 (c) Mandatory pension plan payments;

10 (d) Mandatory union or professional dues;

11 (e) State industrial insurance premiums;

12 (f) Court-ordered spousal maintenance to the extent actually paid
13 to an exspouse or expartner who is not a party to the action before the
14 court;

15 (g) Up to two thousand dollars per year in voluntary pension
16 payments actually made if the contributions were made for the two tax
17 years preceding the earlier of the (i) tax year in which the parties
18 separated with intent to live separate and apart or (ii) tax year in
19 which the parties filed for dissolution; and

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

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

25 (6) **Imputation of income.** The court shall impute income to a
26 parent when the parent is voluntarily unemployed or voluntarily
27 underemployed. The court shall determine whether the parent is
28 voluntarily underemployed or voluntarily unemployed based upon that
29 parent's work history, education, health, and age, or any other
30 relevant factors. A court shall not impute income to a parent who is

1 gainfully employed on a full-time basis, unless the court finds that
2 the parent is voluntarily underemployed and finds that the parent is
3 purposely underemployed to reduce the parent's child support
4 obligation. Income shall not be imputed for an unemployable parent.
5 In the absence of information to the contrary, a parent's imputed
6 income shall be based on the median income of year-round full-time
7 workers as derived from the United States bureau of census, current
8 populations reports, or such replacement report as published by the
9 bureau of census.

10 **Sec. 11.** RCW 26.26.065 and 1990 1st ex.s. c 2 s 28 are each
11 amended to read as follows:

12 (1) Effective January 1, 1992, a party shall not file any pleading
13 with the clerk of the court in an action commenced under this chapter
14 unless on forms approved by the administrator for the courts.

15 (2) The parties shall comply with requirements for submission to
16 the court of forms as provided in RCW 26.18.220.

17 **Sec. 12.** RCW 26.26.160 and 1989 c 360 s 36 are each amended to
18 read as follows:

19 (1) Except as provided in subsection (2) of this section the court
20 has continuing jurisdiction to prospectively modify a judgment and
21 order for future education and future support, and with respect to
22 matters listed in RCW 26.26.130 (3) and (4), and RCW 26.26.150(2) upon
23 showing a substantial change of circumstances. The procedures set
24 forth in RCW 26.09.175 shall be used in modification proceedings under
25 this section.

26 (2) A judgment or order entered under this chapter may be modified
27 without a showing of substantial change of circumstances upon the same

1 grounds as RCW 26.09.170 permits support orders to be modified without
2 a showing of a substantial change of circumstance.

3 (3) The court may modify a parenting plan or residential provisions
4 adopted pursuant to RCW 26.26.130(6) in accordance with the provisions
5 of chapter 26.09 RCW.