

# SENATE BILL REPORT

## 2SHB 1037

---

As of February 22, 2016

**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:** House Committee on Appropriations (originally sponsored by Representatives Moeller, Ormsby and Kilduff).

**Brief History:** Passed House: 3/06/15, 97-1; 6/11/15, 88-1; 2/16/16, 92-5.

**Committee Activity:** Law & Justice: 3/30/15, 3/31/15 [DP]; 6/25/15 [DP]; 2/23/16.

### Brief Summary of Second Substitute Bill

- Adopts a new child support economic table that does not differentiate amounts based on the children's ages.
- Establishes an adjustment of the standard child support calculation on the basis of children not before the court.
- Amends the postsecondary educational support statute regarding standards for establishing and suspending the support amount and terms of the support payment.
- Clarifies the self-support reserve limitation on the amount of child support ordered.

---

### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Tim Ford (786-7423)

**Background:** Child Support Workgroup. Every four years, the Division of Child Support must convene a workgroup 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.

---

*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.*

2011 Child Support Workgroup Report. 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 Obligation. Child support obligations are established through the court or with an administrative law judge. 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 combined monthly net income (CMNI) of the parents is determined. Second, the economic table is used 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. Adjustments may be made to the BSO, for factors such as medical support, daycare, and other special expenses, which results in a presumptive amount of child support called the standard calculation.

Deviations from the Standard Calculation. A judge has discretion to 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. All support obligations paid, received, and owed for all children must be disclosed and considered. 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. The child support schedule includes low-income limitations that apply when a parent's net income is below, or would fall below, 125 percent of the federal poverty guideline. The references to 125 percent of the federal poverty guideline do not specify whether they are for a one-person family or more.

2015 Child Support Workgroup. The 2015 Child Support Schedule Workgroup reviewed the Report of the 2011 Workgroup as well as House Bill 1037 introduced in the 2015 session to implement the 2011 Workgroup recommendations. The 2015 Workgroup members identified

the one issue they wanted to concentrate on: a residential schedule deviation based on the time that the children spend with the paying parent. The 2015 Workgroup report makes seven recommendations, all related to the residential schedule deviation.

The final report of the 2015 Workgroup did endorse two recommendations of the 2011 Workgroup:

- The revised Economic Table should be adopted.
- The language regarding the Self-Support Reserve should be clarified to say that, no matter how many people resided in each household, the Self-Support Reserve is based on 125 percent of the Federal Poverty Level for a one-person household.

**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 (CNBC). The term "children from other relationships" is changed to "children not before the court." Instead of a deviation, CNBC is a basis for an adjustment of the standard calculation. The court may adjust the standard calculation when the obligor has CNBC. The court must use the "whole family formula" set forth in statute to make an adjustment. 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, and the suspension 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 support order 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 are clarified to refer to 125 percent of the federal poverty guideline for a one-person family.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill takes effect on October 1, 2016.

**Staff Summary of Public Testimony:** Testimony From 2015 Regular Session on First Substitute House Bill. PRO: This is the statute of broken dreams and promises. Forcing parents into financial hardship is not in the best interest of the child. The language in this bill was done by consensus of the workgroup. The workgroup was very diverse. Its recommendations will provide good guidance for judges. No one really knows the source of the data for the statutory economic table that was adopted 30 years ago. The economic table will be updated which affects hundreds of thousands of children in the state. The 2015 workgroup is waiting to see if the Legislature will adopt its recommendations so it may work on other issues.

**Persons Testifying:** Persons Testifying From 2015 Regular Session on First Substitute House Bill. PRO: Representative Moeller, prime sponsor; Judge Steve Warning, Superior Court Judges Assn.; David Ward, Legal Voice; Wally McClure, Dept. of Social and Health Services, Child Support Division.

**Persons Signed In To Testify But Not Testifying:** No one.