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**SUBSTITUTE HOUSE BILL 2429**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives O'Brien, Mielke, Darneille, Fromhold, Jarrett, Lovick, Pearson and Kagi)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to the adjustment of child support orders; and  
2 amending RCW 26.09.170.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 26.09.170 and 2002 c 199 s 1 are each amended to read  
5 as follows:

6 (1) Except as otherwise provided in subsection (7) of RCW  
7 26.09.070, the provisions of any decree respecting maintenance or  
8 support may be modified: (a) Only as to installments accruing  
9 subsequent to the petition for modification or motion for adjustment  
10 except motions to compel court-ordered adjustments, which shall be  
11 effective as of the first date specified in the decree for implementing  
12 the adjustment; and, (b) except as otherwise provided in subsections  
13 (5), (6), (9), and (10) of this section, only upon a showing of a  
14 substantial change of circumstances. The provisions as to property  
15 disposition may not be revoked or modified, unless the court finds the  
16 existence of conditions that justify the reopening of a judgment under  
17 the laws of this state.

18 (2) Unless otherwise agreed in writing or expressly provided in the

1 decree the obligation to pay future maintenance is terminated upon the  
2 death of either party or the remarriage of the party receiving  
3 maintenance.

4 (3) Unless otherwise agreed in writing or expressly provided in the  
5 decree, provisions for the support of a child are terminated by  
6 emancipation of the child or by the death of the parent obligated to  
7 support the child.

8 (4) Unless expressly provided by an order of the superior court or  
9 a court of comparable jurisdiction, the support provisions of the order  
10 are terminated upon the marriage to each other of parties to a  
11 paternity order, or upon remarriage to each other of parties to a  
12 decree of dissolution. The remaining provisions of the order,  
13 including provisions establishing paternity, remain in effect.

14 (5) An order of child support may be modified one year or more  
15 after it has been entered without showing a substantial change of  
16 circumstances:

17 (a) If the order in practice works a severe economic hardship on  
18 either party or the child;

19 (b) If a party requests an adjustment in an order for child support  
20 which was based on guidelines which determined the amount of support  
21 according to the child's age, and the child is no longer in the age  
22 category on which the current support amount was based;

23 (c) If a child is still in high school, upon a finding that there  
24 is a need to extend support beyond the eighteenth birthday to complete  
25 high school; or

26 (d) To add an automatic adjustment of support provision consistent  
27 with RCW 26.09.100.

28 (6) An order or decree entered prior to June 7, 1984, may be  
29 modified without showing a substantial change of circumstances if the  
30 requested modification is to:

31 (a) Require health insurance coverage for a child named therein; or

32 (b) Modify an existing order for health insurance coverage.

33 (7) An obligor's voluntary unemployment or voluntary  
34 underemployment, by itself, is not a substantial change of  
35 circumstances.

36 (8) The department of social and health services may file an action  
37 to modify an order of child support if public assistance money is being  
38 paid to or for the benefit of the child and the child support order is

1 twenty-five percent or more below the appropriate child support amount  
2 set forth in the standard calculation as defined in RCW 26.19.011 and  
3 reasons for the deviation are not set forth in the findings of fact or  
4 order. The determination of twenty-five percent or more shall be based  
5 on the current income of the parties and the department shall not be  
6 required to show a substantial change of circumstances if the reasons  
7 for the deviations were not set forth in the findings of fact or order.

8 (9)(a) All child support decrees may be adjusted once every  
9 (~~twenty-four~~) twelve months based upon changes in the income of the  
10 parents without a showing of substantially changed circumstances.  
11 Either party may initiate the adjustment by filing a motion and child  
12 support worksheets.

13 (b) A party may petition for modification in cases of substantially  
14 changed circumstances under subsection (1) of this section at any time.  
15 However, if relief is granted under subsection (1) of this section,  
16 (~~twenty-four~~) twelve months must pass before a motion for an  
17 adjustment under (a) of this subsection may be filed.

18 (c) If, pursuant to (a) of this subsection or subsection (10) of  
19 this section, the court adjusts or modifies a child support obligation  
20 by more than thirty percent and the change would cause significant  
21 hardship, the court may implement the change in two equal increments,  
22 one at the time of the entry of the order and the second six months  
23 from the entry of the order. (~~Twenty-four~~) Twelve months must pass  
24 following the second change before a motion for an adjustment under (a)  
25 of this subsection may be filed.

26 (d) A parent who is receiving transfer payments who receives a wage  
27 or salary increase may not bring a modification action pursuant to  
28 subsection (1) of this section alleging that increase constitutes a  
29 substantial change of circumstances.

30 (e) The department of social and health services may file an action  
31 at any time to modify an order of child support in cases of  
32 substantially changed circumstances if public assistance money is being  
33 paid to or for the benefit of the child. The determination of the  
34 existence of substantially changed circumstances by the department that  
35 lead to the filing of an action to modify the order of child support is  
36 not binding upon the court.

37 (10) An order of child support may be adjusted (~~twenty-four~~)

1 twelve months from the date of the entry of the decree or the last  
2 adjustment or modification, whichever is later, based upon changes in  
3 the economic table or standards in chapter 26.19 RCW.

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