

HOUSE BILL REPORT

SHB 2784

As Amended by the Senate

Title: An act relating to technical and clarifying amendments to domestic relations provisions.

Brief Description: Making technical and clarifying amendments to domestic relations provisions.

Sponsor(s): By House Committee on Judiciary (originally sponsored by Representative Appelwick).

Brief History:

Reported by House Committee on:
Judiciary, February 7, 1992, DPS;
Passed House, February 14, 1992, 95-0;
Amended by Senate.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Minority Report: *Do not pass.* Signed by 1 member: Representative Belcher.

Staff: Pat Shelledy (786-7149).

Background: Mandatory Forms. Last year, the Legislature enacted a statute requiring the administrator for the courts to develop mandatory forms for use in domestic relations cases. The administrator has developed many forms and format rules for supplemental material and for pleadings for which no mandatory forms exist yet. Some implementation questions arose during the process of creating the forms.

Use of the terms "motion," "petition," "modification," and "adjustment." The terms "motion," "petition," "modification," and "adjustment" are terms of art that impact procedural requirements. The terms are sometimes used interchangeably and improperly in existing code. A

support order modification may only apply to installments accruing after the motion is made and not retroactively. However, some decrees may require automatic adjustments of support to be implemented at a certain time. If a party fails to comply with the decree and the other party has to move the court for an order compelling compliance, the law does not specify when the adjustment should take effect.

Technical correction and cleanup of time periods between motions for modifications and adjustments of child support.

The child support provisions have been amended during the last two sessions. Each time the Legislature has stated when the parties may take advantage of those provisions by petitioning for modification of the child support order. One of those provisions is now out of date and also conflicts with another more recent provision. Another provision in the same section contains an incorrect cross-reference.

Findings of fact and conclusions of law when setting child support payments.

The court must enter written findings of fact why the court set support at a certain amount. Apparently clarification is needed to state that the court must enter the findings whether the court sets support at an amount within the presumptive amount, within the advisory amount, or outside the presumptive or advisory amounts.

Spousal maintenance. "Spousal maintenance actually received" is included in gross income for purposes of determining a parent's income for setting support. "Court-ordered spousal maintenance to the extent actually paid" is a deduction from gross income. Apparently clarification is needed to specify that the "spousal maintenance" is maintenance paid to or received from spouses or partners from relationships other than the relationship before the court and not the maintenance ordered in the case before the court.

Application of the parenting plan to modifications of custody orders in paternity cases.

The parentage act provides that the provisions of chapter 26.09 RCW, which governs modifications of support orders, applies to modifications of support orders issued under the Parentage Act. The Parentage Act does not provide that chapter 26.09 RCW also applies to modifications of a parenting plan or residential provisions.

Posting of security when a temporary restraining order is issued.

The court may issue a temporary restraining order pending final resolution of the dispute, restraining the parties from disposing of or concealing property. Under a prior court rule, the court could waive the requirement in domestic cases that the other party post a bond or provide

other security if the court's restraining order may cause financial hardship on the other party. When the court rule was amended, the provision exempting domestic relations cases from the bond requirement was deleted, and no statute exists that gives the court discretion to waive the security requirement.

Summary of Bill: Mandatory forms. In addition to forms and format rules already developed, the administrator for the courts must develop by September 1, 1992 a mandatory form for financial affidavits for integration into the worksheets. The parties must use that form for actions commenced on or after September 1, 1992.

The administrator for the courts has ongoing responsibility to develop and revise forms and format rules as appropriate.

Parties may delete unnecessary parts of forms unless otherwise provided by court order or court rule.

The court must not dismiss a case, reject a filing, or strike a pleading if a party does not use the mandatory forms. The court may require the party to submit a corrected pleading and impose terms.

Provisions are added regarding the distribution of the forms. The administrator for the courts and court clerks may collect the costs of distribution and production.

Use of the terms "motion," "petition," "modification," and "petition." Technical changes are made in the code to use the correct references to "motion," "petition," "modification," and "adjustment." The procedure for modifications is established. Adjustments of support ordered following a motion to compel compliance with the decree will accrue from the date the adjustment was supposed to take effect.

Technical correction and cleanup of time periods between motions for modifications and adjustments of child support. An expired provision regarding when parties may file for a modification due to changes in the child support schedule is deleted. A technical change is made to correct an incorrect cross-reference to a subsection.

Findings of fact and conclusions of law when setting child support payments. The law is clarified to require the court to enter written findings of fact whether the court sets support at an amount within the presumptive amount, within the advisory amount, or outside the presumptive or advisory amounts.

Spousal maintenance. Spousal maintenance actually received from an ex-spouse or ex-partner who is not a party to the action before the court is included in gross income. Spousal maintenance actually paid to an ex-spouse or ex-partner who is not a party to the action before the court is deducted from gross income.

Application of the parenting plan to modifications of custody orders in paternity cases. Provisions in chapter 26.09 RCW regarding modification of parenting plans also applies to orders regarding parenting plans issued under the Parentage act.

Posting of security when a temporary restraining order is issued. The court may waive the requirement to post security when the court issues a restraining order restraining a party from disposing of property pending final resolution of the divorce.

EFFECT OF SENATE AMENDMENT(S): Section 4, which provided distinguished motions for temporary orders for parenting plans from petitions for modifications and which elaborated on the petition procedure is stricken. Section 8, which clarified that spousal maintenance is only included in gross income if the maintenance is from a former spouse that is not a party and is excluded from gross income only when paid to a former spouse who is not a party, is stricken.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: The 15-day provision is not technical, but is substantive. Obligor should be allowed to be late by a few days in their child support payments, because the post office might not get the check to the obligee in time. The law should be changed regarding setting support for adopted kids.

Witnesses: Bob Hoyden, Parents Opposed to Punitive Support (opposes 15-day provision); and Susan Troka, citizen (wants other provisions added to affect support payments).

VOTE ON FINAL PASSAGE:

Yeas 95; Excused 3

Excused: Representatives Basich, Braddock, Wineberry