

CHAPTER 430

[Substitute House Bill No. 413]

CHILD SUPPORT ORDER MODIFICATION

AN ACT Relating to modification of child support orders; amending RCW 26.09.170 and 26.09.100; and adding a new section to chapter 26.09 RCW.

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

Sec. 1. Section 17, chapter 157, Laws of 1973 1st ex. sess. 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 subsection (4) 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 obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

NEW SECTION. Sec. 2. A new section is added to chapter 26.09 RCW 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. 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 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 shall also be served on the office of support enforcement. Proof of service shall be filed with the court.

(3) The responding party's answer and completed financial affidavit 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. 3. Section 10, chapter 157, Laws of 1973 1st ex. sess. 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 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 reasonable or necessary for his support. The court may require annual adjustments of support based upon changes in a party's income or the child's needs, or based upon changes in an index or schedule.

NEW SECTION. Sec. 4. 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 April 21, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 18, 1987.

Filed in Office of Secretary of State May 18, 1987.

CHAPTER 431

[Engrossed Substitute House Bill No. 99]

HEALTH INSURANCE COVERAGE ACCESS ACT

AN ACT Relating to health insurance coverage access for those persons otherwise uninsurable; adding a new section to chapter 48.14 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 48 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. This chapter shall be known and may be cited as the "Washington state health insurance coverage access act".

NEW SECTION. Sec. 2. It is the purpose and intent of the legislature to provide access to health insurance coverage to all residents of Washington who are denied adequate health insurance for any reason. It is the intent of the legislature that adequate levels of health insurance coverage be made available to residents of Washington who are otherwise considered uninsurable or who are underinsured. It is the intent of the Washington state health insurance coverage access act to provide a mechanism to insure the availability of comprehensive health insurance to persons unable to obtain such insurance coverage on either an individual or group basis directly under any health plan.

NEW SECTION. Sec. 3. As used in this chapter, the following terms have the meaning indicated, unless the context requires otherwise:

- (1) "Administrator" means the entity chosen by the board to administer the pool under section 8 of this act.
- (2) "Board" means the board of directors of the pool.
- (3) "Commissioner" means the insurance commissioner.
- (4) "Health care facility" has the same meaning as in RCW 70.38.025.