

SENATE BILL REPORT

SHB 2784

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 25, 1992

**Brief Description:** Changing provisions relating to child support.

**SPONSORS:** House Committee on Judiciary (originally sponsored by Representative Appelwick)

**HOUSE COMMITTEE ON JUDICIARY**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass as amended.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, M. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** February 25, 1992

**BACKGROUND:**

Last year, the Legislature enacted a statute requiring the Administrator for the Courts to develop mandatory forms for use in domestic relations cases. Questions have arisen about supplementary materials, and use of the mandatory forms.

Some decrees provide for automatic adjustments of support. If a party is required to enforce such a clause by court action, the law does not specify when the adjustment should take effect. Also, the modification statute uses terms referring to adjustments and modifications interchangeably although these are different proceedings.

Spousal maintenance is deductible from gross income by the payor and included in the payee's gross income for purposes of calculating child support. It has been suggested that this should not apply to maintenance orders between the parties before the court.

Other suggestions for technical and clarifying amendments include: 1) clarifying that courts must enter written findings of fact in all cases setting child support; 2) deleting an expired provision relating to when parties may bring a court action based on changes in the child support laws; 3) allowing the court to waive the filing of a bond or posting of security for temporary restraining orders, and 4) creating a summons and petition procedure for modification of a permanent parenting plan.

**SUMMARY:**

The Administrator for the Court must develop a mandatory form for financial affidavits for use commencing September 1, 1992. The administrator has ongoing responsibility to develop and revise forms, as well as to develop format rules. If a party does not use the mandatory forms, the court may require the party to submit a corrected pleading and impose terms. The administrator and court clerks are required to distribute the forms and may charge for the cost. Private vendors may also distribute the mandatory forms.

If an adjustment of support required by a decree must be enforced through a motion to compel compliance, the adjustment is effective as of the date provided in the decree that the adjustment was supposed to take effect. References to motions, petitions, modifications, and adjustments are corrected.

An expired provision regarding when parties may seek a modification due to changes in the child support schedule is deleted.

In all cases setting child support, the court is required to enter written findings of fact regardless of whether the court sets support at an amount within the presumptive amount, within the advisory amount, or outside the presumptive or advisory amounts.

For purposes of computing child support, spousal maintenance 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.

Modification of a permanent parenting plan or custody decree must be initiated by summons and petition. A hearing on the merits cannot be scheduled until the court has determined adequate cause exists for hearing the motion.

Provisions in Chapter 26.09 RCW regarding modification of parenting plans also apply to modification of parenting plans issued under the Parentage Act.

The court has discretion to waive the requirement to post security when the court issues a temporary restraining order preventing a party from disposing of property pending final resolution of a dissolution.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

Section 4, which provided a new procedure for modification of a permanent parenting plan or custody decree, is deleted. Section 8, which limits when spousal maintenance is included or deducted from income for purposes of calculating child support, is deleted.

**TESTIMONY FOR:**

The clerks support the bill but have concerns about the effect of the amendments on court fees and about sharing the responsibility for distributing forms with the Office of the Administrator for the Courts.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Robert Freudenstein, County Clerk; Betty J. Gould, County Clerk