

# SENATE BILL REPORT

## SB 6640

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As of January 26, 2010

**Title:** An act relating to updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements.

**Brief Description:** Updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements.

**Sponsors:** Senators Hargrove and Stevens; by request of Department of Social and Health Services.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/22/10.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Shani Bauer (786-7468)

**Background:** The Division of Child Support (DCS) provides assistance in establishing, modifying, and collecting child support. DCS is required to provide services if a family is receiving assistance (Temporary Assistance to Needy Families) or if a party who is not receiving assistance applies for services. When services are being provided, DCS may enforce an order previously established by the court or establish an order administratively. If DCS is enforcing an order established by the court, the court retains jurisdiction to modify that support order.

Under current Washington law, a child support order may be modified:

- upon a showing of a substantial change in circumstances;
- without a change of circumstances if at least one year has passed since the order was entered and the order works a severe economic hardship on one of the parties, the child's age is no longer in the age category of the scale used to calculate the support order, the order needs to be extended beyond the child's 18th birthday because the child is still in high school, or to add an automatic adjustment to support provision;
- to require health insurance coverage for the child; or
- when 24 months have passed since the order was entered.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

DCS may file an action with the court to modify a support order if assistance is paid for the child and the order is 25 percent or more below the appropriate child support amount.

To be in compliance with federal law, DCS must review a support order and seek modification, if appropriate, if there is an assignment of support (because the child is receiving assistance), or a party to a support order being enforced by DCS requests a review.

**Summary of Bill:** DCS may file an action to modify or adjust an order of child support when public assistance is being paid for the child. The 25 percent threshold is removed. DCS may file an action to modify in a non-assistance case when services have been requested by another state or jurisdiction, or when services have been requested by a party to the order and DCS has determined that the case meets review criteria set out in rule. DCS has rulemaking authority to implement the provisions of this section consistent with federal law.

If testimony other than an affidavit is required in any modification proceeding, the court must permit a party or witness to testify by telephone or other electronic means unless good cause is shown.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill clarifies that the only time in a non-assistance case that DCS would seek review is upon the request of a party or another jurisdiction. DCS would not seek modifications on their own in these cases. Removal of the 25 percent threshold would allow the agency to be more responsive to a request from a parent when a modification is needed to reflect their ability to pay. In these difficult economic times, anything that provides a greater nexus between a change in circumstance and an adjustment in support is positive.

This bill will set telephonic hearings as the default in modification proceedings unless good cause is shown not to. People believe this is a very helpful and customer driven change. Travel to get to court is burdensome and the ability to appear by telephone will save people money.

OTHER: If the 25 percent threshold is removed, what criteria will DCS use to take on modification for non-assistance families? It is also unclear what the financial burden will be for the agency to take on these additional cases. We would prefer that the legislation be more clear.

**Persons Testifying:** PRO: David Stillman, Director, DCS-DSHS; Mark Mahnkey, WA Civil Rights Council; Pat Lessard, citizen.

OTHER: Lonnie Johns-Brown, National Organization for Women.