

HOUSE BILL REPORT

HB 1027

As Reported by House Committee On:
Judiciary

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 and Appleton.

Brief History:

Committee Activity:

Judiciary: 1/17/13, 1/30/13 [DPS].

Brief Summary of Substitute Bill

- Adopts a new child support 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."
- 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 self-support reserve limitation on the amount of child support ordered.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall and Roberts.

Staff: Edie Adams (786-7180).

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.

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.

The final report of the 2011 Child Support Workgroup (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 up to 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 adjustments to the BSO, such as medical support, day care, and other special expenses, 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.

The judge may 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 for postsecondary educational (PSE) support. 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 twenty-third birthday, unless there are exceptional circumstances. The judge must direct PSE support payments to be made to the school if feasible, then to the child (if not residing with either parent), then to the child or parent (if the child is residing with a parent).

Low Income Limitations.

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 BSO of the parent making the transfer 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 do not specify whether it is for a one-person family or more.

Summary of Substitute 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.

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.

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 is in compliance. Either parent 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.

Low Income Limitations.

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

Substitute Bill Compared to Original Bill:

The original bill provided that if a parent suspended payments for postsecondary educational support due to a child's noncompliance with conditions for receiving that support, the child could file a motion with the court to seek resolution of a dispute concerning the child's noncompliance.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on October 1, 2013.

Staff Summary of Public Testimony:

(In support) The Workgroup worked extremely hard to reach consensus on changes that will create a more equitable child support schedule. The economic table is simpler and based on more recent data. The current table goes back 30 years and no one seems to know the source of that data. The formula for addressing CNBC is fair. The whole family formula provides parents and judges a standardized tool and creates a simpler process. The bill provides clarification for the self-support reserve amount and more guidance regarding PSE support awards.

Incremental changes in this area are important. There are additional issues that should be addressed in future reviews, including establishing a formula-based residential credit and increasing the income ceiling in the economic table.

(Neutral) The Workgroup should be commended for its hard work in reaching consensus on all of the items in this legislation. The delayed effective date in the bill is helpful for the Department of Social and Health Services (DSHS). There will be some implementation costs, but the DSHS will work to implement the bill within our existing workload.

(Changes) The court should have discretion in granting an adjustment for CNBC so that the court can look fully at both households in making a determination of what is appropriate. The provision allowing children to sue their parents if there is a dispute about PSE support is not good public policy.

(Opposed) None.

Persons Testifying: (In support) Representative Moeller, prime sponsor; Rick Bartholomew, Washington State Bar Association; and David Ward, Legal Voice.

(Neutral) Wally McClure and Nancy Koptur, Department of Social and Health Services.

(Changes) Kathryn Nelson, Superior Court Judges Association

Persons Signed In To Testify But Not Testifying: None.