

RCW 26.09.340 Child support—Requests for reversal or termination of abatement based on incarceration—Procedures. (1) At any time during the period of incarceration, the department, the payee under the order, or the person entitled to receive support may file a request to reverse or terminate the abatement of support by demonstrating that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(a) A request for reversal or termination of the abatement may be filed with the department or with the office of administrative hearings.

(b) The request must include documents or other evidence showing that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(c) If the request for a hearing does not include documents or evidence showing that the incarcerated person has possession of, or access to, income or assets, the department may file a motion asking that the request for a hearing be dismissed before a hearing is scheduled or held.

(d) The party seeking to reverse or terminate the abatement may seek to vacate the dismissal order by filing a motion which includes the required proof.

(e) Depending on the type of evidence provided at the hearing, the administrative law judge may order that the abatement of the support obligation be:

(i) Reversed, meaning that the determination that support should be abated is vacated and all amounts owed under the support order are reinstated; or

(ii) Terminated, meaning that the abatement of support ends as of the date specified in the order.

(2) At any time during the period of incarceration, the person required to pay support may file a request to reverse or terminate the abatement of support.

(a) The request for reversal or termination of the abatement may be filed with the department or with the office of administrative hearings.

(b) The person required to pay support is not required to provide any documents or other evidence to support the request.

(3) Abatement of a support obligation does not constitute modification or adjustment of the order. [2020 c 227 § 8.]

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.