

HOUSE BILL REPORT

HB 2254

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to implementing recommendations of the 2023 child support schedule work group.

Brief Description: Implementing recommendations of the 2023 child support schedule work group.

Sponsors: Representatives Walen, Reeves, Reed and Springer.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/17/24, 1/26/24 [DPS].

Brief Summary of Substitute Bill

- Updates the child support economic table to extend the table to income levels of \$50,000 and to raise the floor of the table to income levels of \$2,200.
- Allows parents to deduct mandatory state insurance premiums actually paid from gross monthly income, and provides that educational expenses are not included in the economic table.
- Raises the self-support reserve to 180 percent of the federal poverty guideline for a one-person family, and provides that neither parent's basic support obligation owed for all of their children may reduce the parent's income below the self-support reserve.
- Establishes new provisions allowing for temporary abatement of child support when the parent required to pay support is in a court-ordered mental health or substance abuse treatment program.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Taylor, Chair; Farivar, Vice Chair; Abbarno, Cheney, Goodman, Peterson, Thai and Walen.

Minority Report: Without recommendation. Signed by 2 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member.

Staff: Edie Adams (786-7180).

Background:

Child support obligations are established in the context of dissolution of marriage or parentage proceedings through the court or an administrative process with the Department of Social and Health Services Division of Child Support (Department). The Department administers the state's child support enforcement program and provides support enforcement services to parents receiving public assistance and to non-assistance parents who request support enforcement services.

Every four years, the Department must convene a work group to review the state's child support laws, in compliance with federal requirements that states conduct quadrennial reviews of their child support laws. The final report of the 2023 Child Support Schedule Workgroup (2023 Workgroup) made the following recommendations:

- Temporarily abate and set child support at \$50 per child per month, for a maximum of 6 months, when a parent is in a court-ordered mental health or substance abuse treatment program that substantially limits the parent's ability to pay the support obligation.
- Increase the self-support reserve from 125 percent to 180 percent of the federal poverty level in recognition of increased living costs.
- Allow a deduction from the parties' gross income for mandatory state insurance premiums actually paid, such as premiums for Paid Family Medical Leave and the Washington Cares long-term care insurance.
- Clarify the definition of "basic support obligation" to exclude educational expenses.
- Extend the economic table from the current income limit of \$12,000 per month to \$50,000 per month, and increase the floor of the economic table from income levels of \$1,000 per month to \$1,600 per month.
- Clarify on the worksheet how parties should round up income amounts.
- Clarify that neither parent's basic support obligation owed for all of their children may reduce the parent's income below the self-support reserve.

Economic Table.

The amount of child support is determined using the statutory child support schedule, which includes an economic table and the child support worksheets developed by the Administrative Office of the Courts (AOC).

The economic table is used to establish the basic support obligation for each parent, which can then be modified based on statutorily established adjustments and deviations. The basic support obligation is based on the combined monthly net income (CMNI) of the parents and the number of children before the court. Each parent's share of the basic support obligation is determined by the parent's proportionate share of the CMNI. The economic table provides basic support obligation amounts for CMNI amounts of \$1,000 up to \$12,000. For a CMNI of less than \$1,000, the support obligation is based on the resources and living expenses of each household, but the minimum support may not be less than \$50 per child per month except in specified circumstances. When the CMNI exceeds \$12,000, the court may exceed the presumptive amount for CMNI of \$12,000 upon written findings of fact.

After determining the basic support obligation based on the economic table, the judge considers adjustments to the basic support obligation for expenses that are not included in the economic table, which results in a presumptive amount of child support called the "standard calculation." The judge then has discretion to consider reasons to deviate from the standard calculation.

Deductions From Gross Income.

All income and resources of each parent's household must be disclosed and considered by the court when determining the child support obligation of each parent. Certain income or resources must be disclosed but not included in a parent's gross monthly income, such as income of a new spouse, child support received from other relationships, and public assistance. A parent may deduct certain expenses from gross monthly income including: income taxes, federal insurance contributions deductions, mandatory pension plan payments, mandatory union or professional dues, and state industrial insurance premiums.

Expenses Not Included in the Economic Table.

Some child support expenses incurred by parents are specifically excluded from the economic table. These expenses must be shared by the parents in the same proportion as the basic support obligation. These include health care costs and daycare and special child rearing expenses, such as tuition and long-distance transportation costs.

Self-Support Reserve.

The child support schedule includes low-income limitations that apply when a parent's net income is below, or would fall below, 125 percent of the federal poverty guideline for a one-person family. This is referred to as the self-support reserve. The basic support obligation, excluding health care, daycare, and special child-rearing expenses, may not reduce the parent's net income below the self-support reserve, except for the presumptive minimum \$50 support obligation or when it would be unjust to apply the limitation considering the best interests of the child and circumstances of each parent.

Summary of Substitute Bill:

Economic Table.

The child support economic table is expanded to provide the basic support obligation for combined monthly net incomes up to \$50,000. In addition, the economic table is revised to start at combined monthly net income of \$2,200. For income less than \$2,200, the support obligation is based on the resources and living expenses of each household, but the minimum support may not be less than \$50 per child per month except in limited circumstances. The AOC is directed to revise the child support worksheets and instructions to clarify language regarding how parties should round up income amounts consistent with the recommendations of the 2023 Workgroup.

Deductions From Gross Income.

A parent may deduct from the parent's gross monthly income other mandatory state deductions, such as mandatory state insurance premiums actually paid, including premiums for the Paid Family and Medical Leave program and Long-Term Services and Supports Trust program.

Expenses Not Included in the Economic Table.

Mandatory and optional education expenses are not included in the economic table and must be shared by the parents in the same proportion as the basic support obligation.

Self-Support Reserve.

The self-support reserve is increased to 180 percent of the federal poverty level for a one-person family. When a parent's income is greater than the self-support reserve of 180 percent of the federal poverty level for a one-person family, neither parent's basic child support obligation owed for all of his or her biological or legal children may reduce that parent's income below the self-support reserve except for the presumptive minimum of \$50 per child per month. Each child is entitled to a pro rata share of the income available for support but the court only applies the pro rata share to the children in the case before the court. Before determining whether to apply this limitation, the court should consider whether it would be unjust to apply the limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances may include leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and earning capacity.

Abatement of Child Support Based on Incapacitation.

Procedures are established authorizing abatement of a child support obligation based on incapacitation of the parent who is required to pay support. "Incapacitation" means the inability to pay child support due to participation in court-ordered treatment for a behavioral health disorder under the Involuntary Treatment Act.

There is a presumption that an incapacitated person is unable to pay the child support obligation. A party may rebut the presumption by demonstrating that the person required to pay support has possession of, or access to, income or assets available to provide child support while incapacitated. If the court or administrative forum determines that abatement

is appropriate, the child support obligation is abated to \$50 per month per child. Abatement continues until the earlier of: the last day of the month in which the person is discharged from court-ordered behavioral health treatment, or the last day of the sixth month after the effective date of the abatement order. The effective date of abatement is the date on which the court order for behavioral health treatment is entered. However, the person required to pay support is not entitled to a refund of support payments received prior to the date on which the Department is notified of the incapacitation, and the Department and person entitled to receive support are not required to refund such amounts.

After abatement of support is terminated, the support obligation of the person required to pay support is automatically reinstated at 100 percent of the support amount provided in the underlying order. Abatement of a child support obligation based on incapacitation of the person required to pay support may only be approved one time in a person's lifetime, regardless of whether the abatement lasted the full six months.

A child support order may include language providing for abatement of the child support obligation based on incapacitation of the person required to pay support. If a child support order does not include language providing for automatic abatement based on incapacitation, the Department, the person required to pay support, or the payee or person entitled to receive support may commence an action to modify the order to include automatic abatement language and to abate the person's child support obligation due to incapacitation for a maximum of six months.

When a child support order contains language regarding abatement to \$50 per month per child based on incapacitation of the person required to pay support and the Department receives notice that the person may qualify for abatement, the Department must determine whether or not abatement of the person's support obligation is appropriate and must notify the parties of its determination. The Department, the person required to pay support, and the payee under the order or the person entitled to receive support, have the right to an administrative hearing regarding the determination.

The Department is given rulemaking authority to implement the act.

Substitute Bill Compared to Original Bill:

The proposed substitute makes the following changes:

- specifies that deductions from gross income for mandatory state insurance premiums actually paid includes premiums for the Paid Family and Medical Leave program and Long-Term Services and Supports Trust program;
- removes language describing the types of mandatory and optional educational expenses that are not included in the economic table;
- raises the floor of the economic table to CMNIs of \$2,200 and makes corrections to the economic table for the newly expanded support amounts for CMNIs up to \$50,000 to replace the amounts with correct per child support amounts;

- revises a number of provisions relating to abatement of child support for a parent who is undergoing court-ordered behavioral health treatment, including: specifying that abatement applies for court-ordered treatment under the Involuntary Treatment Act and that the abatement is \$50 per month per child, providing that the effective date of abatement is the date the court order for treatment is entered, and removing provisions that address modification of a child support order after abatement is terminated, provisions governing requests to terminate or reverse the abatement of support, and provisions requiring detailed notice requirements regarding the hearing process;
- gives the Department rule making authority to implement the act; and
- delays the effective date of the bill until January 1, 2025, except for provisions governing abatement of support, which take effect April 1, 2026.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) Washington is required under both state and federal law to review its child support guidelines every four years. The 2023 Workgroup consisted of a diverse group of people with experience and expertise in this area who worked hard to balance the interests of each parent and the family. The 2023 Workgroup reached consensus on the recommendations in this bill. The bill makes updates to recognize current economic conditions. It includes adjustments to the economic table, clarifies that educational expenses are not included in the economic table, and includes the abatement provision recognizing that when people are experiencing behavioral health issues, they may need some kind of adjustment.

The bill provides more specificity and clarity on issues, which will save time and resources for courts and parties by reducing the need to adjudicate these issues. The provision allowing abatement for parents in court-ordered treatment is overall a good policy, but there is some question as to whether it make sense to shift that burden to the parent receiving support and caring for the children. It might make more sense for the Legislature to provide some sort of funding and then pursue child support from that person after they leave treatment.

(Opposed) There are lot of good provisions in the bill. The concern is with the expansion of the economic table without addressing a residential credit. Child support work groups since 2007 have recommended that a residential credit be part of the calculations. If the

economic table is increased without providing a mechanism for the parents to share the obligation, it will result in increased conflict in the courts. The economic tables should be adopted only in conjunction with a residential credit to share the money to reduce conflict.

Persons Testifying: (In support) Representative Amy Walen, prime sponsor; Brady Horenstein; and Sharon Redmond, Division of Child Support, Washington State Department of Social and Health Services.

(Opposed) James Clark, 2023 Child Support Schedule Workgroup.

Persons Signed In To Testify But Not Testifying: None.