

SHB 2302 - S COMM AMD

By Committee on Law & Justice

OUT OF ORDER 03/06/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 26.19.011 and 2005 c 282 s 35 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Basic child support obligation" means the monthly child
8 support obligation determined from the economic table based on the
9 parties' combined monthly net income and the number of children for
10 whom support is owed.

11 (2) "Child support schedule" means the standards, economic table,
12 worksheets, and instructions, as defined in this chapter.

13 (3) "Court" means a superior court judge, court commissioner, and
14 presiding and reviewing officers who administratively determine or
15 enforce child support orders.

16 (4) "Deviation" means a child support amount that differs from
17 the standard calculation.

18 (5) "Economic table" means the child support table for the basic
19 support obligation provided in RCW 26.19.020.

20 (6) "Full-time" means the customary number of maximum,
21 nonovertime hours worked in an individual's historical occupation,
22 industry, and labor market. "Full-time" does not necessarily mean
23 forty hours per week.

24 (7) "Instructions" means the instructions developed by the
25 administrative office of the courts pursuant to RCW 26.19.050 for use
26 in completing the worksheets.

27 ~~((7))~~ (8) "Standards" means the standards for determination of
28 child support as provided in this chapter.

29 ~~((8))~~ (9) "Standard calculation" means the presumptive amount
30 of child support owed as determined from the child support schedule
31 before the court considers any reasons for deviation.

1 (~~(9)~~) (10) "Support transfer payment" means the amount of money
2 the court orders one parent to pay to another parent or custodian for
3 child support after determination of the standard calculation and
4 deviations. If certain expenses or credits are expected to fluctuate
5 and the order states a formula or percentage to determine the
6 additional amount or credit on an ongoing basis, the term "support
7 transfer payment" does not mean the additional amount or credit.

8 (~~(10)~~) (11) "Worksheets" means the forms developed by the
9 administrative office of the courts pursuant to RCW 26.19.050 for use
10 in determining the amount of child support.

11 **Sec. 2.** RCW 26.19.071 and 2011 1st sp.s. c 36 s 14 are each
12 amended to read as follows:

13 (1) **Consideration of all income.** All income and resources of each
14 parent's household shall be disclosed and considered by the court
15 when the court determines the child support obligation of each
16 parent. Only the income of the parents of the children whose support
17 is at issue shall be calculated for purposes of calculating the basic
18 support obligation. Income and resources of any other person shall
19 not be included in calculating the basic support obligation.

20 (2) **Verification of income.** Tax returns for the preceding two
21 years and current paystubs shall be provided to verify income and
22 deductions. Other sufficient verification shall be required for
23 income and deductions which do not appear on tax returns or paystubs.

24 (3) **Income sources included in gross monthly income.** Except as
25 specifically excluded in subsection (4) of this section, monthly
26 gross income shall include income from any source, including:

- 27 (a) Salaries;
- 28 (b) Wages;
- 29 (c) Commissions;
- 30 (d) Deferred compensation;
- 31 (e) Overtime, except as excluded for income in subsection (4)(i)
- 32 of this section;
- 33 (f) Contract-related benefits;
- 34 (g) Income from second jobs, except as excluded for income in
- 35 subsection (4)(i) of this section;
- 36 (h) Dividends;
- 37 (i) Interest;
- 38 (j) Trust income;
- 39 (k) Severance pay;

- 1 (l) Annuities;
- 2 (m) Capital gains;
- 3 (n) Pension retirement benefits;
- 4 (o) Workers' compensation;
- 5 (p) Unemployment benefits;
- 6 (q) Maintenance actually received;
- 7 (r) Bonuses;
- 8 (s) Social security benefits;
- 9 (t) Disability insurance benefits; and
- 10 (u) Income from self-employment, rent, royalties, contracts,
- 11 proprietorship of a business, or joint ownership of a partnership or
- 12 closely held corporation.

13 (4) **Income sources excluded from gross monthly income.** The
14 following income and resources shall be disclosed but shall not be
15 included in gross income:

- 16 (a) Income of a new spouse or new domestic partner or income of
- 17 other adults in the household;
- 18 (b) Child support received from other relationships;
- 19 (c) Gifts and prizes;
- 20 (d) Temporary assistance for needy families;
- 21 (e) Supplemental security income;
- 22 (f) Aged, blind, or disabled assistance benefits;
- 23 (g) Pregnant women assistance benefits;
- 24 (h) Food stamps; and
- 25 (i) Overtime or income from second jobs beyond forty hours per
- 26 week averaged over a twelve-month period worked to provide for a
- 27 current family's needs, to retire past relationship debts, or to
- 28 retire child support debt, when the court finds the income will cease
- 29 when the party has paid off his or her debts.

30 Receipt of income and resources from temporary assistance for
31 needy families, supplemental security income, aged, blind, or
32 disabled assistance benefits, and food stamps shall not be a reason
33 to deviate from the standard calculation.

34 (5) **Determination of net income.** The following expenses shall be
35 disclosed and deducted from gross monthly income to calculate net
36 monthly income:

- 37 (a) Federal and state income taxes;
- 38 (b) Federal insurance contributions act deductions;
- 39 (c) Mandatory pension plan payments;
- 40 (d) Mandatory union or professional dues;

1 (e) State industrial insurance premiums;

2 (f) Court-ordered maintenance to the extent actually paid;

3 (g) Up to five thousand dollars per year in voluntary retirement
4 contributions actually made if the contributions show a pattern of
5 contributions during the one-year period preceding the action
6 establishing the child support order unless there is a determination
7 that the contributions were made for the purpose of reducing child
8 support; and

9 (h) Normal business expenses and self-employment taxes for self-
10 employed persons. Justification shall be required for any business
11 expense deduction about which there is disagreement.

12 Items deducted from gross income under this subsection shall not
13 be a reason to deviate from the standard calculation.

14 (6) **Imputation of income.** The court shall impute income to a
15 parent when the parent is voluntarily unemployed or voluntarily
16 underemployed. The court shall determine whether the parent is
17 voluntarily underemployed or voluntarily unemployed based upon that
18 parent's (~~work history, education,~~) assets, residence, employment
19 and earnings history, job skills, educational attainment, literacy,
20 health, (~~and~~) age, criminal record, dependency court obligations,
21 and other employment barriers, record of seeking work, the local job
22 market, the availability of employers willing to hire the parent, the
23 prevailing earnings level in the local community, or any other
24 relevant factors. A court shall not impute income to a parent who is
25 gainfully employed on a full-time basis, unless the court finds that
26 the parent is voluntarily underemployed and finds that the parent is
27 purposely underemployed to reduce the parent's child support
28 obligation. Income shall not be imputed for an unemployable parent.
29 Income shall not be imputed to a parent to the extent the parent is
30 unemployed or significantly underemployed due to the parent's efforts
31 to comply with court-ordered reunification efforts under chapter
32 13.34 RCW or under a voluntary placement agreement with an agency
33 supervising the child. (~~In~~)

34 (a) Except as provided in (b) of this subsection, in the absence
35 of records of a parent's actual earnings, the court shall impute a
36 parent's income in the following order of priority:

37 (~~(a)~~) (i) Full-time earnings at the current rate of pay;

38 (~~(b)~~) (ii) Full-time earnings at the historical rate of pay
39 based on reliable information, such as employment security department
40 data;

1 ~~((e))~~ (iii) Full-time earnings at a past rate of pay where
2 information is incomplete or sporadic;

3 ~~((d))~~ (iv) Earnings of thirty-two hours per week at minimum
4 wage in the jurisdiction where the parent resides if the parent is on
5 or recently coming off temporary assistance for needy families or
6 recently coming off aged, blind, or disabled assistance benefits,
7 pregnant women assistance benefits, essential needs and housing
8 support, supplemental security income, or disability, has recently
9 been released from incarceration, or is a recent high school
10 graduate. Imputation of earnings at thirty-two hours per week under
11 this subsection is a rebuttable presumption;

12 (v) Full-time earnings at minimum wage in the jurisdiction where
13 the parent resides if the parent has a recent history of minimum wage
14 earnings, (~~is recently coming off public assistance, aged, blind, or~~
15 ~~disabled assistance benefits, pregnant women assistance benefits,~~
16 ~~essential needs and housing support, supplemental security income, or~~
17 ~~disability, has recently been released from incarceration, or is a~~
18 ~~high school student~~) has never been employed and has no earnings
19 history, or has no significant earnings history;

20 ~~((e))~~ (vi) Median net monthly income of year-round full-time
21 workers as derived from the United States bureau of census, current
22 population reports, or such replacement report as published by the
23 bureau of census.

24 (b) When a parent is currently enrolled in high school full-time,
25 the court shall consider the totality of the circumstances of both
26 parents when determining whether each parent is voluntarily
27 unemployed or voluntarily underemployed. If a parent who is currently
28 enrolled in high school is determined to be voluntarily unemployed or
29 voluntarily underemployed, the court shall impute income at earnings
30 of twenty hours per week at minimum wage in the jurisdiction where
31 that parent resides. Imputation of earnings at twenty hours per week
32 under this subsection is a rebuttable presumption.

33 NEW SECTION. Sec. 3. (1) The legislature finds that a large
34 number of justice-involved individuals owe significant child support
35 debts when they are released from incarceration.

36 (2) The legislature finds that these child support debts are
37 often uncollectible and unduly burdensome on a recently released
38 justice-involved individual, and that such debts severely impact the

1 ability of the person required to pay support to have a successful
2 reentry and reintegration into society.

3 (3) The legislature finds that there is case law in Washington,
4 *In re Marriage of Blickenstaff*, 71 Wn. App. 489, 859 P.2d 646 (1993),
5 providing that incarceration does not equate to voluntary
6 unemployment or voluntary underemployment.

7 (4) The legislature finds that there is a statewide movement to
8 assist justice-involved individuals reenter and reintegrate into
9 society, and to reduce state-caused pressures which tend to lead to
10 recidivism and a return to jail or prison.

11 (5) The legislature finds that, although there is currently a
12 statutory process for modification of child support orders, it is in
13 the best interests of the children of the state of Washington to
14 create a process of abatement instead of making it the sole
15 responsibility of the justice-involved person to take action to deal
16 with his or her child support obligation while incarcerated.

17 (6) The legislature intends, therefore, to create a remedy
18 whereby court or administrative orders for child support entered in
19 Washington state may be abated when the person required to pay
20 support is incarcerated for at least six months and has no income or
21 assets available to pay support.

22 (7) The legislature also intends to ensure that the abatement
23 will not reduce any amounts of child support owed to the custodial
24 parent. The legislature intends that the abatement provisions in this
25 act will only apply for indigent incarcerated offenders where the
26 custodial parent is receiving public assistance and will not result
27 in a reduction of child support payments.

28 (8) The goal of this act is to ensure that the obligor parent
29 makes the largest child support monthly payment amount as possible to
30 comply with an order for child support, notwithstanding other
31 provisions related to abatement herein.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 26.09
33 RCW to read as follows:

34 (1) When a child support order contains language providing for
35 abatement based on incarceration of the person required to pay child
36 support, there is a rebuttable presumption that an incarcerated
37 person is unable to pay the child support obligation. Unless the
38 presumption is rebutted, the provisions of subsection (3) of this
39 section apply.

1 (2) (a) If the child support order does not contain language
2 providing for abatement based on incarceration of the person required
3 to pay support, the department, the person required to pay support,
4 the payee under the order, or the person entitled to receive support
5 may commence an action in the appropriate forum to:

6 (i) Modify the support order to contain abatement language; and

7 (ii) Abate the person's child support obligation due to current
8 incarceration for at least six months.

9 (b) In a proceeding brought under this subsection, there is a
10 rebuttable presumption that an incarcerated person is unable to pay
11 the child support obligation. The department, the payee under the
12 order, or the person entitled to receive support, may rebut the
13 presumption by demonstrating that the person required to pay support
14 has possession of, or access to, income or assets available to
15 provide support while incarcerated.

16 (c) Unless the presumption is rebutted, the provisions of
17 subsection (3) of this section apply.

18 (3) If the court or administrative forum determines that
19 abatement of support is appropriate:

20 (a) The child support obligation under that order will be abated
21 to ten dollars per month, without regard to the number of children
22 covered by that order, while the person required to pay support is
23 confined in a jail, prison, or correctional facility for at least six
24 months or is serving a sentence greater than six months in a jail,
25 prison, or correctional facility. Either the department, the payee
26 under the order, or the person entitled to receive support may rebut
27 the presumption by demonstrating the person required to pay support
28 has possession of, or access to, income or assets available to
29 provide support while incarcerated.

30 (b) If the incarcerated person's support obligation under the
31 order is abated as provided in (a) of this subsection, the obligation
32 will remain abated to ten dollars per month through the last day of
33 the third month after the person is released from confinement.

34 (c) After abatement, the support obligation of the person
35 required to pay support under the order is automatically reinstated
36 at fifty percent of the support amount provided in the underlying
37 order, but may not be less than the presumptive minimum obligation of
38 fifty dollars per month per child, effective the first day of the
39 fourth month after the person's release from confinement. Effective
40 one year after release from confinement, the fifty percent abatement

1 is automatically terminated, and the support obligation of the person
2 required to pay support under the order is automatically reinstated
3 at one hundred percent of the support amount provided in the
4 underlying order.

5 (i) Upon a showing of good cause by a party that the
6 circumstances of the case allow it, the court or administrative forum
7 may add specific provisions to the order abating the child support
8 obligation regarding when and how the abatement may terminate.

9 (ii) During the period of abatement, the department, the person
10 required to pay support, the payee under the order, or the person
11 entitled to receive support may commence an action to modify the
12 child support order under RCW 26.09.170 or 74.20A.059, in which case
13 the provision regarding reinstatement of the support amount at fifty
14 percent does not apply.

15 (d) If the incarcerated person's support obligation under the
16 order has been abated as provided in (a) of this subsection and then
17 has been reinstated under (c) of this subsection:

18 (i) Either the department, the person required to pay support,
19 the payee under the order, or the person entitled to receive support
20 may file an action to modify or adjust the order in the appropriate
21 forum, if:

22 (A) The provisions of (c)(i) and (ii) of this subsection do not
23 apply; and

24 (B) The person required to pay support has been released from
25 incarceration.

26 (ii) An action to modify or adjust the order based on the release
27 from incarceration of the person required to pay support may be filed
28 even if there is no other change of circumstances.

29 (4) If the incarcerated person's support obligation under the
30 order has been abated as provided in subsection (3)(a) of this
31 section and then reinstated under subsection (3)(c) of this section,
32 and the department receives information from employer new hire
33 reports or other sources that the person required to pay support has
34 been employed after release from incarceration, the department must
35 conduct a review of the child support order to determine whether the
36 order should be modified or adjusted.

37 (5) The effective date of abatement of a child support obligation
38 based on incarceration to ten dollars per month per order is the date
39 on which the person required to pay support is confined in a jail,
40 prison, or correctional facility for at least six months or begins

1 serving a sentence greater than six months in a jail, prison, or
2 correctional facility, regardless of when the department is notified
3 of the incarceration. However:

4 (a) The person required to pay support is not entitled to a
5 refund of any support collections or payments that were received by
6 the department prior to the date on which the department is notified
7 of the incarceration; and

8 (b) The department, the payee under the order, or the person
9 entitled to receive support is not required to refund any support
10 collections or payments that were received by the department prior to
11 the date on which the department is notified of the incarceration.

12 (6) Abatement of a child support obligation based on
13 incarceration of the person required to pay support does not
14 constitute modification or adjustment of the order.

15 (7) Abatement of a child support obligation may not be allowed if
16 it will reduce the child support payments received by the custodial
17 parent. Abatement is limited to only those instances where a court or
18 administrative forum finds:

19 (a) The incarcerated person is indigent as defined in RCW
20 10.101.010;

21 (b) The incarcerated person lacks assets to cover the child
22 support obligation; and

23 (c) The custodial parent is receiving public assistance and an
24 abatement will not result in a reduction of child support payments
25 received by the custodial parent.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.09
27 RCW to read as follows:

28 Either the department, the person required to pay support, the
29 payee under the order, or the person entitled to receive support may
30 make a request for abatement of child support to ten dollars per
31 month under an order for child support when the person required to
32 pay support is currently confined in a jail, prison, or correctional
33 facility for at least six months, or is serving a sentence greater
34 than six months in a jail, prison, or correctional facility.

35 (1) A request for the abatement of child support owed under one
36 child support order does not automatically qualify as a request for
37 abatement of support owed under every order that may exist requiring
38 that person to pay support. However, the request applies to any

1 support order which is being enforced by the department at the time
2 of the request.

3 (2) If there are multiple orders requiring the incarcerated
4 person to pay child support, the issue of whether abatement of
5 support due to incarceration is appropriate must be considered for
6 each order.

7 (a) The payee or person entitled to receive support under each
8 support order is entitled to notice and an opportunity to be heard
9 regarding the potential abatement of support under that order.

10 (b) If the child or children covered by a support order are not
11 residing with the payee under the order, any other person entitled to
12 receive support for the child or children must be provided notice and
13 an opportunity to be heard regarding the potential abatement of
14 support under that order.

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

17 (1) When a child support order contains language regarding
18 abatement to ten dollars per month per order based on incarceration
19 of the person required to pay support, and that person is currently
20 confined in a jail, prison, or correctional facility for at least six
21 months, or is serving a sentence greater than six months in a jail,
22 prison, or correctional facility, the department must:

23 (a) Review the support order for abatement once the department
24 receives notice from the person required to pay support or someone
25 acting on his or her behalf that the person may qualify for abatement
26 of support;

27 (b) Review its records and other available information to
28 determine if the person required to pay support has possession of, or
29 access to, income or assets available to provide support while
30 incarcerated; and

31 (c) Decide whether abatement of the person's support obligation
32 is appropriate.

33 (2) If the department decides that abatement of the person's
34 support obligation is appropriate, the department must notify the
35 person required to pay support, and the payee under the order or the
36 person entitled to receive support, that the incarcerated person's
37 support obligation has been abated and that the abatement will
38 continue until the first day of the fourth month after the person is

1 released from confinement. The notification must include the
2 following information:

3 (a) The payee under the order or the person entitled to receive
4 support may object to the abatement of support due to incarceration;

5 (i) An objection must be received within twenty days of the
6 notification of abatement;

7 (ii) Any objection will be forwarded to the office of
8 administrative hearings for an adjudicative proceeding under chapter
9 34.05 RCW;

10 (iii) The department, the person required to pay support, and the
11 payee under the order or the person entitled to receive support, all
12 have the right to participate in the administrative hearing as
13 parties; and

14 (iv) The burden of proof is on the party objecting to the
15 abatement of support to show that the person required to pay support
16 has possession of, or access to, income or assets available to
17 provide support while incarcerated;

18 (b) The effective date of the abatement of support;

19 (c) The estimated date of release;

20 (d) The estimated date that the abatement will end;

21 (e) That the person required to pay support, the payee under the
22 order, the person entitled to receive support, or the department may
23 file an action to modify the underlying support order once the person
24 required to pay support is released from incarceration, as provided
25 under section 4(3)(d) of this act; and

26 (f) That, if the abated obligation was established by a court
27 order, the department will file a copy of the notification in the
28 court file.

29 (3) If the department decides that abatement of the incarcerated
30 person's support obligation is not appropriate, the department must
31 notify the person required to pay support and the payee under the
32 order or the person entitled to receive support, that the department
33 does not believe that abatement of the support obligation should
34 occur. The notification must include the following information:

35 (a) The reasons why the department decided that abatement of the
36 support obligation is not appropriate;

37 (b) The person required to pay support and the payee under the
38 order or the person entitled to receive support may object to the
39 department's decision not to abate the support obligation;

1 (i) An objection must be received within twenty days of the
2 notification of abatement;

3 (ii) Any objection will be forwarded to the office of
4 administrative hearings for an adjudicative proceeding under chapter
5 34.05 RCW; and

6 (iii) The department, the incarcerated person, and the payee
7 under the order or the person entitled to receive support all have
8 the right to participate in the administrative hearing as parties;

9 (c) That, if the administrative law judge enters an order
10 providing that abatement is appropriate, the department will take
11 appropriate steps to document the abatement and will provide
12 notification to the parties as required in subsection (2) of this
13 section.

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

16 (1) When a court or administrative order does not contain
17 language regarding abatement based on incarceration of the person
18 required to pay support and the department receives notice that the
19 person is currently confined in a jail, prison, or correctional
20 facility for at least six months or is serving a sentence greater
21 than six months in a jail, prison, or correctional facility, the
22 department must refer the case to the appropriate forum for a
23 determination of whether the order should be modified to:

24 (a) Contain abatement language as provided in section 4 of this
25 act; and

26 (b) Abate the person's child support obligation due to current
27 incarceration.

28 (2) In a proceeding brought under this section, there is a
29 rebuttable presumption that an incarcerated person is unable to pay
30 the child support obligation. The department, the payee under the
31 order, or the person entitled to receive support may rebut the
32 presumption by demonstrating that the incarcerated person has
33 possession of, or access to, income or assets available to provide
34 support while incarcerated.

35 (3) Unless the presumption is rebutted, the court or
36 administrative forum must enter an order providing that the child
37 support obligation under the order is abated to ten dollars per
38 month, without regard to the number of children covered by the order,
39 if the person required to pay support is confined in a jail, prison,

1 or correctional facility for at least six months, or is serving a
2 sentence greater than six months in a jail, prison, or correctional
3 facility.

4 (4) The order must:

5 (a) Include the appropriate language required by section 4 of
6 this act in order to provide for a rebuttable presumption of
7 abatement to ten dollars per month per order;

8 (b) Provide that the order must be reinstated at fifty percent of
9 the previously ordered support amount but not less than the
10 presumptive minimum obligation of fifty dollars per month per child,
11 effective on the first day of the fourth month after the person's
12 release from confinement, and also provide that the order must be
13 automatically reinstated at one hundred percent of the previously
14 ordered support amount effective one year after release from custody,
15 and also provide that the order must be automatically reinstated at
16 one hundred percent of the previously ordered support amount
17 effective one year after release from custody; and

18 (c) Include language regarding an action to modify or adjust the
19 underlying order as provided under section 4(3) of this act.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 26.09
21 RCW to read as follows:

22 (1) At any time during the period of incarceration, the
23 department, the payee under the order, or the person entitled to
24 receive support may file a request to reverse or terminate the
25 abatement of support by demonstrating that the incarcerated person
26 has possession of, or access to, income or assets available to
27 provide support while incarcerated.

28 (a) A request for reversal or termination of the abatement may be
29 filed with the department or with the office of administrative
30 hearings.

31 (b) The request must include documents or other evidence showing
32 that the incarcerated person has possession of, or access to, income
33 or assets available to provide support while incarcerated.

34 (c) If the request for a hearing does not include documents or
35 evidence showing that the incarcerated person has possession of, or
36 access to, income or assets, the department may file a motion asking
37 that the request for a hearing be dismissed before a hearing is
38 scheduled or held.

1 (d) The party seeking to reverse or terminate the abatement may
2 seek to vacate the dismissal order by filing a motion which includes
3 the required proof.

4 (e) Depending on the type of evidence provided at the hearing,
5 the administrative law judge may order that the abatement of the
6 support obligation be:

7 (i) Reversed, meaning that the determination that support should
8 be abated is vacated and all amounts owed under the support order are
9 reinstated; or

10 (ii) Terminated, meaning that the abatement of support ends as of
11 the date specified in the order.

12 (2) At any time during the period of incarceration, the person
13 required to pay support may file a request to reverse or terminate
14 the abatement of support.

15 (a) The request for reversal or termination of the abatement may
16 be filed with the department or with the office of administrative
17 hearings.

18 (b) The person required to pay support is not required to provide
19 any documents or other evidence to support the request.

20 (3) Abatement of a support obligation does not constitute
21 modification or adjustment of the order.

22 **Sec. 9.** RCW 26.23.050 and 2019 c 46 s 5026 are each amended to
23 read as follows:

24 (1) If the division of child support is providing support
25 enforcement services under RCW 26.23.045, or if a party is applying
26 for support enforcement services by signing the application form on
27 the bottom of the support order, the superior court shall include in
28 all court orders that establish or modify a support obligation:

29 (a) A provision that orders and directs the ((~~responsible~~
30 ~~parent~~)) person required to pay support to make all support payments
31 to the Washington state support registry;

32 (b) A statement that withholding action may be taken against
33 wages, earnings, assets, or benefits, and liens enforced against real
34 and personal property under the child support statutes of this or any
35 other state, without further notice to the ((~~responsible parent~~))
36 person required to pay support at any time after entry of the court
37 order, unless:

1 (i) One of the parties demonstrates, and the court finds, that
2 there is good cause not to require immediate income withholding and
3 that withholding should be delayed until a payment is past due; or

4 (ii) The parties reach a written agreement that is approved by
5 the court that provides for an alternate arrangement;

6 (c) A statement that the (~~receiving parent~~) payee under the
7 order or the person entitled to receive support might be required to
8 submit an accounting of how the support, including any cash medical
9 support, is being spent to benefit the child;

10 (d) A statement that (~~any parent~~) a party to the support order
11 who is required to provide health care coverage for the child or
12 children covered by the order must notify the division of child
13 support and the other (~~parent~~) party to the support order when the
14 coverage terminates; (~~and~~)

15 (e) A statement that (~~the responsible parent's privileges~~) any
16 privilege of the person required to pay support to obtain and
17 maintain a license, as defined in RCW 74.20A.320, may not be renewed,
18 or may be suspended if the (~~parent~~) person is not in compliance
19 with a support order as provided in RCW 74.20A.320; and

20 (f) A statement that the support obligation under the order may
21 be abated as provided in section 4 of this act if the person required
22 to pay support is confined in a jail, prison, or correctional
23 facility for at least six months, or is serving a sentence greater
24 than six months in a jail, prison, or correctional facility.

25 As used in this subsection and subsection (3) of this section,
26 "good cause not to require immediate income withholding" means a
27 written determination of why implementing immediate wage withholding
28 would not be in the child's best interests and, in modification
29 cases, proof of timely payment of previously ordered support.

30 (2) In all other cases not under subsection (1) of this section,
31 the court may order the (~~responsible parent~~) person required to pay
32 support to make payments directly to the person entitled to receive
33 the payments, to the Washington state support registry, or may order
34 that payments be made in accordance with an alternate arrangement
35 agreed upon by the parties.

36 (a) The superior court shall include in all orders under this
37 subsection that establish or modify a support obligation:

38 (i) A statement that withholding action may be taken against
39 wages, earnings, assets, or benefits, and liens enforced against real
40 and personal property under the child support statutes of this or any

1 other state, without further notice to the (~~responsible parent~~)
2 person required to pay support at any time after entry of the court
3 order, unless:

4 (A) One of the parties demonstrates, and the court finds, that
5 there is good cause not to require immediate income withholding and
6 that withholding should be delayed until a payment is past due; or

7 (B) The parties reach a written agreement that is approved by the
8 court that provides for an alternate arrangement;

9 (ii) A statement that the (~~receiving parent~~) payee under the
10 order or the person entitled to receive support may be required to
11 submit an accounting of how the support is being spent to benefit the
12 child;

13 (iii) A statement that any (~~parent~~) party to the order required
14 to provide health care coverage for the child or children covered by
15 the order must notify the division of child support and the other
16 (~~parent~~) party to the order when the coverage terminates; and

17 (iv) A statement that a (~~parent~~) party to the order seeking to
18 enforce the other party's obligation to provide health care coverage
19 may:

20 (A) File a motion in the underlying superior court action; or

21 (B) If there is not already an underlying superior court action,
22 initiate an action in the superior court.

23 As used in this subsection, "good cause not to require immediate
24 income withholding" is any reason that the court finds appropriate.

25 (b) The superior court may order immediate or delayed income
26 withholding as follows:

27 (i) Immediate income withholding may be ordered if the
28 (~~responsible parent~~) person required to pay support has earnings.
29 If immediate income withholding is ordered under this subsection, all
30 support payments shall be paid to the Washington state support
31 registry. The superior court shall issue a mandatory wage assignment
32 order as set forth in chapter 26.18 RCW when the support order is
33 signed by the court. The (~~parent~~) payee under the order or the
34 person entitled to receive the transfer payment is responsible for
35 serving the employer with the order and for its enforcement as set
36 forth in chapter 26.18 RCW.

37 (ii) If immediate income withholding is not ordered, the court
38 shall require that income withholding be delayed until a payment is
39 past due. The support order shall contain a statement that
40 withholding action may be taken against wages, earnings, assets, or

1 benefits, and liens enforced against real and personal property under
2 the child support statutes of this or any other state, without
3 further notice to the (~~responsible parent~~) person required to pay
4 support, after a payment is past due.

5 (c) If a mandatory wage withholding order under chapter 26.18 RCW
6 is issued under this subsection and the division of child support
7 provides support enforcement services under RCW 26.23.045, the
8 existing wage withholding assignment is prospectively superseded upon
9 the division of child support's subsequent service of an income
10 withholding notice.

11 (3) The office of administrative hearings and the department of
12 social and health services shall require that all support obligations
13 established as administrative orders include a provision which orders
14 and directs that the (~~responsible parent~~) person required to pay
15 support shall make all support payments to the Washington state
16 support registry. All administrative orders shall also state that
17 (~~the responsible parent's privileges~~) any privilege of the person
18 required to pay support to obtain and maintain a license, as defined
19 in RCW 74.20A.320, may not be renewed, or may be suspended if the
20 (~~parent~~) person is not in compliance with a support order as
21 provided in RCW 74.20A.320. All administrative orders shall also
22 state that withholding action may be taken against wages, earnings,
23 assets, or benefits, and liens enforced against real and personal
24 property under the child support statutes of this or any other state
25 without further notice to the (~~responsible parent~~) person required
26 to pay support at any time after entry of the order, unless:

27 (a) One of the parties demonstrates, and the presiding officer
28 finds, that there is good cause not to require immediate income
29 withholding; or

30 (b) The parties reach a written agreement that is approved by the
31 presiding officer that provides for an alternate agreement.

32 (4) If the support order does not include the provision ordering
33 and directing that all payments be made to the Washington state
34 support registry and a statement that withholding action may be taken
35 against wages, earnings, assets, or benefits if a support payment is
36 past due or at any time after the entry of the order, or that (~~a~~
37 ~~parent's~~) licensing privileges of the person required to pay support
38 may not be renewed, or may be suspended, the division of child
39 support may serve a notice on the (~~responsible parent~~) person

1 stating such requirements and authorizations. Service may be by
2 personal service or any form of mail requiring a return receipt.

3 (5) Every support order shall state:

4 (a) The address where the support payment is to be sent;

5 (b) That withholding action may be taken against wages, earnings,
6 assets, or benefits, and liens enforced against real and personal
7 property under the child support statutes of this or any other state,
8 without further notice to the (~~responsible parent~~) person required
9 to pay support at any time after entry of a support order, unless:

10 (i) One of the parties demonstrates, and the court finds, that
11 there is good cause not to require immediate income withholding; or

12 (ii) The parties reach a written agreement that is approved by
13 the court that provides for an alternate arrangement;

14 (c) The income of the parties, if known, or that their income is
15 unknown and the income upon which the support award is based;

16 (d) The support award as a sum certain amount;

17 (e) The specific day or date on which the support payment is due;

18 (f) The names and ages of the dependent children;

19 (g) A provision requiring both the (~~responsible parent~~) person
20 required to pay support, and the (~~eustodial parent~~) payee under the
21 order or the person entitled to receive support who is a parent of
22 the child or children covered by the order, to keep the Washington
23 state support registry informed of whether he or she has access to
24 health care coverage at reasonable cost and, if so, the health care
25 coverage information;

26 (h) That either or both the (~~responsible parent~~) person
27 required to pay support, and the (~~eustodial parent~~) payee under the
28 order or the person entitled to receive support who is a parent of
29 the child or children covered by the order, shall be obligated to
30 provide medical support for (~~his or her~~) a child or children
31 covered by the order through health care coverage if:

32 (i) The (~~obligated parent~~) person obligated to provide medical
33 support provides accessible coverage for the child or children
34 through private or public health care coverage; or

35 (ii) Coverage that can be extended to cover the child or children
36 is or becomes available to the (~~parent~~) person obligated to provide
37 medical support through employment or is union-related; or

38 (iii) In the absence of such coverage, through an additional sum
39 certain amount, as that (~~parent's~~) obligated person's monthly
40 payment toward the premium as provided under RCW 26.09.105;

1 (i) That a ~~((parent))~~ person obligated to provide medical support
2 who is providing health care coverage must notify both the division
3 of child support and the other ~~((parent))~~ party to the order when
4 coverage terminates;

5 (j) That if proof of health care coverage or proof that the
6 coverage is unavailable is not provided within twenty days, the
7 ~~((parent))~~ person seeking enforcement or the department may seek
8 direct enforcement of the coverage through the employer or union of
9 the ~~((parent))~~ person required to provide medical support without
10 further notice to the ~~((parent))~~ person as provided under chapter
11 26.18 RCW;

12 (k) The reasons for not ordering health care coverage if the
13 order fails to require such coverage;

14 (l) That ~~((the responsible parent's privileges))~~ any privilege of
15 the person required to pay support to obtain and maintain a license,
16 as defined in RCW 74.20A.320, may not be renewed, or may be suspended
17 if the ~~((parent))~~ person is not in compliance with a support order as
18 provided in RCW 74.20A.320;

19 (m) That each ~~((parent))~~ party to the support order must:

20 (i) Promptly file with the court and update as necessary the
21 confidential information form required by subsection (7) of this
22 section; and

23 (ii) Provide the state case registry and update as necessary the
24 information required by subsection (7) of this section; and

25 (n) That parties to administrative support orders shall provide
26 to the state case registry and update as necessary their residential
27 addresses and the address of the ~~((responsible parent's))~~ employer of
28 the person required to pay support. The division of child support may
29 adopt rules that govern the collection of parties' current residence
30 and mailing addresses, telephone numbers, dates of birth, social
31 security numbers, the names of the children, social security numbers
32 of the children, dates of birth of the children, driver's license
33 numbers, and the names, addresses, and telephone numbers of the
34 parties' employers to enforce an administrative support order. The
35 division of child support shall not release this information if the
36 division of child support determines that there is reason to believe
37 that release of the information may result in physical or emotional
38 harm to the party or to the child, or a restraining order or
39 protective order is in effect to protect one party from the other
40 party.

1 (6) After the (~~responsible parent~~) person required to pay
2 support has been ordered or notified to make payments to the
3 Washington state support registry under this section, (~~the~~
4 ~~responsible parent~~) that person shall be fully responsible for
5 making all payments to the Washington state support registry and
6 shall be subject to payroll deduction or other income-withholding
7 action. The (~~responsible parent~~) person required to pay support
8 shall not be entitled to credit against a support obligation for any
9 payments made to a person or agency other than to the Washington
10 state support registry except as provided under RCW 74.20.101. A
11 civil action may be brought by the (~~payer~~) person required to pay
12 support to recover payments made to persons or agencies who have
13 received and retained support moneys paid contrary to the provisions
14 of this section.

15 (7) All petitioners and parties to all court actions under
16 chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, 26.26A, 26.26B,
17 and 26.27 RCW shall complete to the best of their knowledge a
18 verified and signed confidential information form or equivalent that
19 provides the parties' current residence and mailing addresses,
20 telephone numbers, dates of birth, social security numbers, driver's
21 license numbers, and the names, addresses, and telephone numbers of
22 the parties' employers. The clerk of the court shall not accept
23 petitions, except in parentage actions initiated by the state, orders
24 of child support, decrees of dissolution, or parentage orders for
25 filing in such actions unless accompanied by the confidential
26 information form or equivalent, or unless the confidential
27 information form or equivalent is already on file with the court
28 clerk. In lieu of or in addition to requiring the parties to complete
29 a separate confidential information form, the clerk may collect the
30 information in electronic form. The clerk of the court shall transmit
31 the confidential information form or its data to the division of
32 child support with a copy of the order of child support or parentage
33 order, and may provide copies of the confidential information form or
34 its data and any related findings, decrees, parenting plans, orders,
35 or other documents to the state administrative agency that
36 administers Title IV-A, IV-D, IV-E, or XIX of the federal social
37 security act. In state initiated parentage actions, the parties
38 adjudicated the parents of the child or children shall complete the
39 confidential information form or equivalent or the state's attorney

1 of record may complete that form to the best of the attorney's
2 knowledge.

3 (8) The department has rule-making authority to enact rules
4 consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19)
5 as amended by section 7307 of the deficit reduction act of 2005.
6 Additionally, the department has rule-making authority to implement
7 regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and
8 308.

9 **Sec. 10.** RCW 74.20A.055 and 2019 c 46 s 5052 are each amended to
10 read as follows:

11 (1) The secretary may, if there is no order that establishes
12 (~~the responsible parent's~~) a person's support obligation or
13 specifically relieves the (~~responsible parent~~) person required to
14 pay support of a support obligation or pursuant to an establishment
15 of parentage under chapter 26.26A or 26.26B RCW, serve on the
16 (~~responsible parent or parents~~) person or persons required to pay
17 support and (~~eustodial parent~~) the person entitled to receive
18 support a notice and finding of financial responsibility requiring
19 (~~the parents~~) those persons to appear and show cause in an
20 adjudicative proceeding why the finding of responsibility and/or the
21 amount thereof is incorrect, should not be finally ordered, but
22 should be rescinded or modified. This notice and finding shall relate
23 to the support debt accrued and/or accruing under this chapter and/or
24 RCW 26.16.205, including periodic payments to be made in the future.
25 The hearing shall be held pursuant to this section, chapter 34.05
26 RCW, the Administrative Procedure Act, and the rules of the
27 department. A (~~eustodian~~) person who has physical custody of a
28 child has the same rights (~~that a custodial parent has~~) under this
29 section as a parent with whom the child resides.

30 (2) The notice and finding of financial responsibility shall be
31 served in the same manner prescribed for the service of a summons in
32 a civil action or may be served on the (~~responsible parent~~) person
33 required to pay support by certified mail, return receipt requested.
34 The receipt shall be prima facie evidence of service. The notice
35 shall be served upon the (~~debtor~~) person required to pay support
36 within sixty days from the date the state assumes responsibility for
37 the support of the dependent child or children on whose behalf
38 support is sought. If the notice is not served within sixty days from
39 such date, the department shall lose the right to reimbursement of

1 payments made after the sixty-day period and before the date of
2 notification: PROVIDED, That if the department exercises reasonable
3 efforts to locate the (~~debtor~~) person required to pay support and
4 is unable to do so the entire sixty-day period is tolled until such
5 time as the (~~debtor~~) person can be located. The notice may be
6 served upon the (~~eustodial parent~~) person entitled to receive
7 support who is the nonassistance applicant or public assistance
8 recipient by first-class mail to the last known address. If the
9 (~~eustodial parent~~) person entitled to receive support is not the
10 nonassistance applicant or public assistance recipient, service shall
11 be in the same manner as for the (~~responsible parent~~) person
12 required to pay support.

13 (3) The notice and finding of financial responsibility shall set
14 forth the amount the department has determined the (~~responsible~~
15 ~~parent~~) person required to pay support owes, the support debt
16 accrued and/or accruing, and periodic payments to be made in the
17 future. The notice and finding shall also include:

18 (a) A statement of the name of the (~~eustodial parent~~) person
19 entitled to receive support and the name of the child or children for
20 whom support is sought;

21 (b) A statement of the amount of periodic future support payments
22 as to which financial responsibility is alleged;

23 (c) A statement that the (~~responsible parent~~) person required
24 to pay support or (~~eustodial parent~~) the person entitled to receive
25 support may object to all or any part of the notice and finding, and
26 file an application for an adjudicative proceeding to show cause why
27 the terms set forth in the notice should not be ordered;

28 (d) A statement that, if neither the (~~responsible parent~~)
29 person required to pay support nor the (~~eustodial parent~~) person
30 entitled to receive support files in a timely fashion an application
31 for an adjudicative proceeding, the support debt and payments stated
32 in the notice and finding, including periodic support payments in the
33 future, shall be assessed and determined and ordered by the
34 department and that this debt and amounts due under the notice shall
35 be subject to collection action;

36 (e) A statement that the property of the (~~debtor~~) person
37 required to pay support, without further advance notice or hearing,
38 will be subject to lien and foreclosure, distraint, seizure and sale,
39 order to withhold and deliver, notice of payroll deduction or other

1 collection action to satisfy the debt and enforce the support
2 obligation established under the notice;

3 (f) A statement that (~~one or both parents~~) the person required
4 to pay support, and the payee under the order or the person entitled
5 to receive support who is a parent of the child or children covered
6 by the order, are responsible for either:

7 (i) Providing health care coverage for the child if accessible
8 coverage that can cover the child:

9 (A) Is available through health insurance or public health care
10 coverage; or

11 (B) Is or becomes available to the (~~parent~~) obligated person
12 through that (~~parent's~~) person's employment or union; or

13 (ii) Paying a monthly payment toward the premium if no such
14 coverage is available, as provided under RCW 26.09.105; and

15 (g) A statement that the support obligation under the order may
16 be abated to ten dollars per month per order as provided in section 4
17 of this act if the person required to pay support is confined in a
18 jail, prison, or correctional facility for at least six months, or is
19 -serving a sentence greater than six months in a jail, prison, or
20 correctional facility.

21 (4) A (~~responsible parent~~) person required to pay support or
22 (~~eustodial parent~~) a person entitled to receive support who objects
23 to the notice and finding of financial responsibility may file an
24 application for an adjudicative proceeding within twenty days of the
25 date of service of the notice or thereafter as provided under this
26 subsection.

27 (a) If the (~~responsible parent~~) person required to pay support
28 or (~~eustodial parent~~) the person entitled to receive support files
29 the application within twenty days, the office of administrative
30 hearings shall schedule an adjudicative proceeding to hear the
31 (~~parent's~~) party's or (~~parents'~~) parties' objection and determine
32 the support obligation for the entire period covered by the notice
33 and finding of financial responsibility. The filing of the
34 application stays collection action pending the entry of a final
35 administrative order;

36 (b) If both the (~~responsible parent~~) person required to pay
37 support and the (~~eustodial parent~~) person entitled to receive
38 support fail to file an application within twenty days, the notice
39 and finding shall become a final administrative order. The amounts
40 for current and future support and the support debt stated in the

1 notice are final and subject to collection, except as provided under
2 (c) and (d) of this subsection;

3 (c) If the (~~responsible parent~~) person required to pay support
4 or (~~eustodial parent~~) the person entitled to receive support files
5 the application more than twenty days after, but within one year of
6 the date of service, the office of administrative hearings shall
7 schedule an adjudicative proceeding to hear the (~~parent's~~) party's
8 or (~~parents'~~) parties' objection and determine the support
9 obligation for the entire period covered by the notice and finding of
10 financial responsibility. The filing of the application does not stay
11 further collection action, pending the entry of a final
12 administrative order, and does not affect any prior collection
13 action;

14 (d) If the (~~responsible parent~~) person required to pay support
15 or (~~eustodial parent~~) the person entitled to receive support files
16 the application more than one year after the date of service, the
17 office of administrative hearings shall schedule an adjudicative
18 proceeding at which the (~~parent~~) party who requested the late
19 hearing must show good cause for failure to file a timely
20 application. The filing of the application does not stay future
21 collection action and does not affect prior collection action:

22 (i) If the presiding officer finds that good cause exists, the
23 presiding officer shall proceed to hear the (~~parent's~~) party's
24 objection to the notice and determine the support obligation;

25 (ii) If the presiding officer finds that good cause does not
26 exist, the presiding officer shall treat the application as a
27 petition for prospective modification of the amount for current and
28 future support established under the notice and finding. In the
29 modification proceeding, the presiding officer shall set current and
30 future support under chapter 26.19 RCW. The petitioning (~~parent~~)
31 party need show neither good cause nor a substantial change of
32 circumstances to justify modification of current and future support;

33 (e) If the (~~responsible parent's~~) support obligation was based
34 upon imputed median net income, the grant standard, or the family
35 need standard, the division of child support may file an application
36 for adjudicative proceeding more than twenty days after the date of
37 service of the notice. The office of administrative hearings shall
38 schedule an adjudicative proceeding and provide notice of the hearing
39 to the (~~responsible parent~~) person required to pay support and the
40 (~~eustodial parent~~) person entitled to receive support. The

1 presiding officer shall determine the support obligation for the
2 entire period covered by the notice, based upon credible evidence
3 presented by the division of child support, the ((~~responsible~~
4 ~~parent~~)) person required to pay support, or the ((~~eustodial parent~~))
5 person entitled to receive support, or may determine that the support
6 obligation set forth in the notice is correct. The division of child
7 support demonstrates good cause by showing that the ((~~responsible~~
8 ~~parent's~~)) support obligation was based upon imputed median net
9 income, the grant standard, or the family need standard. The filing
10 of the application by the division of child support does not stay
11 further collection action, pending the entry of a final
12 administrative order, and does not affect any prior collection
13 action.

14 (f) The department shall retain and/or shall not refund support
15 money collected more than twenty days after the date of service of
16 the notice. Money withheld as the result of collection action shall
17 be delivered to the department. The department shall distribute such
18 money, as provided in published rules.

19 (5) If an application for an adjudicative proceeding is filed,
20 the presiding or reviewing officer shall determine the past liability
21 and responsibility, if any, of the ((~~alleged responsible parent~~))
22 person required to pay support and shall also determine the amount of
23 periodic payments to be made in the future, which amount is not
24 limited by the amount of any public assistance payment made to or for
25 the benefit of the child. If deviating from the child support
26 schedule in making these determinations, the presiding or reviewing
27 officer shall apply the standards contained in the child support
28 schedule and enter written findings of fact supporting the deviation.

29 (6) If either the ((~~responsible parent~~)) person required to pay
30 support or the ((~~eustodial parent~~)) person entitled to receive
31 support fails to attend or participate in the hearing or other stage
32 of an adjudicative proceeding, upon a showing of valid service, the
33 presiding officer shall enter an order of default against each party
34 who did not appear and may enter an administrative order declaring
35 the support debt and payment provisions stated in the notice and
36 finding of financial responsibility to be assessed and determined and
37 subject to collection action. The parties who appear may enter an
38 agreed settlement or consent order, which may be different than the
39 terms of the department's notice. Any party who appears may choose to
40 proceed to the hearing, after the conclusion of which the presiding

1 officer or reviewing officer may enter an order that is different
2 than the terms stated in the notice, if the obligation is supported
3 by credible evidence presented by any party at the hearing.

4 (7) The final administrative order establishing liability and/or
5 future periodic support payments shall be superseded upon entry of a
6 superior court order for support to the extent the superior court
7 order is inconsistent with the administrative order.

8 (8) Debts determined pursuant to this section, accrued and not
9 paid, are subject to collection action under this chapter without
10 further necessity of action by a presiding or reviewing officer.

11 (9) The department has rule-making authority to enact rules
12 consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19)
13 as amended by section 7307 of the deficit reduction act of 2005.
14 Additionally, the department has rule-making authority to implement
15 regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and
16 308.

17 **Sec. 11.** RCW 74.20A.056 and 2019 c 148 s 38 and 2019 c 46 s 5053
18 are each reenacted and amended to read as follows:

19 (1)(a) If an acknowledged parent has signed an acknowledgment of
20 parentage that has been filed with the state registrar of vital
21 statistics:

22 (i) The division of child support may serve a notice and finding
23 of financial responsibility under RCW 74.20A.055 based on the
24 acknowledgment. The division of child support shall attach a copy of
25 the acknowledgment or certification of the birth record information
26 advising of the existence of a filed acknowledgment of parentage to
27 the notice;

28 (ii) The notice shall include a statement that the acknowledged
29 parent or any other signatory may commence a proceeding in court to
30 rescind or challenge the acknowledgment or denial of parentage under
31 RCW 26.26A.235 and 26.26A.240;

32 (iii) A statement that (~~either or both parents~~) the person
33 required to pay support, and the payee under the order or the person
34 entitled to receive support who is a parent of the child or children
35 covered by the order, are responsible for providing health care
36 coverage for the child if accessible coverage that can be extended to
37 cover the child is or becomes available to the (~~parent~~) obligated
38 person through employment or is union-related as provided under RCW
39 26.09.105; (~~and~~)

1 (iv) The party commencing the action to rescind or challenge the
2 acknowledgment or denial must serve notice on the division of child
3 support and the office of the prosecuting attorney in the county in
4 which the proceeding is commenced. Commencement of a proceeding to
5 rescind or challenge the acknowledgment or denial stays the
6 establishment of the notice and finding of financial responsibility,
7 if the notice has not yet become a final order; and

8 (v) A statement that the support obligation under the order may
9 be abated to ten dollars per month per order as provided in section 4
10 of this act if the person required to pay support is confined in a
11 jail, prison, or correctional facility for at least six months, or is
12 serving a sentence greater than six months in a jail, prison, or
13 correctional facility.

14 (b) If neither (~~the acknowledged parent nor the other~~) party to
15 the notice files an application for an adjudicative proceeding or the
16 signatories to the acknowledgment or denial do not commence a
17 proceeding to rescind or challenge the acknowledgment of parentage,
18 the amount of support stated in the notice and finding of financial
19 responsibility becomes final, subject only to a subsequent
20 determination under RCW 26.26A.400 through 26.26A.515 that the
21 parent-child relationship does not exist. The division of child
22 support does not refund nor return any amounts collected under a
23 notice that becomes final under this section or RCW 74.20A.055, even
24 if a court later determines that the acknowledgment is void.

25 (c) An acknowledged parent or other party to the notice who
26 objects to the amount of support requested in the notice may file an
27 application for an adjudicative proceeding up to twenty days after
28 the date the notice was served. An application for an adjudicative
29 proceeding may be filed within one year of service of the notice and
30 finding of parental responsibility without the necessity for a
31 showing of good cause or upon a showing of good cause thereafter. An
32 adjudicative proceeding under this section shall be pursuant to RCW
33 74.20A.055. The only issues shall be the amount of the accrued debt
34 and the amount of the current and future support obligation.

35 (i) If the application for an adjudicative proceeding is filed
36 within twenty days of service of the notice, collection action shall
37 be stayed pending a final decision by the department.

38 (ii) If the application for an adjudicative proceeding is not
39 filed within twenty days of the service of the notice, any amounts
40 collected under the notice shall be neither refunded nor returned if

1 the (~~alleged genetic parent~~) person required to pay support under
2 the notice is later found not to be (~~a responsible parent~~) required
3 to pay support.

4 (d) If neither the acknowledged parent nor the (~~eustodial~~
5 ~~parent~~) person entitled to receive support requests an adjudicative
6 proceeding, or if no timely action is brought to rescind or challenge
7 the acknowledgment or denial after service of the notice, the notice
8 of financial responsibility becomes final for all intents and
9 purposes and may be overturned only by a subsequent superior court
10 order entered under RCW 26.26A.400 through 26.26A.515.

11 (2) Acknowledgments of parentage are subject to requirements of
12 chapters 26.26A, 26.26B, and 70.58A RCW.

13 (3) The department and the department of health may adopt rules
14 to implement the requirements under this section.

15 (4) The department has rule-making authority to enact rules
16 consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19)
17 as amended by section 7307 of the deficit reduction act of 2005.
18 Additionally, the department has rule-making authority to implement
19 regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and
20 308.

21 **Sec. 12.** RCW 74.20A.059 and 2019 c 275 s 3 are each amended to
22 read as follows:

23 (1) The department, the (~~physical custodian~~) payee under the
24 order or the person entitled to receive support, or the (~~responsible~~
25 ~~parent~~) person required to pay support may petition for a
26 prospective modification of a final administrative order if:

27 (a) The administrative order has not been superseded by a
28 superior court order; and

29 (b) There has been a substantial change of circumstances, except
30 as provided under RCW 74.20A.055(4)(d) or subsection (2) of this
31 section.

32 (2) The department, the person entitled to receive support, the
33 payee under the order, or the person required to pay support may
34 petition for a prospective modification of a final administrative
35 order if the person required to pay support is currently confined in
36 a jail, prison, or correctional facility for at least six months or
37 is serving a sentence greater than six months in a jail, prison, or
38 correctional facility, and the support order does not contain
39 language regarding abatement due to incarceration.

1 (a) The petition may be filed at any time after the
2 administrative support order became a final order, as long as the
3 person required to pay support is currently incarcerated.

4 (b) As part of the petition for modification, the petitioner may
5 also request that the support obligation be abated to ten dollars per
6 month per order due to incarceration, as provided in section 4 of
7 this act.

8 (3) An order of child support may be modified at any time without
9 a showing of substantially changed circumstances if incarceration of
10 the ((parent who is obligated)) person required to pay support is the
11 basis for the inconsistency between the existing child support order
12 amount and the amount of support determined as a result of a review.

13 ((+3)) (4) An order of child support may be modified one year or
14 more after it has been entered without showing a substantial change
15 of circumstances:

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

18 (b) If a child is a full-time student and reasonably expected to
19 complete secondary school or the equivalent level of vocational or
20 technical training before the child becomes nineteen years of age
21 upon a finding that there is a need to extend support beyond the
22 eighteenth birthday.

23 ((+4)) (5) An order may be modified without showing a
24 substantial change of circumstances if the requested modification is
25 to:

26 (a) Require medical support under RCW 26.09.105 for a child
27 covered by the order; ~~((+))~~

28 (b) Modify an existing order for health care coverage; or

29 (c) Modify an existing order when the person required to pay
30 support has been released from incarceration, as provided in section
31 4(3)(d) of this act.

32 ((+5)) (6) Support orders may be adjusted once every twenty-four
33 months based upon changes in the income of the ((parents)) parties to
34 the order without a showing of substantially changed circumstances.
35 This provision does not mean that the income of a person entitled to
36 receive support who is not a parent of the child or children covered
37 by the order must be disclosed or be included in the calculations
38 under chapter 26.19 RCW when determining the support obligation.

39 ((+6)) (7)(a) All administrative orders entered on, before, or
40 after September 1, 1991, may be modified based upon changes in the

1 child support schedule established in chapter 26.19 RCW without a
2 substantial change of circumstances. The petition may be filed based
3 on changes in the child support schedule after twelve months has
4 expired from the entry of the administrative order or the most recent
5 modification order setting child support, whichever is later.
6 However, if a party is granted relief under this provision, twenty-
7 four months must pass before another petition for modification may be
8 filed pursuant to subsection ~~((5))~~ (6) of this section.

9 (b) If, pursuant to subsection ~~((5))~~ (6) of this section or (a)
10 of this subsection, the order modifies a child support obligation by
11 more than thirty percent and the change would cause significant
12 hardship, the change may be implemented in two equal increments, one
13 at the time of the entry of the order and the second six months from
14 the entry of the order. Twenty-four months must pass following the
15 second change before a petition for modification under subsection
16 ~~((5))~~ (6) of this section may be filed.

17 ~~((7))~~ (8) An increase in the wage or salary of the ~~((parent or~~
18 ~~custodian who is receiving))~~ person entitled to receive the support
19 transfer payments is not a substantial change in circumstances for
20 purposes of modification under subsection (1)(b) of this section.
21 ~~((An obligor's))~~ The voluntary unemployment or voluntary
22 underemployment of the person required to pay support, by itself, is
23 not a substantial change of circumstances. The income of the person
24 entitled to receive support is only disclosed or considered if that
25 person is a parent of the child or children covered by the order.

26 ~~((8))~~ (9) The department shall file the petition and a
27 supporting affidavit with the ~~((secretary or the secretary's~~
28 ~~designee))~~ office of administrative hearings when the department
29 petitions for modification.

30 ~~((9))~~ (10) The ~~((responsible parent))~~ person required to pay
31 support or the ~~((physical custodian))~~ payee under the order or the
32 person entitled to receive support shall follow the procedures in
33 this chapter for filing an application for an adjudicative proceeding
34 to petition for modification.

35 ~~((10))~~ (11) Upon the filing of a proper petition or
36 application, the ~~((secretary or the secretary's designee))~~ office of
37 administrative hearings shall issue an order directing each party to
38 appear and show cause why the order should not be modified.

1 (~~(11)~~) (12) If the presiding or reviewing officer finds a
2 modification is appropriate, the officer shall modify the order and
3 set current and future support under chapter 26.19 RCW.

4 **Sec. 13.** RCW 26.09.170 and 2019 c 275 s 2 are each amended to
5 read as follows:

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

17 (2) Unless otherwise agreed in writing or expressly provided in
18 the decree the obligation to pay future maintenance is terminated
19 upon the death of either party or the remarriage of the party
20 receiving maintenance or registration of a new domestic partnership
21 of the party receiving maintenance.

22 (3) Unless otherwise agreed in writing or expressly provided in
23 the decree, provisions for the support of a child are terminated by
24 emancipation of the child or by the death of the (~~(parent-obligated~~
25 ~~to)~~) person required to pay support for the child.

26 (4) Unless expressly provided by an order of the superior court
27 or a court of comparable jurisdiction, provisions for the support of
28 a child are terminated upon the marriage or registration of a
29 domestic partnership to each other of parties to a paternity or
30 parentage order, or upon the remarriage or registration of a domestic
31 partnership to each other of parties to a decree of dissolution. The
32 remaining provisions of the order, including provisions establishing
33 (~~(paternity)~~) parentage, remain in effect.

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

37 (b) (~~(An-obligator's)~~) The voluntary unemployment or voluntary
38 underemployment of the person required to pay support, by itself, is
39 not a substantial change of circumstances.

1 (6) An order of child support may be modified at any time to add
2 language regarding abatement to ten dollars per month per order due
3 to the incarceration of the person required to pay support, as
4 provided in section 4 of this act.

5 (a) The department of social and health services, the person
6 entitled to receive support or the payee under the order, or the
7 person required to pay support may petition for a prospective
8 modification of a child support order if the person required to pay
9 support is currently confined in a jail, prison, or correctional
10 facility for at least six months or is serving a sentence greater
11 than six months in a jail, prison, or correctional facility, and the
12 support order does not contain language regarding abatement due to
13 incarceration.

14 (b) The petition may only be filed if the person required to pay
15 support is currently incarcerated.

16 (c) As part of the petition for modification, the petitioner may
17 also request that the support obligation be abated to ten dollars per
18 month per order due to incarceration, as provided in section 4 of
19 this act.

20 (7) An order of child support may be modified without showing a
21 substantial change of circumstances if the requested modification is
22 to modify an existing order when the person required to pay support
23 has been released from incarceration, as provided in section 4(3)(d)
24 of this act.

25 (8) An order of child support may be modified one year or more
26 after it has been entered without a showing of substantially changed
27 circumstances:

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

30 (b) If a child is still in high school, upon a finding that there
31 is a need to extend support beyond the eighteenth birthday to
32 complete high school; or

33 (c) To add an automatic adjustment of support provision
34 consistent with RCW 26.09.100.

35 ~~((7))~~ (9) (a) If twenty-four months have passed from the date of
36 the entry of the order or the last adjustment or modification,
37 whichever is later, the order may be adjusted without a showing of
38 substantially changed circumstances based upon:

39 (i) Changes in the income of the ~~((parents))~~ person required to
40 pay support, or of the payee under the order or the person entitled

1 to receive support who is a parent of the child or children covered
2 by the order; or

3 (ii) Changes in the economic table or standards in chapter 26.19
4 RCW.

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

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

14 ~~((+8))~~ (10) (a) The department of social and health services may
15 file an action to modify or adjust an order of child support if
16 public assistance money is being paid to or for the benefit of the
17 child and the department has determined that the child support order
18 is at least fifteen percent above or below the appropriate child
19 support amount set forth in the standard calculation as defined in
20 RCW 26.19.011.

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

24 (i) The department has determined that the child support order is
25 at least fifteen percent above or below the appropriate child support
26 amount set forth in the standard calculation as defined in RCW
27 26.19.011;

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

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

32 (c) If incarceration of the ~~((parent who is obligated))~~ person
33 required to pay support is the basis for the difference between the
34 existing child support order amount and the proposed amount of
35 support determined as a result of a review, the department may file
36 an action to modify or adjust an order of child support even if:

37 (i) There is no other change of circumstances; and

38 (ii) The change in support does not meet the fifteen percent
39 threshold.

1 (d) The determination of whether the child support order is at
2 least fifteen percent above or below the appropriate child support
3 amount must be based on the current income of the parties.

4 ~~((9))~~ (11) The department of social and health services may
5 file an action to modify or adjust an order of child support under
6 subsections (5) through ~~((7))~~ (9) of this section if:

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

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

11 (c) Another state or jurisdiction has requested a modification of
12 the order.

13 ~~((10))~~ (12) If testimony other than affidavit is required in
14 any proceeding under this section, a court of this state shall permit
15 a party or witness to be deposed or to testify under penalty of
16 perjury by telephone, audiovisual means, or other electronic means,
17 unless good cause is shown.

18 NEW SECTION. **Sec. 14.** A new section is added to chapter 26.09
19 RCW to read as follows:

20 The department is granted rule-making authority to adopt rules
21 necessary for the implementation of this act.

22 **Sec. 15.** RCW 26.23.110 and 2009 c 476 s 5 are each amended to
23 read as follows:

24 (1) The department may serve a notice of support owed ~~((on a
25 responsible parent))~~ when a child support order:

26 (a) Does not state the current and future support obligation as a
27 fixed dollar amount;

28 (b) Contains an escalation clause or adjustment provision for
29 which additional information not contained in the support order is
30 needed to determine the fixed dollar amount of the support debt or
31 the fixed dollar amount of the current and future support obligation,
32 or both; ~~((or))~~

33 (c) Provides that the person required by the order to make the
34 transfer payment must pay a portion of child care or day care
35 expenses for a child or children covered by the order; or

36 (d) Provides that ~~((the responsible parent is responsible for
37 paying))~~ either the person required to pay support or the person
38 entitled to receive support, or both, are obligated to pay for a

1 portion of uninsured medical costs, copayments, and/or deductibles
2 incurred on behalf of the child or children covered by the order, but
3 does not reduce the costs to a fixed dollar amount.

4 (2) The department may serve a notice of support owed for day
5 care or child care on the person required by the order to make the
6 transfer payment when:

7 (a) The underlying support order requires that person to pay his
8 or her proportionate share of day care or child care costs directly
9 to the person entitled to receive support; or

10 (b) The person entitled to receive support is seeking
11 reimbursement because he or she has paid the share of day care or
12 child care costs owed by the person required by the order to make the
13 transfer payment.

14 (3) The department may serve a notice of support owed for medical
15 support on ((a parent who has been designated to pay per a)) any
16 person obligated by a child support order to provide medical support
17 for the child or children covered by the order. There are two
18 different types of medical support obligations:

19 (a) Health care coverage: The department may serve a notice of
20 support owed to determine an obligated person's monthly payment
21 toward the premium as defined in RCW 26.09.105, if the support order
22 does not set a fixed dollar amount for the monthly payment toward the
23 premium.

24 (b) Uninsured medical expenses: The department may serve a notice
25 of support owed on any person who is obligated to pay a portion of
26 uninsured medical costs, copayments, or deductibles incurred on
27 behalf of the child or children covered by the order, ((but only))
28 when the support order does not reduce the costs to a fixed dollar
29 amount.

30 ~~((3) The department may serve a notice of support owed to~~
31 ~~determine a parent's monthly payment toward the premium as defined in~~
32 ~~RCW 26.09.105, if the support order does not set a fixed dollar~~
33 ~~amount for the monthly payment toward the premium.)) (i) The notice~~

34 of support owed may be served for purposes of reimbursing a person
35 who has paid the share of uninsured medical expenses owed by any
36 person obligated to contribute to those costs;

37 (ii) The notice of support owed may be served to establish a
38 monthly amount to be paid by a person obligated to contribute to
39 uninsured medical expenses when the underlying support order requires

1 that person to pay his or her proportionate share of uninsured
2 medical expenses directly to another party to the order; or

3 (iii) The notice of support owed may be served for both purposes
4 listed in this subsection.

5 (4) The notice of support owed ~~((shall))~~ is intended to
6 facilitate enforcement of the support order and implement and
7 effectuate the terms of the support order, rather than modify those
8 terms. When the ~~((office of support enforcement))~~ department issues a

9 notice of support owed, the ~~((office shall))~~ department must inform

10 the payee under the support order.

11 (5) Service of the notice of support owed ~~((shall))~~ must be as

12 follows:

13 (a) An initial notice of support owed must be served on ~~((a~~
14 responsible parent)) the person required by the order to pay support
15 or contribute to costs by personal service or any form of mailing
16 requiring a return receipt. ~~((The notice shall be served on the~~
17 applicant or recipient of services by first-class mail to the last
18 known address.)) The initial notice may be served on the person who
19 is entitled to receive the support covered by the notice, as well as
20 the payee under the order if appropriate, by regular mail.

21 (b) A notice of support owed created for purposes of reviewing an

22 ongoing support obligation established by a prior notice of support

23 owed may be served on the person required by the order to pay support

24 or contribute to costs by regular mail to that person's last known

25 address.

26 (c) An initial notice of support owed, as well as any notice

27 created for purposes of reviewing an ongoing support obligation

28 established by a prior notice of support owed may be served on the

29 person entitled to receive the support by regular mail to that

30 person's last known address.

31 (6) The notice of support owed ~~((shall))~~ must contain:

32 (a) An initial finding of the fixed dollar amount of current and

33 future support obligation that should be paid or the fixed dollar

34 amount of the support debt owed under the support order, or both; and

35 (b) A statement that any subsequent notice of support owed

36 created for purposes of reviewing the amounts established by the

37 current notice may be served on any party to the order by regular

38 mail to that person's last known address.

39 ~~((+6))~~ (7) A ~~((parent))~~ person who objects to the fixed dollar

40 amounts stated in the notice of support owed has twenty days from the

1 date of the service of the notice of support owed to file an
2 application for an adjudicative proceeding or initiate an action in
3 superior court.

4 ~~((7))~~ (8) The notice of support owed ~~((shall))~~ must state that
5 the ~~((parent))~~ person may:

6 (a) File an application for an adjudicative proceeding governed
7 by chapter 34.05 RCW, the administrative procedure act, in which the
8 ~~((parent))~~ person will be required to appear and show cause why the
9 fixed dollar amount of support debt or current and future support
10 obligation, or both, stated in the notice of support owed is
11 incorrect and should not be ordered; or

12 (b) Initiate an action in superior court.

13 ~~((8))~~ (9) If ~~((either parent does not file))~~ no person included
14 in the notice files an application for an adjudicative proceeding or
15 ~~((initiate))~~ initiates an action in superior court, the fixed dollar
16 amount of current and future support obligation or support debt, or
17 both, stated in the notice of support owed ~~((shall become))~~ becomes
18 final and subject to collection action.

19 ~~((9))~~ (10) If an adjudicative proceeding is requested, the
20 ~~((department shall mail a copy of the notice of adjudicative~~
21 ~~proceeding to the parties))~~ office of administrative hearings must
22 schedule a hearing. All persons included in the notice are entitled
23 to participate in the hearing with full party rights.

24 ~~((10))~~ (11) If ~~((either parent does not initiate))~~ no person
25 included in the notice initiates an action in superior court, and
26 ~~((serve))~~ serves notice of the action on the department and the other
27 party to the support order within the twenty-day period, ~~((the parent~~
28 ~~shall))~~ all persons included in the notice must be deemed to have
29 made an election of remedies and ~~((shall be required to))~~ must
30 exhaust administrative remedies under this chapter with judicial
31 review available as provided for in RCW 34.05.510 through 34.05.598.

32 ~~((11))~~ (12) An ~~((adjudicative))~~ administrative order entered in
33 accordance with this section ~~((shall))~~ must state:

34 (a) The basis, rationale, or formula upon which the fixed dollar
35 amounts established in the ~~((adjudicative))~~ order were based~~((.))~~;

36 (b) The fixed dollar amount of current and future support
37 obligation or the amount of the support debt, or both, determined
38 under this section ~~((shall be))~~ is subject to collection under this
39 chapter and other applicable state statutes; and

1 (c) That any subsequent notice of support owed created for
2 purposes of reviewing the amounts established by the current notice
3 may be served on any party to the order by regular mail to that
4 person's last known address.

5 ~~((12))~~ (13) The department (shall) must also provide for:

6 (a) An annual review of the support order if (either) the
7 (office of support enforcement) department, the person required to
8 pay support, the payee under the order, or the (parent) person
9 entitled to receive support requests such a review; and

10 (b) A late (adjudicative proceeding) hearing if (the parent)
11 a person included in the notice fails to file an application for an
12 adjudicative proceeding in a timely manner under this section.

13 ~~((13))~~ (14) If an annual review (or late adjudicative
14 proceeding) is requested under subsection ((12)) (13) of this
15 section, the department (shall mail) may serve the notice of annual
16 review of the administrative order based on the prior notice of
17 support owed by mailing a copy of the notice (of adjudicative
18 proceeding) by regular mail to the (parties') last known address
19 of all parties to the order.

20 ~~((14))~~ (15) If one of the parties requests a late hearing under
21 subsection (13) of this section, the office of administrative
22 hearings must schedule an adjudicative proceeding.

23 (16) An annual review under subsection (13) of this section is
24 used to determine whether the expense remained the same, increased or
25 decreased, and whether there is a discrepancy between the actual
26 expense and the amount determined under the prior notice of support
27 owed.

28 (a) If a change in the actual expense which was the basis for the
29 most recent notice of support owed occurs before twelve months pass,
30 any party to the order may request that the department accelerate the
31 annual review described in subsection (13) of this section.

32 (b) The department may review any evidence presented by the
33 person claiming that the expense has occurred and determine whether
34 the change is likely to create a significant overpayment or
35 underpayment if the department does not serve a new notice of support
36 owed.

37 (c) Under appropriate circumstances, the department may
38 accelerate the time for the review and serve a notice of support owed
39 even if twelve months have not passed.

40 (17) The department has rule-making authority to:

- 1 (a) Enact rules consistent with 42 U.S.C. Sec. 652(f) and 42
2 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit
3 reduction act of 2005 (~~-. Additionally, the department has rule-making~~
4 authority to));
- 5 (b) Implement regulations required under 45 C.F.R. Parts 302,
6 303, 304, 305, and 308; and
- 7 (c) Implement the provisions of this section.

8 NEW SECTION. Sec. 16. Sections 3 through 13 of this act take
9 effect February 1, 2021."

SHB 2302 - S COMM AMD
By Committee on Law & Justice

OUT OF ORDER 03/06/2020

10 On page 1, line 4 of the title, after "owed;" strike the
11 remainder of the title and insert "amending RCW 26.19.011, 26.19.071,
12 26.23.050, 74.20A.055, 74.20A.059, 26.09.170, and 26.23.110;
13 reenacting and amending RCW 74.20A.056; adding new sections to
14 chapter 26.09 RCW; creating a new section; and providing an effective
15 date."

EFFECT: (1) Abatement is limited to only those instances where a court or administrative forum finds:

(a) The incarcerated person is indigent as defined in RCW 10.101.010;

(b) The incarcerated person lacks assets to cover the child support obligation; and

(c) The custodial parent is receiving public assistance and an abatement will not result in a reduction of child support payments received by the custodial parent.

(2) Provides a goal of ensuring the obligor parent makes the largest child support monthly payment amount as possible to comply with an order for child support.

(3) Automatically terminates the fifty percent abatement one year after release from confinement.

--- END ---