

1 5996-S AAS 6/28/91.S2895.1

2 SSB 5996 - S AMD  
3 By Senators Nelson and Rasmussen

4 ADOPTED AS AMENDED 6/28/91

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 26.09.100 and 1990 1st ex.s. c 2 s 1 are each amended  
8 to read as follows:

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

15 (2) The court may require automatic periodic adjustments or  
16 modifications of child support. That portion of any decree that  
17 requires periodic adjustments or modifications of child support shall  
18 use the provisions in chapter 26.19 RCW as the basis for the adjustment  
19 or modification. Provisions in the decree for periodic adjustment or  
20 modification shall not conflict with RCW 26.09.170 except that the  
21 decree may require periodic adjustments or modifications of support  
22 more frequently than the time periods established pursuant to RCW  
23 26.09.170.

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

1       (4) The adjustment or modification provision may be modified by the  
2 court due to economic hardship consistent with the provisions of RCW  
3 26.09.170(4)(a)."

4       **"Sec. 2.** RCW 26.09.170 and 1990 1st ex.s. c 2 s 2 are each amended  
5 to read as follows:

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

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

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

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

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

28       (b) If a party requests an adjustment in an order for child support  
29 which was based on guidelines which determined the amount of support

1 according to the child's age, and the child is no longer in the age  
2 category on which the current support amount was based;

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

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

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

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

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

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

16 (7) The department of social and health services may file an action  
17 to modify an order of child support if public assistance money is being  
18 paid to or for the benefit of the child and the child support order is  
19 twenty-five percent or more below the appropriate child support amount  
20 set forth in the standard calculation as defined in (~~section 4(2) of~~  
21 ~~this act~~) section 4 of this act and reasons for the deviation are not  
22 set forth in the findings of fact or order. The determination of  
23 twenty-five percent or more shall be based on the current income of the  
24 parties and the department shall not be required to show a substantial  
25 change of circumstances if the reasons for the deviations were not set  
26 forth in the findings of fact or order.

27 (8)(a) Except as provided in (b) and (c) of this subsection, all  
28 child support decrees may be adjusted once every twenty-four months  
29 based upon changes in the income of the parents without a showing of

1 substantially changed circumstances. Either party may initiate the  
2 modification pursuant to procedures of RCW 26.09.175.

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

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

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

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

26 (9) An order of child support may be modified twenty-four months  
27 from the date of the entry of the decree or the last modification,  
28 whichever is later, based upon changes in the economic table or  
29 standards in chapter 26.19 RCW."

1       **"Sec. 3.** RCW 26.09.225 and 1990 1st ex.s. c 2 s 18 are each  
2 amended to read as follows:

3       (1) Each parent shall have full and equal access to the education  
4 and health care records of the child absent a court order to the  
5 contrary. Neither parent may veto the access requested by the other  
6 parent.

7       (2) Educational records are limited to academic, attendance, and  
8 disciplinary records of public and private schools in all grades  
9 kindergarten through twelve and any form of alternative school for all  
10 periods for which child support is paid or the child is the dependent  
11 in fact of the parent requesting access to the records.

12       (3) Educational records of postsecondary educational institutions  
13 are limited to enrollment and academic records necessary to determine,  
14 establish, or continue support ordered pursuant to RCW 26.19.090."

15       "NEW SECTION. **Sec. 4.** A new section is added to chapter 26.19 RCW  
16 to read as follows:

17       DEFINITIONS. Unless the context clearly requires otherwise, the  
18 definitions in this section apply throughout this chapter.

19       (1) "Basic child support obligation" means the monthly child  
20 support obligation determined from the economic table based on the  
21 parties' combined monthly net income and the number of children for  
22 whom support is owed.

23       (2) "Child support schedule" means the standards, economic table,  
24 worksheets, and instructions, as defined in this chapter.

25       (3) "Court" means a superior court judge, court commissioner, and  
26 presiding and reviewing officers who administratively determine or  
27 enforce child support orders.

28       (4) "Deviation" means a child support amount that differs from the  
29 standard calculation.

1 (5) "Economic table" means the child support table for the basic  
2 support obligation provided in RCW 26.19.020.

3 (6) "Instructions" means the instructions developed by the office  
4 of the administrator for the courts pursuant to RCW 26.19.050 for use  
5 in completing the worksheets.

6 (7) "Standards" means the standards for determination of child  
7 support as provided in this chapter.

8 (8) "Standard calculation" means the presumptive amount of child  
9 support owed as determined from the child support schedule before the  
10 court considers any reasons for deviation.

11 (9) "Support transfer payment" means the amount of money the court  
12 orders one parent to pay to another parent or custodian for child  
13 support after determination of the standard calculation and deviations.  
14 If certain expenses or credits are expected to fluctuate and the order  
15 states a formula or percentage to determine the additional amount or  
16 credit on an ongoing basis, the term "support transfer payment" does  
17 not mean the additional amount or credit.

18 (10) "Worksheets" means the forms developed by the office of the  
19 administrator for the courts pursuant to RCW 26.19.050 for use in  
20 determining the amount of child support."

21 "NEW SECTION. Sec. 5. A new section is added to chapter 26.19 RCW  
22 to read as follows:

23 STANDARDS FOR DETERMINATION OF INCOME. (1) **Consideration of all**  
24 **income.** All income and resources of each parent's household shall be  
25 disclosed and considered by the court when the court determines the  
26 child support obligation of each parent. Only the income of the  
27 parents of the children whose support is at issue shall be calculated  
28 for purposes of calculating the basic support obligation. Income and

1 resources of any other person shall not be included in calculating the  
2 basic support obligation.

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

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

- 10 (a) Salaries;
- 11 (b) Wages;
- 12 (c) Commissions;
- 13 (d) Deferred compensation;
- 14 (e) Overtime;
- 15 (f) Contract-related benefits;
- 16 (g) Income from second jobs;
- 17 (h) Dividends;
- 18 (i) Interest;
- 19 (j) Trust income;
- 20 (k) Severance pay;
- 21 (l) Annuities;
- 22 (m) Capital gains;
- 23 (n) Pension retirement benefits;
- 24 (o) Workers' compensation;
- 25 (p) Unemployment benefits;
- 26 (q) Spousal maintenance actually received;
- 27 (r) Bonuses;
- 28 (s) Social security benefits; and
- 29 (t) Disability insurance benefits.

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

4       (a) Income of a new spouse or income of other adults in the  
5 household;

6       (b) Child support received from other relationships;

7       (c) Gifts and prizes;

8       (d) Aid to families with dependent children;

9       (e) Supplemental security income;

10       (f) General assistance; and

11       (g) Food stamps.

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

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

18       (a) Federal and state income taxes;

19       (b) Federal insurance contributions act deductions;

20       (c) Mandatory pension plan payments;

21       (d) Mandatory union or professional dues;

22       (e) State industrial insurance premiums;

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

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



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

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

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

21 "NEW SECTION. **Sec. 6.** A new section is added to chapter 26.19 RCW  
22 to read as follows:

23 STANDARDS FOR DEVIATION FROM THE STANDARD CALCULATION. (1) Reasons  
24 for deviation from the standard calculation include but are not limited  
25 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:

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

4 (ii) Income of other adults in the household if the parent who is  
5 living with the other adult is asking for a deviation based on any  
6 other reason. Income of the other adults in the household is not, by  
7 itself, a sufficient reason for deviation;

8 (iii) Child support actually received from other relationships;

9 (iv) Gifts;

10 (v) Prizes;

11 (vi) Possession of wealth, including but not limited to savings,  
12 investments, real estate holdings and business interests, vehicles,  
13 boats, pensions, bank accounts, insurance plans, or other assets;

14 (vii) Extraordinary income of a child; or

15 (viii) Tax planning considerations. A deviation for tax planning  
16 may be granted only if the child would not receive a lesser economic  
17 benefit due to the tax planning.

18 (b) **Nonrecurring income.** The court may deviate from the standard  
19 calculation based on a finding that a particular source of income  
20 included in the calculation of the basic support obligation is not a  
21 recurring source of income. Depending on the circumstances,  
22 nonrecurring income may include overtime, contract-related benefits,  
23 bonuses, or income from second jobs. Deviations for nonrecurring  
24 income shall be based on a review of the nonrecurring income received  
25 in the previous two calendar years.

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

28 (i) Extraordinary debt not voluntarily incurred;

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

1 (iii) Special needs of disabled children; or

2 (iv) Special medical, educational, or psychological needs of the  
3 children.

4 (d) **Residential schedule.** The court may deviate from the standard  
5 calculation if the child spends a significant amount of time with the  
6 parent who is obligated to make a support transfer payment. The court  
7 may not deviate on that basis if the deviation will result in  
8 insufficient funds in the household receiving the support to meet the  
9 basic needs of the child or if the child is receiving aid to families  
10 with dependent children. When determining the amount of the deviation,  
11 the court shall consider evidence concerning the increased expenses to  
12 a parent making support transfer payments resulting from the  
13 significant amount of time spent with that parent and shall consider  
14 the decreased expenses, if any, to the party receiving the support  
15 resulting from the significant amount of time the child spends with the  
16 parent making the support transfer payment.

17 (e) **Children from other relationships.** The court may deviate from  
18 the standard calculation when either or both of the parents before the  
19 court have children from other relationships to whom the parent owes a  
20 duty of support.

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

24 (ii) Children from other relationships shall not be counted in the  
25 number of children for purposes of determining the basic support  
26 obligation and the standard calculation.

27 (iii) When considering a deviation from the standard calculation  
28 for children from other relationships, the court may consider only  
29 other children to whom the parent owes a duty of support. The court  
30 may consider court-ordered payments of child support for children from

1 other relationships only to the extent that the support is actually  
2 paid.

3 (iv) When the court has determined that either or both parents have  
4 children from other relationships, deviations under this section shall  
5 be based on consideration of the total circumstances of both  
6 households. All child support obligations paid, received, and owed for  
7 all children shall be disclosed and considered.

8 (2) All income and resources of the parties before the court, new  
9 spouses, and other adults in the households shall be disclosed and  
10 considered as provided in this section. The presumptive amount of  
11 support shall be determined according to the child support schedule.  
12 Unless specific reasons for deviation are set forth in the written  
13 findings of fact and are supported by the evidence, the court shall  
14 order each parent to pay the amount of support determined by using the  
15 standard calculation.

16 (3) The court shall enter findings that specify reasons for any  
17 deviation or any denial of a party's request for any deviation from the  
18 standard calculation made by the court. The court shall not consider  
19 reasons for deviation until the court determines the standard  
20 calculation for each parent.

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

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

26 "**Sec. 7.** RCW 26.19.090 and 1990 1st ex.s. c 2 s 9 are each amended  
27 to read as follows:

1           STANDARDS FOR POSTSECONDARY EDUCATIONAL SUPPORT AWARDS. (1) The

2 child support schedule shall be advisory and not mandatory for  
3 postsecondary educational support.

4           (2) When considering whether to order support for postsecondary  
5 educational expenses, the court shall determine whether the child is in  
6 fact dependent and is relying upon the parents for the reasonable  
7 necessities of life. The court shall exercise its discretion when  
8 determining whether and for how long to award postsecondary educational  
9 support based upon consideration of factors that include but are not  
10 limited to the following: Age of the child; the child's needs; the  
11 expectations of the parties for their children when the parents were  
12 together; the child's prospects, desires, aptitudes, abilities or  
13 disabilities; the nature of the postsecondary education sought; and the  
14 parents' level of education, standard of living, and current and future  
15 resources. Also to be considered are the amount and type of support  
16 that the child would have been afforded if the parents had stayed  
17 together.

18           (3) The child must ~~((be enrolled))~~ enroll in an accredited academic  
19 or vocational school, must be actively pursuing a course of study  
20 commensurate with the child's vocational goals, and must be in good  
21 academic standing as defined by the institution ~~((or))~~. The court-  
22 ordered postsecondary educational support ((may)) shall be  
23 automatically suspended during the period or periods the child fails to  
24 comply with these conditions. ~~((The court in its discretion may order~~  
25 ~~that the payment be made directly to the parent who has been receiving~~  
26 ~~the transfer payments, to the educational institution if feasible, or~~  
27 ~~to the child.))~~

28           (4) The child shall also make available all academic records and  
29 grades to both parents as a condition of receiving postsecondary

1 educational support. Each parent shall have full and equal access to  
2 the postsecondary education records as provided in RCW 26.09.225.

3 (5) The court shall not order the payment of postsecondary  
4 educational expenses beyond the child's twenty-third birthday, except  
5 for exceptional circumstances, such as mental, physical, or emotional  
6 disabilities.

7 (6) The court shall direct that either or both parents' payments  
8 for postsecondary educational expenses be made directly to the  
9 educational institution if feasible. If direct payments are not  
10 feasible, then the court in its discretion may order that either or  
11 both parents' payments be made directly to the child if the child does  
12 not reside with either parent. If the child resides with one of the  
13 parents the court may direct that the parent making the support  
14 transfer payments make the payments to the child or to the parent who  
15 has been receiving the support transfer payments."

16 "NEW SECTION. Sec. 8. The following acts or parts of acts are  
17 each repealed:

18 (1) RCW 26.19.010 and 1988 c 275 s 2;

19 (2) RCW 26.19.040 and 1990 1st ex.s. c 2 s 20, 1988 c 275 s 5, &  
20 1987 c 440 s 2;

21 (3) RCW 26.19.060 and 1988 c 275 s 7;

22 (4) RCW 26.19.070 and 1990 1st ex.s. c 2 s 6; and

23 (5) RCW 26.19.110 and 1990 1st ex.s. c 2 s 12."

24 "NEW SECTION. Sec. 9. If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected."

