

of customer service policies, rate structures, assistance rates, consumer education, housing rehabilitation programs, guidelines for the involuntary termination of residential utility service, policies assuring that low-income persons receive the benefits of various programs, and the diminishing quality and quantity of low-income housing stock in this state. The review shall be completed by December 15, 1990, and shall have as its objective the development of options for modifications to the program that may be considered by the legislature during its 1991 session.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 9, 1990.

Passed the Senate March 9, 1990.

Approved by the Governor March 26, 1990.

Filed in Office of Secretary of State March 26, 1990.

CHAPTER 2

[House Bill No. 2888]

CHILD SUPPORT OBLIGATION

AN ACT Relating to child support; amending RCW 26.09.100, 26.09.170, 26.09.175, 26.19.010, 26.19.050, 26.16.205, 26.09.909, 26.09.225, 26.19.020, 26.19.040, and 74.20A.055; reenacting and amending RCW 74.20A.020; adding new sections to chapter 26.19 RCW; adding a new section to chapter 26.18 RCW; adding new sections to chapter 26.09 RCW; adding new sections to chapter 26.10 RCW; adding a new section to chapter 26.26 RCW; creating new sections; repealing RCW 26.19.030; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 10, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 375, Laws of 1989 and RCW 26.09.100 are each amended to read as follows:

In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court ~~((may))~~ shall order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount determined ~~((pursuant to the schedule adopted))~~ under chapter 26.19 RCW ((26.19.040)). The court may require periodic adjustments of support. The adjustment provision may be modified by the court due to economic hardship.

Sec. 2. Section 17, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 3, chapter 416, Laws of 1989 and RCW 26.09.170 are each amended to read as follows:

(1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and, except as otherwise provided in subsections (4) ~~((or))~~, (5), and (8) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

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

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

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

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

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

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

(5) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child named therein; or

(b) Modify an existing order for health insurance coverage.

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

(7) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the ~~((adopted child support schedule))~~ standard calculation as defined in section 4(2) of this act and reasons for the deviation are not set forth in the findings of fact or order. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(8) (a) Except as provided in (b) and (c) of this subsection, all child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the modification pursuant to procedures of RCW 26.09.175.

(b) Parents whose decrees are entered before the effective date of this act may petition the court for a modification after twelve months has expired from the entry of the decree or the most recent modification setting child support, whichever is later. However, if a party is granted relief under this provision, twenty-four months must pass before another petition for modification may be filed pursuant to (a) of this subsection.

(c) A party may petition for modification in cases of substantially changed circumstances, under subsection (1) of this section, at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a petition for modification under (a) of this subsection may be filed.

(d) If, pursuant to (a) of this subsection, the court modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a petition for modification under (a) of this subsection may be filed.

(e) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to (a) of this subsection alleging that increase constitutes a substantial change of circumstances under subsection (1) of this section.

Sec. 3. Section 2, chapter 430, Laws of 1987 and RCW 26.09.175 are each amended to read as follows:

(1) A proceeding for the modification of an order of child support shall commence with the filing of a petition ~~((and))~~, a supporting financial affidavit, and worksheets. The petition and affidavit shall be in substantially the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2) The petitioner shall serve upon the other party the summons, a copy of the petition and affidavit, and a blank copy of a financial affidavit and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. If the support obligation has been assigned to the state pursuant to RCW 74.20.330 and notice has been filed with the court, the summons, petition, ~~((and))~~ affidavit, and worksheets shall also be

served on the ~~((office of support enforcement))~~ attorney general. Proof of service shall be filed with the court.

(3) The responding party's answer and completed financial affidavit and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. The responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

(4) At any time after responsive pleadings are filed, either party may schedule the matter for hearing.

(5) Unless both parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (6) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits only.

(6) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

(7) The administrator for the courts shall develop and prepare, in consultation with interested persons, model forms or notices for the use of the procedure provided by this section, including a notice advising of the right of a party to proceed with or without benefit of counsel.

***Sec. 4. Section 2, chapter 275, Laws of 1988 and RCW 26.19.010 are each amended to read as follows:**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) ~~("Child support schedule" means the standards and economic table adopted by the commission;~~

(2) ~~"Standards" means the standards for determination of child support which have been adopted by the commission, as modified by the legislature;~~

(3)) ~~"Economic table" means the child support table for the basic support obligation which has been adopted by the child support commission effective July 1, 1989, except it does not include the references in that table to "standards";~~

((4)) (2) "Worksheets" means the forms ~~((adopted))~~ developed by the ~~((commission))~~ administrator for the courts for use in determining the amount of child support;

~~((5))~~ (3) "Instructions" means the instructions ~~((adopted))~~ developed by the ~~((commission))~~ administrator for the courts for use in completing the worksheets;

~~((6))~~ (4) "Commission" means the Washington state child support schedule commission established by RCW 26.19.030; ~~((and~~

~~((7))~~ (5) "Basic child support obligation" means the monthly obligation determined from the economic table based on the parties combined monthly net income;

(6) "Standard calculation" means the amount of child support which is owed as determined from the worksheets before any deviation is considered; and

(7) "Transfer payment" means the court-ordered amount one parent is obligated to pay to the other parent for child support.

*Sec. 4 was vetoed, see message at end of chapter.

Sec. 5. Section 6, chapter 275, Laws of 1988 and RCW 26.19.050 are each amended to read as follows:

(1) The ~~((commission))~~ administrator for the courts shall develop and adopt worksheets and instructions to assist the parties and courts in establishing the appropriate child support level and apportionment of support. The ~~((commission))~~ administrator for the courts shall attempt to the greatest extent possible to make the worksheets and instructions understandable by persons who are not represented by legal counsel.

(2) The administrator for the courts~~((, in consultation with the commission;))~~ shall develop and adopt standards for the printing of worksheets and shall establish a process for certifying printed worksheets. ~~((The administrator shall not alter the design approved by the commission;))~~ The administrator may maintain a register of sources for approved worksheets.

(3) The administrator for the courts should explore methods to assist pro se parties and judges in the courtroom to calculate support payments through automated software, equipment, or personal assistance.

NEW SECTION. Sec. 6. A new section is added to chapter 26.19 RCW to read as follows:

(1) In any proceeding under this title or Title 13 or 74 RCW in which child support is at issue, support shall be determined and ordered according to this chapter. The provisions of this chapter for determining child support and reasons for deviation therefrom shall be applied in the same manner by the court, presiding officers, and reviewing officers. References to the court also incorporates the presiding and reviewing officers who administratively determine or enforce child support orders.

(2) An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation.

(3) All income and resources of each parent's household shall be disclosed and shall be considered by the court when the child support obligation of each parent is determined. Tax returns for the preceding three years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(4) Worksheets in the form developed by the administrator for the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the administrator for the courts.

(5) Unless specific reasons for deviation are set forth in the written findings of fact or order and are supported by the evidence, the court shall order each parent to pay the amount of child support determined using the standard calculation.

(6) The court shall review the worksheets and the order for adequacy of the reasons set forth for any deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. The worksheet on which the order is based shall be initialed or signed by the judge and filed with the order.

NEW SECTION. Sec. 7. A new section is added to chapter 26.19 RCW to read as follows:

(1) The basic child support obligation derived from the economic table shall be allocated between the parents based on each parent's share of the combined monthly net income.

(2) Ordinary health care expenses are included in the economic table. Monthly health care expenses that exceed five percent of the basic support obligation shall be considered extraordinary health care expenses. Extraordinary health care expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(3) Day care and special child rearing expenses, such as tuition and long-distance transportation costs to and from the parents for visitation purposes, are not included in the economic table. These expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(4) The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation.

***NEW SECTION.** Sec. 8. A new section is added to chapter 26.19 RCW to read as follows:

(1) Except as otherwise provided in this section, monthly gross income for child support purposes shall include income from any source, including: Salaries, wages, commissions, deferred compensation, bonuses, mandatory

overtime, dividends, interest, trust income, severance pay, annuities, capital gains, pension retirement benefits, social security retirement benefits, workers' compensation, unemployment benefits, and spousal maintenance that is actually received.

(2) Monthly gross income for the preceding year for child support purposes shall include income from voluntary overtime pay above one hundred sixty-eight hours per month, income from employment in excess of forty hours per week to the extent derived from a second job, nonrecurring bonuses, contract-related cash benefits, gifts, and prizes, except to the extent that income from those sources exceeds the average income from those sources for the second and third years preceding the commencement of the action under chapter 26.09, 26.10, or 26.26 RCW.

(3) The court shall deduct the following from gross income: Federal and state income taxes, federal insurance contributions act deductions, mandatory pension plan payments, mandatory union or professional dues, court-ordered spousal maintenance to the extent actually paid, up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the three consecutive years prior to the filing of the dissolution, and court-ordered payments of child support for children from other relationships to the extent actually paid. All items excluded from income shall be disclosed in the worksheet.

(4) The court may deduct normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

(5) The following resources shall be disclosed, shall not be included in gross income, and shall not be reason to deviate from the standard calculation: Aid to families with dependent children, supplemental security income, general assistance, veterans aid and attendance allowance, and food stamps.

(6) The following income shall be disclosed, shall not be included in gross income, but may be a reason to deviate from the standard calculation:

- (a) Income of a new spouse or income of other adults in the household;*
- (b) Child support received from other relationships; and*
- (c) Income excluded from subsection (2) of this section.*

(7) (a) Children from relationships other than the relationship of the parties before the court shall not be counted for determining the number of children in the family for purposes of calculating the basic support obligation. The court may not consider, for purposes of deviation in calculating the amount of child support payable, any children for whom the court has allowed a deduction from gross income for court-ordered child support payments.

(b) The court may consider deviating from the presumptive basic support obligation when there are children from other relationships and the court has not allowed a deduction from gross income for payments of child support for those children pursuant to subsection (3) of this section. Deviations under this

section from the presumptive basic support obligation due shall be based on consideration of the total circumstances of both households.

(8) The court shall consider the residential schedule and may deviate from the standard calculation if the child spends a substantial amount of time with the parent who is obligated to make the transfer payment. The court shall not use this subsection to restrict either parent's contact or visitation with the child or children.

Absent agreement between the parents, the parent seeking the adjustment based on contact with the child shall have the burden to show by a preponderance of the evidence the requested adjustment is consistent with the parent's actual past involvement with the child. The support payment should not be reduced if the reduction will result in insufficient funds in the house receiving the support to meet the basic needs of the child or the child is receiving aid to families with dependent children payments.

(9) Additional reasons that may support a deviation from the standard calculation include: Possession of wealth, shared living arrangements, extraordinary debts that have not been voluntarily incurred, extraordinarily high income of a child, a significant disparity of the living costs of the parents due to conditions beyond their control, and special needs of disabled children. A deviation may be supported by tax planning considerations only if the child would not receive a lesser economic benefit as a result of the tax planning.

(10) The court shall enter findings which specify reasons for any deviations from the standard calculation made by the court.

(11) Agreement of the parties is not by itself adequate reason for deviation from the standard calculation.

(12) Neither parent's total child support obligation shall exceed fifty percent of net income unless good cause is shown. Good cause may include possession of substantial wealth, children with day care expenses, special medical, educational, psychological needs, and larger families.

(13) The court shall impute income to a parent when the parent is voluntarily underemployed or voluntarily unemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history. A parent shall not be deemed voluntarily underemployed as long as that parent is gainfully employed on a full-time basis. Income shall not be imputed for an unemployable parent.

**Sec. 8 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 9. A new section is added to chapter 26.19 RCW to read as follows:

The child support schedule shall be advisory and not mandatory for postsecondary educational support. When considering whether to order support for postsecondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The court shall exercise its discretion when

determining whether and for how long to award postsecondary educational support based upon consideration of factors that include but are not limited to the following: Age of the child; the child's needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together. The child must be enrolled in school, actively pursuing a course of study, and in good academic standing as defined by the institution or the court—ordered postsecondary educational support may be automatically suspended during the period or periods the child fails to comply with these conditions. The court in its discretion may order that the payment be made directly to the parent who has been receiving the transfer payments, to the educational institution if feasible, or to the child. The court shall not order the payment of postsecondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities.

NEW SECTION. Sec. 10. A new section is added to chapter 26.19 RCW to read as follows:

The parties may agree which parent is entitled to claim the child or children as dependents for federal income tax exemptions. The court may award the exemption or exemptions and order a party to sign the federal income tax dependency exemption waiver. The court may divide the exemptions between the parties, alternate the exemptions between the parties, or both.

***NEW SECTION.** Sec. 11. A new section is added to chapter 26.19 RCW to read as follows:

(1) When combined monthly net income is less than six hundred dollars, a support order not less than twenty-five dollars per month shall be entered for each parent, regardless of the number of children. A parent's child support obligation shall not reduce his or her net income below the need standard for one person promulgated pursuant to RCW 74.04.770, except for the mandatory minimum payment of twenty-five dollars per month as required by this subsection or in cases where the court finds reasons for deviation under section 8(8) of this act. This section shall not be construed to require monthly substantiation of income.

(2) The presumptive basic support obligation shall be determined upon the combined monthly net income of the parents up to a cap of five thousand dollars combined net income per month. The table is not presumptive but advisory only for combined monthly net incomes above five thousand dollars.

*Sec. 11 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 12. A new section is added to chapter 26.19 RCW to read as follows:

(1) When combined monthly net income exceeds the highest combined monthly net income for which a presumptive amount of support is established, child support shall not be set at a level lower than that amount from the table but the court has discretion to establish support at higher levels upon written finding of fact.

(2) The provisions of this chapter shall apply to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

Sec. 13. Section 2407, Code of 1881 as amended by section 1, chapter 207, Laws of 1969 ex. sess. and RCW 26.16.205 are each amended to read as follows:

The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of both husband and wife, or either of them, and ((in relation thereto)) they may be sued jointly or separately((~~PROVIDED, That with regard to stepchildren, the obligation shall cease upon the termination of the relationship of husband and wife~~)). When a petition for dissolution of marriage or a petition for legal separation is filed, the court may, upon motion of the stepparent, terminate the obligation to support the stepchildren. The obligation to support stepchildren shall cease upon the entry of a decree of dissolution, decree of legal separation, or death.

***NEW SECTION.** Sec. 14. A new section is added to chapter 26.19 RCW to read as follows:

(1) *Day care, extraordinary health care, long-distance transportation costs, and special child-rearing expenses such as tuition are not included in the basic support obligation for each child. These expenses shall be shared by the parents in the same proportion as the basic child support obligation and may be listed as a specific dollar amount or as a percentage amount subject to the verification requirements pursuant to subsection (2) of this section.*

(2) (a) *If a sum certain is established for day care and is set forth in the decree, the parent making the transfer payment is entitled to proof of the amount paid for day care. The parent making the transfer payment is responsible for the appropriate percentage of the actual amount paid, not to exceed the proper share of the amount as set forth in the decree. The transfer payment for day care must be made in advance if the day care amount is set forth in the decree or is a regularly paid amount in a sum certain. If an amount is not specified in the decree or a regular sum certain, reimbursement of day care expenses shall be treated in the same manner as reimbursement for transportation costs, extraordinary health care, and other extraordinary expenses.*

(b) *For transportation costs, extraordinary health care costs, and other extraordinary expenses of the children specified in the decree, the parent*

paying these expenses shall be entitled to prompt reimbursement of the other parent's share of those expenses. Proof of the expenditure shall be furnished to the parent from whom reimbursement is sought. Reimbursement must be made promptly but not later than thirty days of receipt of proof of payment of these expenditures.

(3) (a) If reimbursement is not made within the thirty-day period or is incomplete due to a nonsufficient fund check or other failure to pay, the parent seeking reimbursement may by motion obtain an order compelling payment with statutory interest. If a parent requests proof of payment and it is not provided within thirty days the party may move to compel production of the documents. The court shall award actual court costs and reasonable attorneys' fees to the prevailing party in every motion filed under this section except upon a showing of good cause for nonpayment.

(b) Wage assignment orders may be obtained pursuant to chapter 26.18 RCW to collect court-ordered basic child support, day care, extraordinary health care, long-distance transportation costs, or other extraordinary expenses, attorneys' fees, court costs, or any other item ordered by the court. A parent to whom basic child support, day care, extraordinary health care, long-distance transportation costs, or other extraordinary expenses are to be paid based on a percentage share of the costs, may by motion obtain a court order reducing the amounts owed to a sum certain and then enforce collection of that amount by a wage assignment order.

**Sec. 14 was vetoed, see message at end of chapter.*

Sec. 15. Section 2, chapter 164, Laws of 1971 ex. sess. as last amended by section 1, chapter 55, Laws of 1989 and by section 151, chapter 175, Laws of 1989 and RCW 74.20A.020 are each reenacted and amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter and chapter 74.20 RCW shall have the following meanings:

(1) "Department" means the state department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services, his designee or authorized representative.

(3) "Dependent child" means any person:

(a) Under the age of eighteen who is not self-supporting, married, or a member of the armed forces of the United States; or

(b) Over the age of eighteen for whom a court order for support exists.

(4) "Support obligation" means the obligation to provide for the necessary care, support, and maintenance, including medical expenses, of a dependent child or other person as required by statutes and the common law of this or another state.

(5) "Superior court order" means any judgment, decree, or order of the superior court of the state of Washington, or a court of comparable jurisdiction of another state, establishing the existence of a support obligation and ordering payment of a set or determinable amount of support moneys to satisfy the support obligation. For purposes of RCW 74.20A.055, orders for support which were entered under the uniform reciprocal enforcement of support act by a state where the responsible parent no longer resides shall not preclude the department from establishing an amount to be paid as current and future support.

(6) "Administrative order" means any determination, finding, decree, or order for support pursuant to RCW 74.20A.055, or by an agency of another state pursuant to a substantially similar administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support moneys to satisfy the support obligation.

(7) "Responsible parent" means a natural parent, adoptive parent, or stepparent of a dependent child or a person who has signed an affidavit acknowledging paternity which has been filed with the state office of vital statistics.

(8) "Stepparent" means the present spouse of the person who is either the mother, father, or adoptive parent of a dependent child, and such status shall exist ~~((and continue))~~ until terminated as provided for in RCW 26.16.205 ~~((until the relationship is terminated by death or dissolution of marriage))~~.

(9) "Support moneys" means any moneys or in-kind providings paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such moneys intended to satisfy an obligation for support of any person or satisfaction in whole or in part of arrears or delinquency on such an obligation.

(10) "Support debt" means any delinquent amount of support moneys which is due, owing, and unpaid under a superior court order or an administrative order, a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including medical expenses, of a dependent child or other person for whom a support obligation is owed; or a debt under RCW 74.20A.100 or 74.20A.270. Support debt also includes any accrued interest, fees, or penalties charged on a support debt, and attorneys fees and other costs of litigation awarded in an action to establish and enforce a support obligation or debt.

(11) "State" means any state or political subdivision, territory, or possession of the United States, the District of Columbia, and the commonwealth of Puerto Rico.

Sec. 16. Section 24, chapter 460, Laws of 1987 as amended by section 18, chapter 375, Laws of 1989 and RCW 26.09.909 are each amended to read as follows:

(1) Decrees under this chapter involving child custody, visitation, or child support entered in actions commenced prior to January 1, 1988, shall be deemed to be parenting plans for purposes of this chapter.

(2) The enactment of the 1987 revisions to this chapter does not constitute substantially changed circumstances for the purposes of modifying decrees entered under this chapter in actions commenced prior to January 1, 1988, involving child custody, visitation, or child support. ~~((An))~~ Any action to modify any decree involving child custody, visitation, child support, or a parenting plan ~~((which was commenced after December 31, 1987;))~~ shall be governed by the ~~((1987 revisions to))~~ provisions of this chapter.

(3) Actions brought for clarification or interpretation of decrees entered under this chapter in actions commenced prior to January 1, 1988, shall be determined under the law in effect immediately prior to January 1, 1988.

NEW SECTION. Sec. 17. A new section is added to chapter 26.18 RCW to read as follows:

(1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of the injured worker for whom the injured worker owes a duty of child support, the amount of compensation the department or self-insurer pays on behalf of the child or children shall be treated for all purposes as if the injured worker paid the compensation toward satisfaction of the injured worker's child support obligations.

(2) When the social security administration pays social security disability dependency benefits on behalf of or on account of the child or children of the disabled person, the amount of compensation paid for the children shall be treated for all purposes as if the disabled person paid the compensation toward satisfaction of the disabled person's child support obligation.

(3) Under no circumstances shall the person who has the obligation to make the transfer payment have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section.

Sec. 18. Section 17, chapter 460, Laws of 1987 and RCW 26.09.225 are each amended to read as follows:

Each parent shall have full and equal access to the education and ~~((medical))~~ health care records of the child absent a court order to the contrary.

Sec. 19. Section 3, chapter 275, Laws of 1988 as amended by section 76, chapter 175, Laws of 1989 and RCW 26.19.020 are each amended to read as follows:

~~((1))~~~~(a)~~ Except as provided in ~~((b))~~ of this subsection, in any proceeding under this title or Title 13 or 74 RCW in which child support is at issue,

~~support shall be determined and ordered according to the child support schedule adopted pursuant to RCW 26.19.040.~~

~~(b)) If approved by a majority vote of the superior court judges of a county, the superior court may adopt by local court rule an economic table that shall be used by the superior court of that county, instead of the economic table adopted by the commission, to determine the appropriate amount of child support. The economic table adopted by the superior court shall not vary by more than twenty-five percent from the economic table adopted by the commission and shall not vary the economic table for combined monthly net income of two thousand five hundred dollars or less.~~

~~((2) An order for child support shall be supported by written findings of fact upon which the support determination is based:~~

~~(3) All income and resources of each parent's household shall be disclosed and shall be considered by the court or the presiding or reviewing officer when the child support obligation of each parent is determined:~~

~~(4) Worksheets in the form approved by the commission shall be completed and filed in every proceeding in which child support is determined: Variations of the worksheets shall not be accepted:~~

~~(5) Unless specific reasons for deviation are set forth in the written findings of fact or order and are supported by the evidence, the court or the presiding or reviewing officer shall order each parent to pay the amount of child support determined using the standard calculation:~~

~~(6) The court or the presiding or reviewing officer shall review the worksheets and the order for adequacy of the reasons set forth for any deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Reasons that may support a deviation from the standard calculation include: Possession of wealth, shared living arrangements, extraordinary debts that have not been voluntarily incurred, extraordinarily high income of a child, a significant disparity of the living costs of the parents due to conditions beyond their control, and special needs of disabled children. A deviation may be supported by tax planning considerations only if the child would not receive a lesser economic benefit. Agreement of the parties, by itself, is not adequate reason for deviation:))~~

Sec. 20. Section 2, chapter 440, Laws of 1987 as amended by section 5, chapter 275, Laws of 1988 and RCW 26.19.040 are each amended to read as follows:

~~((1)) The ((schedule proposed by the commission in its report dated January 26, 1988)) economic table as defined in section 4 of this act shall take effect July 1, ((1988)) 1990. The ((schedule)) economic table shall remain in effect until revised ((under this section. The commission shall review the schedule and propose changes as needed each even-numbered year.~~

~~(2) The commission shall review the schedule and recommended revisions based upon:~~

~~(a) Updated economic data which accurately reflects family spending and child-rearing costs for families of different sizes and income levels in the state of Washington;~~

~~(b) Appropriate adjustments for significant changes in child-rearing costs at different age levels;~~

~~(c) The need for funding of the child's primary residence by a payment which is sufficient to meet the basic needs of the child;~~

~~(d) Provisions for health care coverage and, when needed, child care payments; and~~

~~(e) The support amount shall be based on the child's age, the parent's combined income, and the family size. Family size shall mean all children for whom support is to be established.~~

~~(3) The commission shall establish standards for applying the child support schedule. Included in these standards shall be:~~

~~(a) The type, net or gross, and sources of income on which support amounts shall be based;~~

~~(b) Provisions for taking into account the voluntary unemployment or underemployment of one or both parents or if the income of a parent is not known; and~~

~~(c) Provisions for taking into account a parent whose income varies.~~

~~(4) Any proposed revisions to the schedule shall be submitted to the legislature no later than November 1st of each even-numbered year.~~

~~(5) If the commission fails to propose revisions to the schedule, the existing schedule shall remain in effect, unless the legislature refers the schedule to the commission for modification or adopts a different schedule. If the schedule is referred to the commission for modification, the provisions of subsection (7) of this section shall be applicable.~~

~~(6) The legislature may adopt the proposed schedule or refer the proposed schedule to the commission for modification. If the legislature fails to adopt or refer the proposed schedule to the commission by March 1 of the following year, the proposed schedule shall take effect without legislative approval on July 1 of that year.~~

~~(7) If the legislature refers the proposed schedule to the commission for modification on or before March 1st, the commission shall resubmit the proposed modifications to the legislature no later than March 15th. The legislature may adopt or modify the resubmitted proposed schedule. If the legislature fails to adopt or modify the resubmitted proposed schedule by April 1, the resubmitted proposed schedule shall take effect without legislative approval on July 1 of that year)) by the legislature.~~

Sec. 21. Section 25, chapter 183, Laws of 1973 1st ex. sess. as last amended by section 152, chapter 175, Laws of 1989 and RCW 74.20A.055 are each amended to read as follows:

(1) The secretary may, in the absence of a superior court order, serve on the responsible parent or parents a notice and finding of financial responsibility requiring a responsible parent or parents to appear and show cause in an adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26.16.205, including periodic payments to be made in the future for such period of time as the child or children of said responsible parent or parents are in need. The hearing shall be held pursuant to RCW 74.20A.055, chapter 34-.05 RCW, the Administrative Procedure Act, and the rules of the department.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. Any responsible parent who objects to all or any part of the notice and finding shall have the right for not more than twenty days from the date of service to file an application for an adjudicative proceeding. The application shall be served upon the department by registered or certified mail or personally. If no such application is made, the notice and finding of responsibility shall become final, and the debt created therein shall be subject to collection action as authorized under this chapter. If a timely application is made, the execution of notice and finding of responsibility shall be stayed pending the entry of the final administrative order. If no timely written application has previously been made, the responsible parent may petition the secretary or the secretary's designee at any time for an adjudicative proceeding as provided for in this section upon a showing of good cause for the failure to make a timely application. The filing of the petition for an adjudicative proceeding after the twenty-day period shall not affect any collection action previously taken under this chapter. The granting of an application after the twenty-day period operates as a stay on any future collection action, pending entry of the final administrative order. Moneys withheld as a result of collection action in effect at the time of the granting of the application after the twenty-day period shall be delivered to the department and shall be held in trust by the department pending entry of the final administrative order. The department

may petition the presiding or reviewing officer to set temporary current and future support to be paid beginning with the month in which the application after the twenty-day period is granted. The presiding or reviewing officer shall order payment of temporary current and future support if appropriate in an amount determined pursuant to the child support schedule adopted under RCW 26.19.040. In the event the responsible parent does not make payment of the temporary current and future support as ordered by the presiding or reviewing officer, the department may take collection action pursuant to chapter 74.20A RCW during the pendency of the adjudicative proceeding or thereafter to collect any amounts owing under the order. Temporary current and future support paid, or collected, during the pendency of the adjudicative proceeding shall be disbursed to the custodial parent or as otherwise appropriate when received by the department. If the final administrative order is that the department has collected from the responsible parent other than temporary current or future support, an amount greater than such parent's past support debt, the department shall promptly refund any such excess amount to such parent.

(3) Hearings may be held in the county of residence or other place convenient to the responsible parent. The notice and finding of financial responsibility shall set forth the amount the department has determined the responsible parent owes, the support debt accrued and/or accruing, and periodic payments to be made in the future for such period of time as the child or children of the responsible parent are in need, all computable on the basis of the need alleged. The notice and finding shall also include a statement of the name of the recipient or custodian and the name of the child or children for whom need is alleged; and/or a statement of the amount of periodic future support payments as to which financial responsibility is alleged.

(4) The notice and finding shall include a statement that the responsible parent may object to all or any part of the notice and finding, and file an application for an adjudicative proceeding to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future.

The notice and finding shall include a statement that, if the responsible parent fails in timely fashion to file an application for an adjudicative proceeding, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt shall be subject to collection action; a statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.

(5) If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past liability and responsibility,

if any, of the alleged responsible parent and shall also determine the amount of periodic payments to be made in the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. If deviating from the child support schedule adopted under RCW 26.19.040 in making these determinations, the presiding or reviewing officer shall comply with ~~((RCW 26.19.020 (4), (5), and (6)))~~ the provisions set forth in chapter 26.19 RCW.

If the responsible parent fails to attend or participate in the hearing or other stage of an adjudicative proceeding, upon a showing of valid service, the presiding officer shall enter an initial decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action.

(6) The final order establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the administrative order: PROVIDED, That in the absence of a superior court order, either the responsible parent or the department may petition the secretary or his designee for issuance of an order to appear and show cause based on a showing of good cause and material change of circumstances, to require the other party to appear and show cause why the order previously entered should not be prospectively modified. Said order to appear and show cause together with a copy of the petition and affidavit upon which the order is based shall be served in the manner of a summons in a civil action or by certified mail, return receipt requested, on the other party by the petitioning party. Prospective modification may be ordered, but only upon a showing of good cause and material change of circumstances.

(7) The presiding or reviewing officer shall order support payments under the child support schedule adopted under RCW 26.19.040.

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

(9) "Need" as used in this section shall mean the necessary costs of food, clothing, shelter, and medical attendance for the support of a dependent child or children. The amount determined by reference to the child support schedule adopted under RCW 26.19.040, shall be a rebuttable presumption of the alleged responsible parent's ability to pay and the need of the family: PROVIDED, That such responsible parent shall be presumed to have no ability to pay child support under this chapter from any income received from aid to families with dependent children, supplemental security income, or continuing general assistance.

NEW SECTION. Sec. 22. (1) The administrator for the courts shall develop a child support order summary report form to provide for the reporting of summary information in every case in which a child support order is entered or modified either judicially or administratively. The administrator for the courts shall attempt to the greatest extent possible to make the form simple and understandable by the parties. The form shall indicate the following:

- (a) The county in which the order was entered and the cause number;
- (b) Whether it was a judicial or administrative order;
- (c) Whether the order is an original order or from a modification;
- (d) The number of children of the parties and the children's ages;
- (e) The combined monthly net income of parties;
- (f) The monthly net income of the father as determined by the court;
- (g) The monthly net income of the mother as determined by the court;
- (h) The basic child support obligation for each child as determined from the economic table;
- (i) Whether or not the court deviated from the child support for each child;
- (j) The reason or reasons stated by the court for the deviation;
- (k) The amount of child support after the deviation;
- (l) Any amount awarded for day care;
- (m) Any other extraordinary amounts in the order;
- (n) Any amount ordered for postsecondary education;
- (o) The total amount of support ordered;
- (p) In the case of a modification, the amount of support in the previous order;
- (q) If the change in support was in excess of thirty percent, whether the change was phased in;
- (r) The amount of the transfer payment ordered;
- (s) Which parent was ordered to make the transfer payment; and
- (t) The date of the entry of the order.

(2) The administrator for the courts shall make the form available to the parties.

NEW SECTION. Sec. 23. A new section is added to chapter 26.09 RCW to read as follows:

The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to section 22 of this act. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis.

NEW SECTION. Sec. 24. A new section is added to chapter 26.10 RCW to read as follows:

The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to section 22 of this act. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis.

NEW SECTION. Sec. 25. The administrator for the courts shall develop not later than July 1, 1991, standard court forms for mandatory use by litigants in all actions commenced under chapters 26.09, 26.10, and 26.26 RCW effective January 1, 1992.

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

Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

NEW SECTION. Sec. 27. A new section is added to chapter 26.10 RCW to read as follows:

Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

NEW SECTION. Sec. 28. A new section is added to chapter 26.26 RCW to read as follows:

Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

NEW SECTION. Sec. 29. Section 1, chapter 440, Laws of 1987, section 4, chapter 275, Laws of 1988, section 41, chapter 360, Laws of 1989 and RCW 26.19.030 are each repealed.

NEW SECTION. Sec. 30. (1) Sections 5 and 22 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

(2) The remainder of this act shall take effect July 1, 1990.

NEW SECTION. Sec. 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

Passed the House March 9, 1990.

Passed the Senate March 9, 1990.

Approved by the Governor March 26, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 26, 1990.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 4, 8, 11, and 14, House Bill No. 2888 entitled:

"AN ACT Relating to child support."

The issues around child support are matters of increasing complexity in today's society. In the past several years, the Legislature has been struggling to create a fair system which ensures the well-being of children.

The Child Support Commission created a basic framework that attempts to fairly divide the responsibilities of financial support between parents. The commission fulfilled its function, which was to design an economic table based on data, outside of the political process and away from the volatile emotional climate that often occurs during divorce.

As I have said before, the support schedule needs some adjustments to ensure that second families are not unfairly disadvantaged. I anticipate that a variety of adjustments for this and other purposes will occur periodically as society changes. Since the child support system was enacted just last year, little data exists at this time to justify major changes that would substantially alter support levels.

I applaud the effort the Legislature made in House Bill No. 2888 to ensure that court decisions on support are well justified and documented. These changes create access to data which will be useful in future decisions about child support.

Many aspects of House Bill No. 2888 will benefit non-custodial parents. This legislation ensures that non-custodial parents will not have to pay additional support solely because the other parent received a salary increase. The issue of support for children obtaining post-secondary education is resolved with certainty and with protections for non-custodial parents.

Non-custodial parents are given clear rights regarding access to educational and health records. Courts are allowed to give either parent the right to claim the child as a tax exemption and non-custodial parents are ensured that disability benefits received by their children can be set off against the support obligation. Stepparents may terminate their obligation to support stepchildren much sooner, as well.

Section 4 supersedes the Washington State Child Support Schedule in the Washington register. I am vetoing this section to preserve the schedule as modified by House Bill No. 2888, since the other vetoes will require reference back to that schedule for some purposes.

Section 8 substantially modifies the manner in which gross income is calculated and deviations are to be made. Although I understand that this section attempts to adjust for possible inequities to second families, the legislation goes much further than that. It removes a wide array of items from the calculation of gross income, and shifts the burden of proof for deviations to custodial parents even in situations where the income is actually much higher than "gross income" as defined in this section. This section could substantially lower support for children, when no data exists to justify this change.

Section 11 contains a significant change that conflicts with the statutory policy. Existing law allows the court to use the economic table as advisory if the combined monthly net income exceeds the ceiling, but the court must order some additional

support. This section eliminates the mandate that a child receive additional support when parents have incomes higher than the ceiling. RCW 26.19.001 states an intent that children in our state should receive support to meet their basic needs and additional support commensurate with their parents' standard of living.

Section 14 changes the way in which child care, transportation and other expenses are paid. Most of these expenses would no longer be paid in advance, which is likely to unfairly burden custodial parents. Furthermore, the remedies for failure to pay seem unworkable. This language appears to require a custodial parent to go to court each time the other parent fails to pay his or her share of a transportation cost or child care bill. I am concerned that this approach will impede a parent's ability to actually collect for expenses incurred and it would also result in more pressure on already crowded court dockets.

With the exception of sections 4, 8, 11 and 14, House Bill No. 2888 is approved."

CHAPTER 3

[Substitute House Bill No. 2416]

INSURANCE STATUTE REVISIONS

AN ACT Relating to insurance; amending RCW 48.04.010, 48.17.110, 48.17.160, 48.17.180, 48.17.450, 48.17.540, 48.21.180, 48.30.140, 48.30.150, 48.30.210, 48.30.230, 48.44.240, 48.30.260, and 48.46.350; repealing RCW 48.17.440; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section .04.01, chapter 79, Laws of 1947 as last amended by section 2, chapter 248, Laws of 1988 and RCW 48.04.010 are each amended to read as follows:

(1) The commissioner may hold a hearing for any purpose within the scope of this code as he or she may deem necessary. ~~((He))~~ The commissioner shall hold a hearing:

(a) If required by any provision of this code~~((:))~~; or

(b) Upon written demand for a hearing made by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if such failure is deemed an act under any provision of this code, or by any report, promulgation, or order of the commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing.

(2) Any such demand for a hearing shall specify in what respects such person is so aggrieved and the grounds to be relied upon as basis for the relief to be demanded at the hearing.

(3) Unless a person aggrieved by a written order of the commissioner demands a hearing thereon within ninety days after receiving notice of such order, or in the case of a licensee under Title 48 RCW within ninety days after the commissioner has mailed the order to the licensee at the most recent address shown in the commissioner's licensing records for the licensee, the right to such hearing shall conclusively be deemed to have been waived.

(4) If a hearing is demanded by a licensee whose license has been temporarily suspended pursuant to RCW 48.17.540, the commissioner shall