

HOUSE BILL REPORT

ESB 5508

As Passed House - Amended
April 17, 1993

Title: An act relating to child dependency cases.

Brief Description: Modifying child support orders in dependency cases.

Sponsors: Senators Hargrove, Niemi, A. Smith, Nelson and Spanel.

Brief History:

Reported by House Committee on:
Judiciary, March 30, 1993, DPA;
Passed House - Amended, April 17, 1993, 96-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: When a court finds that a child is dependent and orders the child be placed into foster care, the court may, in the same or in a subsequent proceeding, set an amount the parent must pay to support the child while the child is in foster care.

Conflicting provisions exist governing the amount of support the court may order. One statute provides that the court may inquire into the parent's ability to pay support and may set the support amount on an equitable basis. Another statute provides that the determination of support must be based upon the child support schedule and standards adopted under a repealed statute in the chapter which governs child support for children of divorced and separated parents. In practice, the court often does not set support in the dependency proceeding. Instead, support is set in a separate administrative proceeding. Support is set according to the child support schedule and standards which apply to divorced and separated parents.

The child support schedule and standards establish presumptive amounts of support based upon the combined monthly net income of both parents. The court must impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court may set support at an amount different than the presumptive amount if the court finds that a reason for deviation exists for increasing or lowering a support obligation.

Reasons for deviation are set forth in statute. The list of reasons to deviate do not include costs incurred or anticipated to be incurred by parents in compliance with court-ordered reunification efforts under the dependency provisions or under a voluntary placement agreement with the Department of Social and Health Services. In addition, no express exemption from the imputation of income requirement exists if the parent is underemployed or unemployed due to reunification efforts.

Parents of children who may be placed in foster care may be unaware that child support may be ordered to support the child in foster care.

Summary of Bill: In an action under the dependency statutes, the court may inquire into the ability of the parent to pay child support and may enter a child support order according to the provisions governing child support which apply to the support of children of divorced or separated parents.

Those child support provisions are amended to provide: (1) income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts; and (2) the court may deviate from the presumptive support amount if the parent incurs or is expected to incur costs to comply with court-ordered reunification efforts.

A petition for dependency must contain a notice advising parents that they may have to pay child support while the child is in out-of-home care.

The statute which references a repealed statute in the chapter governing the child support schedule is repealed.

Fiscal Note: Available.

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

Testimony For: This compromise proposal should result in courts considering the impact that a parent's reunification efforts may have on the parent's ability to pay child support to the state.

Testimony Against: None.

Witnesses: Senator Hargrove, prime sponsor (pro); Paula Crane, Family Law Section, Washington State Bar Association (pro); Dinnen Cleary, Puget Sound Legal Assistance Foundation; and Sid Sidorowicz, Department of Social and Health Services (pro).