
HOUSE BILL 1906

State of Washington

64th Legislature

2015 Regular Session

By Representative Klippert

Read first time 02/02/15. Referred to Committee on Judiciary.

1 AN ACT Relating to prohibiting mandatory child support for
2 postsecondary education of adult children; amending RCW 26.09.170,
3 26.09.225, 26.19.035, and 26.19.075; adding a new section to chapter
4 26.09 RCW; creating a new section; and repealing RCW 26.19.090.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes the need
7 and value of postsecondary educational support for children of both
8 married and divorced families. The legislature encourages all parents
9 to assist their children, both financially and emotionally, with
10 their postsecondary education. The legislature declares that the
11 determination of a child's best interest with regard to postsecondary
12 educational support shall be the sole and exclusive prerogative of
13 that child's parents and, further, that it is the inalienable right
14 of parents to structure the kind, amount, and timing of such support,
15 based upon the parents' singular and superior knowledge of their
16 child's individuality, in a way that maximizes the child's individual
17 potential. The legislature hereby expressly disapproves of the ruling
18 in *Childers v. Childers*, 89 Wn.2d 592 (1978), and cases that have
19 followed the ruling in *Childers v. Childers*, as contrary to sound
20 public policy with regard to postsecondary educational support.

1 (2) Therefore, the legislature finds that ordering divorced
2 parents to financially assist toward postsecondary education is
3 unduly burdensome and infringes on the right of the divorced parent
4 to choose the level of assistance they would otherwise provide if
5 they remained married.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.09
7 RCW to read as follows:

8 A court may not order either or both parents to pay support for
9 postsecondary education of a child over eighteen years of age.

10 **Sec. 3.** RCW 26.09.170 and 2010 c 279 s 1 are each amended to
11 read as follows:

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

23 (2) Unless otherwise agreed in writing or expressly provided in
24 the decree the obligation to pay future maintenance is terminated
25 upon the death of either party or the remarriage of the party
26 receiving maintenance or registration of a new domestic partnership
27 of the party receiving maintenance.

28 (3) Unless otherwise agreed in writing or expressly provided in
29 the decree, provisions for the support of a child are terminated by
30 emancipation of the child or by the death of the parent obligated to
31 support the child.

32 (4) Unless expressly provided by an order of the superior court
33 or a court of comparable jurisdiction, provisions for the support of
34 a child are terminated upon the marriage or registration of a
35 domestic partnership to each other of parties to a paternity order,
36 or upon the remarriage or registration of a domestic partnership to
37 each other of parties to a decree of dissolution. The remaining

1 provisions of the order, including provisions establishing paternity,
2 remain in effect.

3 (5)(a) A party to an order of child support may petition for a
4 modification based upon a showing of substantially changed
5 circumstances at any time.

6 (b) An obligor's voluntary unemployment or voluntary
7 underemployment, by itself, is not a substantial change of
8 circumstances.

9 (6) An order of child support may be modified one year or more
10 after it has been entered without a showing of substantially changed
11 circumstances:

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

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

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

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

23 (7)(a) If twenty-four months have passed from the date of the
24 entry of the order or the last adjustment or modification, whichever
25 is later, the order may be adjusted without a showing of
26 substantially changed circumstances based upon:

27 (i) Changes in the income of the parents; or

28 (ii) Changes in the economic table or standards in chapter 26.19
29 RCW.

30 (b) Either party may initiate the adjustment by filing a motion
31 and child support worksheets.

32 (c) If the court adjusts or modifies a child support obligation
33 pursuant to this subsection by more than thirty percent and the
34 change would cause significant hardship, the court may implement the
35 change in two equal increments, one at the time of the entry of the
36 order and the second six months from the entry of the order. Twenty-
37 four months must pass following the second change before a motion for
38 another adjustment under this subsection may be filed.

39 (8)(a) The department of social and health services may file an
40 action to modify or adjust an order of child support if public

1 assistance money is being paid to or for the benefit of the child and
2 the child support order is at least twenty-five percent above or
3 below the appropriate child support amount set forth in the standard
4 calculation as defined in RCW 26.19.011 and reasons for the deviation
5 are not set forth in the findings of fact or order.

6 (b) The department of social and health services may file an
7 action to modify or adjust an order of child support in a
8 nonassistance case if:

9 (i) The child support order is at least twenty-five percent above
10 or below the appropriate child support amount set forth in the
11 standard calculation as defined in RCW 26.19.011;

12 (ii) The department has determined the case meets the
13 department's review criteria; and

14 (iii) A party to the order or another state or jurisdiction has
15 requested a review.

16 (c) The determination of twenty-five percent or more shall be
17 based on the current income of the parties and the department shall
18 not be required to show a substantial change of circumstances if the
19 reasons for the deviations were not set forth in the findings of fact
20 or order.

21 (9) The department of social and health services may file an
22 action to modify or adjust an order of child support under
23 subsections (5) through (7) of this section if:

24 (a) Public assistance money is being paid to or for the benefit
25 of the child;

26 (b) A party to the order in a nonassistance case has requested a
27 review; or

28 (c) Another state or jurisdiction has requested a modification of
29 the order.

30 (10) If testimony other than affidavit is required in any
31 proceeding under this section, a court of this state shall permit a
32 party or witness to be deposed or to testify under penalty of perjury
33 by telephone, audiovisual means, or other electronic means, unless
34 good cause is shown.

35 (11) After the effective date of this section, a party may
36 petition for modification of an existing order to pay postsecondary
37 child support ordered under RCW 26.19.090 without showing a
38 substantial change of circumstances.

1 **Sec. 4.** RCW 26.09.225 and 1991 sp.s. c 28 s 3 are each amended
2 to read as follows:

3 (1) Each parent shall have full and equal access to the education
4 and health care records of the child absent a court order to the
5 contrary. Neither parent may veto the access requested by the other
6 parent.

7 (2) Educational records are limited to academic, attendance, and
8 disciplinary records of public and private schools in all grades
9 kindergarten through twelve and any form of alternative school for
10 all periods for which child support is paid or the child is the
11 dependent in fact of the parent requesting access to the records.

12 (3) Educational records of postsecondary educational institutions
13 are limited to enrollment and academic records necessary to
14 determine, establish, or continue support ordered pursuant to RCW
15 26.19.090 before the effective date of this section.

16 **Sec. 5.** RCW 26.19.035 and 2005 c 282 s 36 are each amended to
17 read as follows:

18 (1) **Application of the child support schedule.** The child support
19 schedule shall be applied:

20 (a) In each county of the state;

21 (b) In judicial and administrative proceedings under this title
22 or Title 13 or 74 RCW;

23 (c) In all proceedings in which child support is determined or
24 modified;

25 (d) In setting temporary and permanent support;

26 (e) In automatic modification provisions or decrees entered
27 pursuant to RCW 26.09.100; and

28 (f)(i) In addition to proceedings in which child support is
29 determined for minors, to adult children who are dependent on their
30 parents and for whom support is ordered pursuant to RCW 26.09.100.

31 (ii) A court may not order either or both parents to pay support
32 for postsecondary education of a child over eighteen years of age.

33 (iii) The provisions of this chapter for determining child
34 support and reasons for deviation from the standard calculation shall
35 be applied in the same manner by the court, presiding officers, and
36 reviewing officers.

37 (iv) The child support schedule may not be utilized to order
38 postsecondary educational support of a child.

1 (2) **Written findings of fact supported by the evidence.** An order
2 for child support shall be supported by written findings of fact upon
3 which the support determination is based and shall include reasons
4 for any deviation from the standard calculation and reasons for
5 denial of a party's request for deviation from the standard
6 calculation. The court shall enter written findings of fact in all
7 cases whether or not the court: (a) Sets the support at the
8 presumptive amount, for combined monthly net incomes below five
9 thousand dollars; (b) sets the support at an advisory amount, for
10 combined monthly net incomes between five thousand and seven thousand
11 dollars; or (c) deviates from the presumptive or advisory amounts.

12 (3) **Completion of worksheets.** Worksheets in the form developed by
13 the administrative office of the courts shall be completed under
14 penalty of perjury and filed in every proceeding in which child
15 support is determined. The court shall not accept incomplete
16 worksheets or worksheets that vary from the worksheets developed by
17 the administrative office of the courts.

18 (4) **Court review of the worksheets and order.** The court shall
19 review the worksheets and the order setting support for the adequacy
20 of the reasons set forth for any deviation or denial of any request
21 for deviation and for the adequacy of the amount of support ordered.
22 Each order shall state the amount of child support calculated using
23 the standard calculation and the amount of child support actually
24 ordered. Worksheets shall be attached to the decree or order or if
25 filed separately shall be initialed or signed by the judge and filed
26 with the order.

27 **Sec. 6.** RCW 26.19.075 and 2009 c 84 s 4 are each amended to read
28 as follows:

29 (1) Reasons for deviation from the standard calculation include
30 but are not limited to the following:

31 (a) **Sources of income and tax planning.** The court may deviate
32 from the standard calculation after consideration of the following:

33 (i) Income of a new spouse or new domestic partner if the parent
34 who is married to the new spouse or in a partnership with a new
35 domestic partner is asking for a deviation based on any other reason.
36 Income of a new spouse or new domestic partner is not, by itself, a
37 sufficient reason for deviation;

38 (ii) Income of other adults in the household if the parent who is
39 living with the other adult is asking for a deviation based on any

1 other reason. Income of the other adults in the household is not, by
2 itself, a sufficient reason for deviation;

3 (iii) Child support actually received from other relationships;

4 (iv) Gifts;

5 (v) Prizes;

6 (vi) Possession of wealth, including but not limited to savings,
7 investments, real estate holdings and business interests, vehicles,
8 boats, pensions, bank accounts, insurance plans, or other assets;

9 (vii) Extraordinary income of a child;

10 (viii) Tax planning considerations. A deviation for tax planning
11 may be granted only if the child would not receive a lesser economic
12 benefit due to the tax planning; or

13 (ix) Income that has been excluded under RCW 26.19.071(4)((~~h~~))
14 (i) if the person earning that income asks for a deviation for any
15 other reason.

16 (b) **Nonrecurring income.** The court may deviate from the standard
17 calculation based on a finding that a particular source of income
18 included in the calculation of the basic support obligation is not a
19 recurring source of income. Depending on the circumstances,
20 nonrecurring income may include overtime, contract-related benefits,
21 bonuses, or income from second jobs. Deviations for nonrecurring
22 income shall be based on a review of the nonrecurring income received
23 in the previous two calendar years.

24 (c) **Debt and high expenses.** The court may deviate from the
25 standard calculation after consideration of the following expenses:

26 (i) Extraordinary debt not voluntarily incurred;

27 (ii) A significant disparity in the living costs of the parents
28 due to conditions beyond their control;

29 (iii) Special needs of disabled children;

30 (iv) Special medical, educational, or psychological needs of the
31 children. Special educational needs may not be construed to include
32 postsecondary education of a child; or

33 (v) Costs incurred or anticipated to be incurred by the parents
34 in compliance with court-ordered reunification efforts under chapter
35 13.34 RCW or under a voluntary placement agreement with an agency
36 supervising the child.

37 (d) **Residential schedule.** The court may deviate from the standard
38 calculation if the child spends a significant amount of time with the
39 parent who is obligated to make a support transfer payment. The court
40 may not deviate on that basis if the deviation will result in

1 insufficient funds in the household receiving the support to meet the
2 basic needs of the child or if the child is receiving temporary
3 assistance for needy families. When determining the amount of the
4 deviation, the court shall consider evidence concerning the increased
5 expenses to a parent making support transfer payments resulting from
6 the significant amount of time spent with that parent and shall
7 consider the decreased expenses, if any, to the party receiving the
8 support resulting from the significant amount of time the child
9 spends with the parent making the support transfer payment.

10 (e) **Children from other relationships.** The court may deviate from
11 the standard calculation when either or both of the parents before
12 the court have children from other relationships to whom the parent
13 owes a duty of support.

14 (i) The child support schedule shall be applied to the mother,
15 father, and children of the family before the court to determine the
16 presumptive amount of support.

17 (ii) Children from other relationships shall not be counted in
18 the number of children for purposes of determining the basic support
19 obligation and the standard calculation.

20 (iii) When considering a deviation from the standard calculation
21 for children from other relationships, the court may consider only
22 other children to whom the parent owes a duty of support. The court
23 may consider court-ordered payments of child support for children
24 from other relationships only to the extent that the support is
25 actually paid.

26 (iv) When the court has determined that either or both parents
27 have children from other relationships, deviations under this section
28 shall be based on consideration of the total circumstances of both
29 households. All child support obligations paid, received, and owed
30 for all children shall be disclosed and considered.

31 (2) All income and resources of the parties before the court, new
32 spouses or new domestic partners, and other adults in the households
33 shall be disclosed and considered as provided in this section. The
34 presumptive amount of support shall be determined according to the
35 child support schedule. Unless specific reasons for deviation are set
36 forth in the written findings of fact and are supported by the
37 evidence, the court shall order each parent to pay the amount of
38 support determined by using the standard calculation.

39 (3) The court shall enter findings that specify reasons for any
40 deviation or any denial of a party's request for any deviation from

1 the standard calculation made by the court. The court shall not
2 consider reasons for deviation until the court determines the
3 standard calculation for each parent.

4 (4) When reasons exist for deviation, the court shall exercise
5 discretion in considering the extent to which the factors would
6 affect the support obligation.

7 (5) Agreement of the parties is not by itself adequate reason for
8 any deviations from the standard calculation.

9 NEW SECTION. **Sec. 7.** RCW 26.19.090 (Standards for postsecondary
10 educational support awards) and 1991 sp.s. c 28 s 7 & 1990 1st ex.s.
11 c 2 s 9 are each repealed.

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