

**FINAL BILL REPORT**

**E2SSB 5120**

**PARTIAL VETO**

**C 367 L 91**

**SYNOPSIS AS ENACTED**

**Brief Description:** Making adjustments to child support guidelines.

**SPONSORS:** Senate Committee on Ways & Means (originally sponsored by Senators Nelson, Rasmussen, Thorsness, Stratton, Saling, McCaslin, Hayner, Erwin, L. Smith, Newhouse, Amondson, Johnson, Bailey, Gaspard, Vognild, Matson, West, Owen, Bauer, Snyder, Roach and Oke).

**SENATE COMMITTEE ON LAW & JUSTICE**

**SENATE COMMITTEE ON WAYS & MEANS**

**HOUSE COMMITTEE ON JUDICIARY**

**BACKGROUND:**

When Washington adopted a statewide child support schedule in 1988, the Legislature provided that counties could vary the schedule up to 25 percent for incomes above \$2,500. Twenty-six counties have since adopted lower economic tables. The federal government has indicated this does not comply with its requirement that child support guidelines be uniformly applied throughout the state. The state could lose federal funding for public assistance programs if found in violation of federal requirements.

The Governor vetoed portions of 1990 legislation on child support relating to the definition of income and deductions, application of the schedule to combined incomes less than \$600 and more than \$5,000 per month, and payment of daycare and other expenses.

Venue for dissolution actions is in the superior court in the county in which the petitioner resides. No statute specifically establishes venue for actions to modify child support.

In 1989, the Legislature amended the procedures for mediation to provide that they do not apply to postdecree mediation proceedings. The Legislature may have intended only to provide that the confidentiality restrictions do not apply to postdecree mediation.

Support orders may provide for periodic adjustments of support but the basis for modifications is not specified. Also, the statutes are not clear as to the effective date of

modifications. It is suggested the Legislature should allow noncustodial parents called to active military duty in the war with Iraq to seek modification of support if their income was reduced.

Parenting plans may only be amended upon a showing of substantial change in circumstances of the child or nonmoving party. Less stringent standards for certain modifications have been suggested to provide some flexibility to parenting plans.

Each county superior court must have a "family court" to hear matters involving family law such as actions for divorce, custody, and support. Family court services must be requested in the petition. Because the services offered by family courts vary, the Washington State Bar Association Domestic Relations Task Force has recommended that family court services be implemented statewide.

The Office of Support Enforcement (OSE) is the designated agency to administer the child support enforcement program under the federal Social Security Act. OSE has proposed statutory changes to bring Washington's state plan into compliance with recent changes in federal law and improve program operations.

**SUMMARY:**

Legislative intent is revised to recognize that parties to a divorce may suffer a reduced standard of living as a result of a divorce.

A revised economic table from Clark County is adopted and the authority of superior courts to adopt a different table is eliminated. The table incorporates graduated reductions from the Child Support Commission table of up to 25 percent for combined monthly incomes above \$2,500. The table is advisory only for combined monthly incomes between \$5,000 and \$7,000.

Bonuses are included in income only if they are recurring. Nonrecurring bonuses, contract-related benefits, gifts and prizes, overtime, and income from a second job are excluded from income but may be a basis to deviate from the economic table. Income of a new spouse or cohabitant is also excluded from income but may only be a basis for deviation if deviation is requested on any other ground. A court may deviate if the child spends a significant amount of time with the parent paying support unless it would result in insufficient funds for the child's basic needs or the child is receiving aid to families with dependent children. The court may also deviate based on extraordinary debt that was not voluntarily incurred, a significant disparity in cost of living between parents, or special needs of children. The court must enter written findings of fact on all requests for deviation, whether granted or not.

Voluntary pension payments up to \$2,000 per year may be deducted from income if the payment was made for two tax years

prior to the earlier of the tax year in which the parties separated or in which the parties filed for dissolution.

Postsecondary educational support is an obligation of both parents. The school must be accredited, the child must make academic records available to both parents, and support is automatically suspended if the child fails to comply with the statutory conditions. The payments must be made to the institution if feasible, and otherwise to the child or the parent who has been receiving support payments. The maximum award for tuition is the amount a Washington resident pays at a state four-year university.

The parent paying support is entitled to proof of the amount paid for daycare, transportation, and other specified expenses. The parent receiving support is entitled to prompt reimbursement. Remedies available to parents include wage assignment, orders to compel payment, and orders to compel production of documents. If OSE seeks a wage assignment, documentation must first be obtained from both parents. The parent paying support has 30 days to provide documentation before OSE may proceed.

If a parent is voluntarily underemployed or unemployed, the court must impute income based on the parent's work history, education, health, age, and other relevant factors. A parent paying support may not be reduced below the need standard established by the Department of Social and Health Services, except for a minimum mandatory payment of \$25 per child per month. A parent's total child support obligation may not exceed 45 percent of net income except for good cause shown.

A dissolution proceeding may be brought in the county where either the petitioner or respondent resides. Proceedings to modify child support may be brought in the county where the children reside, the county in which the final order was entered, or the county where the person with custody resides.

Modifications are effective as of the date of filing the motion. Parents paying child support who were called to active military duty in the war with Iraq may bring a motion to modify support retroactively based on a reduction of income. Financial affidavits need not be filed in modification proceedings.

A motion to modify a parenting plan that arises out of the dispute resolution process or constitutes only a minor modification in the residential schedule can be brought upon a showing of a substantial change in the circumstances of either parent or the child.

Statutory mediation provisions are applicable to postdecree mediation required in a parenting plan, except that mediators may testify about the proceedings.

All cases that involve a family law issue are under the jurisdiction of the family court. Family courts may also offer reconciliation, mediation, investigation, and treatment

services. If such services are offered by a county, they may apply to the Office of the Administrator for the Courts for matching funds.

Wage assignments remain in effect for one year after an employee leaves employment. An employer who fails to withhold earnings as required by a wage assignment may be held liable.

Foreign support orders may be registered in Washington but only for purposes of modification and enforcement of the child support provisions. Modification of administrative child support orders is subject to the same statutory requirements as modification of court orders.

OSE may proceed against a parent's earnings which are located in or subject to the jurisdiction of the state of Washington, regardless of the actual residence of the parent. Support money collected by OSE must be distributed to satisfy a support debt owed to the custodian before paying the debt owed to the state if the custodian is no longer receiving public assistance.

Immediate income withholding may be avoided by a court finding of good cause or court approval of a written agreement for an alternative arrangement. OSE may seek payroll deduction against unemployment benefits.

When representing OSE, the Attorney General or prosecuting attorney represent the state and the best interests of children, not the parents. The Attorney General or prosecuting attorney may function as a child's guardian ad litem but parents must be notified of their right to request a different guardian.

An adjudicative hearing may be requested by a responsible parent up to one year after receiving a notice and finding of financial responsibility.

**VOTES ON FINAL PASSAGE:**

Senate	35	11	
House	67	27	(House amended)
Senate	36	10	(Senate concurred)

**EFFECTIVE:** September 1, 1991  
(Section 19, which provided for state matching funds for counties offering family court services, is null and void because this program was not funded in the budget.)

**Partial Veto Summary:** The veto retains the current law's statement of legislative intent. The provisions that change the definitions of income, exclusions, and deductions are all stricken. The grounds for deviation listed in the bill are also vetoed. The provisions on postsecondary educational support and reimbursement of daycare, transportation, and extraordinary expenses are stricken. The section listing factors to be considered by the court when imputing income is vetoed. The provisions specifying an

effective date of modifications and allowing retroactive modification for certain parents called to active military duty in the war with Iraq are vetoed. The section requiring periodic modifications to conform to the current child support statutes is stricken. The change in venue for dissolution proceedings is stricken. (See VETO MESSAGE)