
SENATE BILL 6318

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By Senators Hargrove, Skratek, Owen, Erwin, Vognild, Sellar, Nelson, Newhouse, McDonald, Roach and Hochstatter

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1 AN ACT Relating to child support; and amending RCW 26.19.001,
2 26.19.071, 26.19.075, and 26.09.100.

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

4 **Sec. 1.** RCW 26.19.001 and 1988 c 275 s 1 are each amended to read
5 as follows:

6 The legislature intends, in establishing a child support schedule,
7 to insure that child support orders are adequate to meet a child's
8 basic needs and to provide additional child support commensurate with
9 the parents' income, (~~resources, and standard of living~~) while
10 recognizing that all parties to a divorce may by necessity suffer a
11 reduced standard of living as a result of the divorce. The legislature
12 also intends that the child support obligation should be equitably
13 apportioned between the parents.

14 The legislature finds that these goals will be best achieved by the
15 adoption and use of a state-wide child support schedule. Use of a
16 state-wide schedule will benefit children and their parents by:

17 (1) Increasing the adequacy of child support orders through the use
18 of economic data as the basis for establishing the child support
19 schedule;

1 (2) Increasing the equity of child support orders by providing for
2 comparable orders in cases with similar circumstances; and

3 (3) Reducing the adversarial nature of the proceedings by
4 increasing voluntary settlements as a result of the greater
5 predictability achieved by a uniform state-wide child support schedule.

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

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

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

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

- 22 (a) Salaries;
- 23 (b) Wages;
- 24 (c) Commissions;
- 25 (d) Deferred compensation;
- 26 (e) (~~overtime~~);
- 27 (~~f~~) Contract-related benefits;
- 28 (~~g~~) (f) Income from second jobs;
- 29 (~~h~~) (g) Dividends;
- 30 (~~i~~) (h) Interest;
- 31 (~~j~~) (i) Trust income;
- 32 (~~k~~) (j) Severance pay;
- 33 (~~l~~) (k) Annuities;
- 34 (~~m~~) (l) Capital gains;
- 35 (~~n~~) (m) Pension retirement benefits;
- 36 (~~o~~) (n) Workers' compensation;
- 37 (~~p~~) (o) Unemployment benefits;
- 38 (~~q~~) (p) Spousal maintenance actually received;

1 (~~(r)~~) (q) Bonuses;
2 (~~(s)~~) (r) Social security benefits; and
3 (~~(t)~~) (s) Disability insurance benefits.

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

7 (a) Income of a new spouse or income of other adults in the
8 household;

9 (b) Overtime, whether mandatory or voluntary;

10 (c) If the parent has at least one full-time job that requires the
11 parent to work a minimum of forty hours per week, income derived from
12 a second job or additional jobs other than the full-time job;

13 (d) Child support received from other relationships;

14 (~~(e)~~) (e) Gifts and prizes;

15 (~~(d)~~) (f) Aid to families with dependent children;

16 (~~(e)~~) (g) Supplemental security income;

17 (~~(f)~~) (h) General assistance; and

18 (~~(g)~~) (i) Food stamps.

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

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

25 (a) Federal and state income taxes;

26 (b) Federal insurance contributions act deductions;

27 (c) Mandatory pension plan payments;

28 (d) Mandatory union or professional dues;

29 (e) State industrial insurance premiums;

30 (f) Court-ordered spousal maintenance to the extent actually paid;

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

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

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

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

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

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

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

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

31 ~~(ii) Income of other adults in the household if the parent who is
32 living with the other adult is asking for a deviation based on any
33 other reason. Income of the other adults in the household is not, by
34 itself, a sufficient reason for deviation;~~

35 ~~((iii)))~~ Child support actually received from other relationships;

36 ~~((iv)))~~ (ii) Gifts;

37 ~~((v)))~~ (iii) Prizes;

1 (~~(vi)~~) (iv) Possession of wealth, including but not limited to
2 savings, investments, real estate holdings and business interests,
3 vehicles, boats, pensions, bank accounts, insurance plans, or other
4 assets;

5 (~~(vii)~~) (v) Extraordinary income of a child; or

6 (~~(viii)~~) (vi) Tax planning considerations. A deviation for tax
7 planning may be granted only if the child would not receive a lesser
8 economic benefit due to the tax planning.

9 (b) **Nonrecurring income.** The court may deviate from the standard
10 calculation based on a finding that a particular source of income
11 included in the calculation of the basic support obligation is not a
12 recurring source of income. Depending on the circumstances,
13 nonrecurring income may include overtime, contract-related benefits,
14 bonuses, or income from second jobs. Deviations for nonrecurring
15 income shall be based on a review of the nonrecurring income received
16 in the previous two calendar years.

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

19 (i) Extraordinary debt not voluntarily incurred;

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

22 (iii) Special needs of disabled children;

23 (iv) Special medical, educational, or psychological needs of the
24 children; or

25 (v) Costs incurred or anticipated to be incurred by the parents in
26 compliance with court-ordered reunification efforts under chapter 13.34
27 RCW or under a voluntary placement agreement with an agency supervising
28 the child.

29 (d) **Residential schedule.** The court may deviate from the standard
30 calculation if the child spends a significant amount of time with the
31 parent who is obligated to make a support transfer payment. The court
32 may not deviate on that basis if the deviation will result in
33 insufficient funds in the household receiving the support to meet the
34 basic needs of the child or if the child is receiving aid to families
35 with dependent children. When determining the amount of the deviation,
36 the court shall consider evidence concerning the increased expenses to
37 a parent making support transfer payments resulting from the
38 significant amount of time spent with that parent and shall consider
39 the decreased expenses, if any, to the party receiving the support

1 resulting from the significant amount of time the child spends with the
2 parent making the support transfer payment.

3 (e) **Children from other relationships.** (~~The court may deviate~~
4 ~~from the standard calculation when either or both of the parents before~~
5 ~~the court have~~) Children from other relationships to whom either or
6 both of the parents before the court owes a duty of support shall be
7 counted in the number of children for purposes of determining the basic
8 support obligation and the standard calculation.

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

12 (~~ii~~) (~~Children from other relationships shall not be counted in~~
13 ~~the number of children for purposes of determining the basic support~~
14 ~~obligation and the standard calculation.~~

15 (~~iii~~) When determining or considering a deviation from the
16 standard calculation for children from other relationships, the court
17 may consider only other children to whom the parent owes a duty of
18 support. The court may consider court-ordered payments of child
19 support for children from other relationships only to the extent that
20 the support is actually paid.

21 (~~iv~~) (iii) When the court has determined that either or both
22 parents have children from other relationships, deviations under this
23 section shall be based on consideration of the total circumstances of
24 both households. All child support obligations paid, received, and
25 owed for all children shall be disclosed and considered.

26 (2) All income and resources of the parties before the court (~~(new~~
27 ~~spouses, and other adults in the households)~~) shall be disclosed and
28 considered as provided in this section. Income of a new spouse or
29 income of other adults in the household shall not be used as a
30 consideration for deviation. The presumptive amount of support shall
31 be determined according to the child support schedule. Unless specific
32 reasons for deviation are set forth in the written findings of fact and
33 are supported by the evidence, the court shall order each parent to pay
34 the amount of support determined by using the standard calculation.

35 (3) The court shall enter findings that specify reasons for any
36 deviation or any denial of a party's request for any deviation from the
37 standard calculation made by the court. The court shall not consider
38 reasons for deviation until the court determines the standard
39 calculation for each parent.

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

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

6 **Sec. 4.** RCW 26.09.100 and 1991 sp.s. c 28 s 1 are each amended to
7 read as follows:

8 (1) In a proceeding for dissolution of marriage, legal separation,
9 declaration of invalidity, maintenance, or child support, after
10 considering all relevant factors but without regard to marital
11 misconduct, the court shall order either or both parents owing a duty
12 of support to any child of the marriage dependent upon either or both
13 spouses to pay an amount determined under chapter 26.19 RCW.

14 (2) The court may require automatic periodic adjustments or
15 modifications of child support. That portion of any decree that
16 requires periodic adjustments or modifications of child support shall
17 use the provisions in chapter 26.19 RCW as the basis for the adjustment
18 or modification. Provisions in the decree for periodic adjustment or
19 modification shall not conflict with RCW 26.09.170 except that the
20 decree may require periodic adjustments or modifications of support
21 more frequently than the time periods established pursuant to RCW
22 26.09.170.

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

27 (4) The adjustment or modification provision may be modified by the
28 court due to economic hardship consistent with the provisions of RCW
29 26.09.170(4)(a).

30 (5) A parent obligated to pay child support may file a motion for
31 an accounting of how the support is being spent by the receiving
32 parent. The parent filing the motion must meet the following
33 conditions prior to filing the motion:

34 (a) The parent filing the motion must be obligated to pay at least
35 fifty percent of the basic child support obligation for both parents;

36 (b) If support is owed for one child, the parent must be obligated
37 to pay at least three hundred dollars per month in child support; for
38 two children, the parent must be obligated to pay at least five hundred

1 twenty-five dollars per month in child support; for three or more
2 children, the parent must be obligated to pay at least six hundred
3 sixty dollars per month in child support; and

4 (c) The parent must be current in all child support payments.

5 (6)(a) The motion for an accounting must be accompanied by an
6 affidavit setting forth facts demonstrating that the parent receiving
7 support is not spending a substantial portion of the child support for
8 the direct or indirect benefit of the child. The motion, affidavit,
9 and notice of hearing shall be served on the parent receiving support.
10 The only issue at the preliminary hearing on the motion shall be
11 whether there is reasonable cause to believe that the support is
12 directly or indirectly benefiting the child.

13 (b) If the court determines at the preliminary hearing that the
14 motion and affidavit establish reasonable cause to believe that a
15 substantial portion of the support is not directly or indirectly
16 benefiting the child the court may: (i) Set a show cause hearing on
17 the motion and affidavit; or (ii) order the parents to mediate the
18 issue with a court commissioner, family court commissioner, or other
19 appropriate person. The court's order shall be in writing and shall
20 set forth the facts which establish reasonable cause. The parent
21 receiving support may be required to produce at the show cause hearing
22 such documentation as the court determines is necessary to resolve the
23 issue and which is reasonably available to the parent. The parent
24 receiving support shall not be required to provide documentation for
25 expenditures for more than six months prior to the time of the filing
26 of the motion.

27 (c) If the court determines at the preliminary hearing that the
28 motion and affidavit do not establish reasonable cause to believe that
29 a substantial portion of the support is directly or indirectly
30 benefiting the child, the court shall order the parent filing the
31 motion and affidavit to pay costs and statutory attorneys' fees to the
32 parent receiving the support.

33 The court may award reasonable attorneys' fees to the parent
34 receiving support if the court determines that:

35 (i) The motion was brought in bad faith, for harassment, or
36 frivolously; or

37 (ii) The motion was based on material statements of fact which were
38 false.

1 (7) If at the show cause hearing on the motion and affidavit the
2 parent obligated to pay support demonstrates by a preponderance of the
3 evidence that a substantial portion of the support is not directly or
4 indirectly benefiting the child, the court shall enter an appropriate
5 order directing the parent receiving the support to spend the child
6 support to benefit the child. The court may order the child support
7 payments to be paid to a protective payee for the benefit of the child.
8 The only issue at the hearing on the motion shall be whether the parent
9 receiving support is spending support to directly or indirectly benefit
10 the child.

11 (8) A motion and affidavit for an accounting of child support
12 expenditures may not be filed more than once every twelve months.

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