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## Judiciary Committee

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### HB 2279

**Title:** An act relating to implementing changes to child support based on the child support schedule work group report.

**Brief Description:** Implementing changes to child support based on the child support schedule work group report.

**Sponsors:** Representatives Moeller, Pettigrew, Blake, Hasegawa, Carlyle, Fitzgibbon, Dickerson and Ormsby.

#### Brief Summary of Bill

- Adopts a new economic table that does not differentiate amounts based on the children's ages.
- Requires an adjustment of the standard calculation based on "children not before the court" and shared residential schedules.
- Amends the postsecondary educational support statute to, among other things, require the court to consider any grants or scholarships awarded to the child.
- Clarifies the statute on self-support reserve.

**Hearing Date:** 1/16/12

**Staff:** Trudes Tango (786-7384).

#### **Background:**

##### Child Support Workgroup.

Every four years, the Division of Child Support (DCS) must convene a workgroup made up of non-legislative members appointed by the Governor and Legislators to review the state's child support laws. This process was established by the Legislature to comply with federal requirements that states conduct quadrennial reviews of their child support laws.

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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.*

The final report of the 2011 Child Support Workgroup contains recommendations regarding: (1) adopting a new economic table based on more current data developed by an economist at the request of the workgroup; (2) adjusting child support if the parents have children not before the court; (3) adjusting child support for parents with a shared residential schedule; (4) providing more guidance on postsecondary educational support; and (5) clarifying the statute on self-support reserve.

#### Establishing Child Support and the Economic Table.

Child support obligations are established through the court or an administrative process with the DCS. The amount of child support is determined using the statutory child support schedule, which includes the economic table and the child support worksheets developed by the Administrative Office of the Courts. First, the judge determines the combined monthly net income (CMNI) of the parents. Second, the judge uses the economic table to determine the basic support obligation (BSO) based on the CMNI, the number of children before the court, and the ages of the children. The table has different amounts, in each income bracket, for children under age 11 and children ages 12 to 18. Each parent's share of the BSO is determined by the parent's proportionate share of the CMNI. Next, the judge considers any medical support, day care, and other special expenses and adjusts the BSO, which results in a presumptive amount of child support called the "standard calculation." The judge then has discretion to consider reasons to deviate from the standard calculation.

#### Deviations for Children From Other Relationships and Shared Residential Time.

The judge may deviate from the standard calculation if the child spends a significant amount of time with the parent obligated to pay support, but not if a deviation results in insufficient funds to the receiving parent to meet the basic needs of the child or if the child is receiving Temporary Assistance for Needy Families (TANF). The court must consider the increased expenses to the parent making support payments as a result of the child spending significant time with that parent and the decreased expenses, if any, to the parent receiving child support payments.

The judge may also deviate from the standard calculation when either or both parents have children from other relationships to whom the parent owes support. Deviations for children from other relationships must be based on consideration of the total circumstances of both households. Judges have used what is called the "whole family formula" to determine the amount of deviation, but the statute does not require a particular formula.

#### Postsecondary Educational Support.

The child support statutes are advisory, not mandatory for postsecondary educational support (PSE). The judge has discretion regarding whether and for how long to award PSE support based on statutory factors. The child must enroll in an accredited school, be actively pursuing a course of study, and be in good academic standing. The PSE support must be automatically suspended during periods the child is not in compliance with those conditions. The judge may not order PSE support beyond the child's 23rd birthday, unless there are exceptional circumstances. The judge must direct PSE support payments to be made to the school if feasible, then to child (if not residing with either parent), then to the child or parent (if the child is residing with a parent).

#### Limitations on the amount of child support ordered.

When a parent's monthly net income is below 125 percent of the federal poverty guideline, a support order of not less than \$50 per child per month must be ordered unless the parent shows it would be unjust.

The basic support obligation of the parent making the payment, excluding health care, day care, and special expenses, may not reduce the parent's net income below the self-support reserve of 125 percent of the federal poverty level, except for the presumptive minimum \$50 per child amount or when it would be unjust to apply the self-support reserve amount.

The references to 125 percent of the federal poverty guideline in the statute does not specify whether it is for a one-person family or more.

### **Summary of Bill:**

#### Economic Table.

The economic table developed for the workgroup is adopted. The table does not differentiate amounts based on the children's ages.

#### Children Not Before the Court.

The term "children from other relationships" is changed to "children not before the court." Instead of a deviation, children not before the court (CNBC) is a basis for an adjustment of the standard calculation. The court must adjust the standard calculation when the obligor has CNBC. The court must use the "whole family formula" set forth in statute. Stepchildren are not considered CNBC but may be a reason for a deviation.

Adjustments for CNBC must be made based on considerations of the total circumstances of both households, including the children of the parents who do not live in the household of the parents. The court may not apply an adjustment based on CNBC if: (1) the adjustment would result in insufficient funds to meet the basic needs of the children in the receiving household and, considering the totality of the circumstances, applying the adjustment would be unjust; (2) the obligee's net income before receiving support is at or below 125 percent of the federal poverty level guidelines for the obligee's household size, including children before the court and CNBC; or (3) the obligor parent has not actually paid the support owed for the CNBC unless there is reasonable justification for the nonpayment.

#### Shared Residential Time.

The amount of time spent with the obligor parent is no longer a reason for deviation from the standard calculation. Instead, the court must make an adjustment to the standard calculation for a shared residential schedule. There must be a court order or findings from an administrative law judge regarding the number of overnights and the number of overnights must be equivalent to at least 14% of annual overnights. The adjustment must be based on a new table codified in statute and the formula set forth in the worksheet for calculating residential credit. The AOC must create the worksheet for calculating residential credit consistent with the intent of the workgroup.

An adjustment may not be made if: (1) it would result in insufficient funds to the receiving household to meet the basic needs of the child; (2) the obligee's net income before receiving support is at or below 125 percent of the federal poverty guidelines for one person; or (3) the child is receiving TANF.

To assist parties in estimating residential credit, the DCS must, if feasible and within available resources, create a residential credit calculator available online.

Postsecondary Educational Support.

Before determining the parents' obligations for PSE support, the judge must consider all grants and scholarships awarded to the child, including work-study if an actual work-study position is available, and subtract those amounts from the total cost of PSE support to determine the unmet need for PSE support. If a parent saved separately for PSE support and paid those amounts directly to the school or the child, those amounts should be considered part of the parent's share of PSE support.

The child must be enrolled full time, as defined by the school. Unless the support order provides otherwise, a parent may suspend PSE support if the child fails to comply with the conditions of PSE support. Suspension of PSE support remains in effect until the child can prove compliance. A parent or child may file a motion in court if there is a dispute regarding compliance, unless the order establishing PSE support provides otherwise. When the child is living with a parent, a change in the child's living situation is a basis to change the terms of the PSE support payment to the other parent. If the child is no longer living with either parent, both parents must make payments to the school, if feasible, or the child.

Limitations.

References to 125 percent of the federal poverty guideline in the statute establishing limitations is clarified to refer to 125 percent of the federal poverty guideline for a one person family.

**Appropriation:** None.

**Fiscal Note:** Requested on January 11, 2012.

**Effective Date:** The bill takes effect on October 1, 2012.