

HOUSE BILL REPORT

HB 2429

As Reported by House Committee On:
Juvenile Justice & Family Law

Title: An act relating to the adjustment of child support orders.

Brief Description: Changing provisions relating to the adjustment of child support orders.

Sponsors: Representatives O'Brien, Mielke, Darneille, Fromhold, Jarrett, Lovick, Pearson and Kagi.

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 1/28/04, 2/4/04 [DPS].

Brief Summary of Substitute Bill

- Changes the time period when a child support order may be adjusted from once every 24 months to once every 12 months.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Lovick and Upthegrove.

Minority Report: Do not pass. Signed by 3 members: Representatives Delvin, Ranking Minority Member; Carrell and Hinkle.

Staff: Sonja Hallum (786-7092).

Background:

Once a court order of child support has been entered, only the court can modify that order. A decree is modified when a party's rights are either extended beyond or reduced from those originally intended in the decree.

Traditionally, the only way to modify a support order was to prove that there was a "substantial change of circumstances." In Washington, the Legislature changed this traditional standard for obtaining a modification to allow for an alternative standard, or an adjustment, under certain circumstances. The appropriate standard depends on the nature and date of the previous order and the present circumstances of the parties.

Substantial Change in Circumstances

Under the current law, a person may petition the court to modify a child support order if there is a substantial change in circumstances. The test for whether there is a sufficient basis to change the order is whether there is a substantial change of circumstances that was unanticipated at the time of the prior order.

The rationale behind this "changed circumstances" requirement test is that once the provisions of the final order have been litigated and determined in the final decree that decision is final unless there is a material change in the circumstances of the parties.

In assessing whether there has been a substantial change of circumstances, the court will consider changes in the needs of the children and the economic circumstances of the parents. The most common basis for a modification is a change in income. Although a party's income may change, that change may be insufficient to warrant a modification. Whether the court determines the change is sufficient to warrant a modification of the order depends on the individual circumstances of the parties.

Adjustment

The support order may be changed for reasons other than the traditional requirement of a substantial change in circumstances. The order may be "adjusted" after two years without a showing of substantial change of circumstances based on changes to the parents' incomes or based on changes to the economic table or standards.

In this context, an adjustment is different than a modification. In addition to not requiring a showing of substantial change of circumstances, the relief available is different. A modification of the order may change virtually any of the terms of the order. An adjustment action is strictly financial. It will adjust support, the percentage of daycare, and medical expenses based on updated financial information.

Summary of Substitute Bill:

A child support order may be adjusted once every 12 months based on changes to the parents' incomes without a showing of substantially changed circumstances.

Substitute Bill Compared to Original Bill:

The time period when a child support order may be adjusted is changed from once every six months which is required in the original bill to once every 12 months.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 5, 2004.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support on original bill) In tough economic times when a lot of people are being laid off it seems reasonable to allow them to go to court to get support orders changed when their circumstances change.

Testimony Against: (Opposed on original bill) This will clog up the courts and DSHS with people coming in every six months. They can go to court if there is a substantial change in circumstance and, if they lose a job, that would be a substantial change of circumstance. The cost involved outweighs the benefit.

Persons Testifying: (In support) Representative O'Brien, prime sponsor.

(Opposed) Rick Bartholomew, Washington State Bar Association, Family Law Section.

Persons Signed In To Testify But Not Testifying: None.