

NEW SECTION. Sec. 13. 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 10, 1988.

Passed the Senate March 10, 1988.

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CHAPTER 275

[Engrossed Substitute House Bill No. 1465]

CHILD SUPPORT SCHEDULE

AN ACT Relating to child support; amending RCW 26.09.100, 74.20A.055, 74.20A.160, 26.09.170, 26.23.030, 74.20.330, and 74.20A.030; amending section 1, chapter 440, Laws of 1987 (uncodified); amending section 2, chapter 440, Laws of 1987 (uncodified); adding a new chapter to Title 26 RCW; adding a new section to chapter 26.10 RCW; adding a new section to chapter 26.21 RCW; adding a new section to chapter 13.32A RCW; adding a new section to chapter 13.34 RCW; adding a new section to chapter 26.26 RCW; creating a new section; repealing RCW 74.20.270; repealing section 4, chapter 440, Laws of 1987 (uncodified); providing effective dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents.

The legislature finds that these goals will be best achieved by the adoption and use of a state-wide child support schedule. Use of a state-wide schedule will benefit children and their parents by:

- (1) Increasing the adequacy of child support orders through the use of economic data as the basis for establishing the child support schedule;
- (2) Increasing the equity of child support orders by providing for comparable orders in cases with similar circumstances; and
- (3) Reducing the adversarial nature of the proceedings by increasing voluntary settlements as a result of the greater predictability achieved by a uniform state-wide child support schedule.

NEW SECTION. Sec. 2. 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 commission;

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

(5) "Instructions" means the instructions adopted by the commission for use in completing the worksheets;

(6) "Commission" means the Washington state child support schedule commission established by section 4 of this act; and

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

NEW SECTION. Sec. 3. (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 section 5 of this act.

(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 administrative law judge 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 administrative law judge shall order each parent to pay the amount of child support determined using the standard calculation.

(6) The court or administrative law judge 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. 4. Section 1, chapter 440, Laws of 1987 (uncodified) is amended to read as follows:

(1) A child support schedule commission is established. The commission shall ~~((recommend a child support schedule and propose changes in the schedule to the legislature no later than November 1, 1987))~~ review and propose changes to the child support schedule and review and adopt changes to the worksheets and instructions.

(2) The commission shall be composed of the secretary of social and health services or the secretary's designee and ~~((nine))~~ ten other members. ~~((Seven))~~ Eight members shall be appointed by the governor, subject to confirmation by the senate, as follows: (a) A superior court judge; (b) a representative from the state bar association; (c) an attorney representing indigent persons in Washington; (d) two other persons who have demonstrated an interest or expertise in the study of economic data or child support issues, one of ~~((which))~~ whom shall be a non-custodial parent; and (e) ~~((two))~~ three public members who represent the affected populations, ~~((one))~~ two of ~~((which))~~ whom shall be ~~((a))~~ non-custodial parents. Two members shall be the administrator for the courts or his or her designee and the attorney general or his or her designee. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; and of the state bar association in respect to the state bar association and indigent attorney representatives.

(3) The secretary of social and health services or the secretary's designee shall serve as ~~((chairman))~~ chair of the commission.

(4) The secretary, administrator for the courts, and attorney general shall serve on the commission ~~((during the secretary's tenure as secretary of social and health services))~~ while holding their respective positions. The term of the remaining members of the commission shall be three years, except that members serving on the commission as of the effective date of this 1988 act, shall serve staggered terms which shall be determined by lot, but shall not serve longer than three years from the date of appointment unless reappointed for an additional three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members shall be compensated under RCW 43.03.240.

(6) The office of the administrator for the courts and the office of support enforcement shall provide clerical and other support to the commission to enable it to perform its functions. The office of support enforcement shall

be responsible for travel expenses and compensation of commission members.

(7) The commission shall invite public participation and input, particularly from persons who are affected by child support orders.

(8) This section shall expire July 1, 1990.

Sec. 5. Section 2, chapter 440, Laws of 1987 (uncodified) is amended to read as follows:

(1) The schedule proposed by the commission in its report dated January 26, 1988, shall take effect July 1, 1988. The schedule shall remain in effect until revised under this section. The ((child support schedule)) commission shall ((propose a child support schedule to the legislature no later than November 1, 1987)) review the schedule and propose changes as needed each even-numbered year.

(2) The commission shall ((set)) review the ((child support)) 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(; and

(d) Provisions for taking into account the differing cost of living in the various counties in this state)).

(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.

NEW SECTION. Sec. 6. (1) The commission shall develop and adopt worksheets and instructions. The commission 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 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.

NEW SECTION. Sec. 7. The schedule under section 5 of this act shall be published in the Washington State Register. The commission shall also request that the supreme court cause the schedule to be published in the official advance sheets of the supreme court of Washington. The commission shall also request that the Washington state bar association publish the schedule in the Washington state bar news.

NEW SECTION. Sec. 8. The commission shall examine methods for verifying the expenditure of child support payments and criteria for determining when verification is appropriate. The commission shall report to the house judiciary committee and senate law and justice committee not later than January 10, 1989, on its recommendations for a verification process.

Sec. 9. Section 10, chapter 157, Laws of 1973 1st ex. sess. as amended by section 3, chapter 430, Laws of 1987 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~~) determined pursuant to the schedule adopted

under section 5 of this 1988 act. 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))~~ the child support schedule.

Sec. 10. Section 25, chapter 183, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 189, Laws of 1982 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 a hearing held by the department 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. Said hearing shall be held pursuant to RCW 74.20A.055, chapter 34.04 RCW, and the rules and regulations of the department, which shall provide for a fair hearing.

(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 request in writing a hearing, which request shall be served upon the department by registered or certified mail or personally. If no such request 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 request is made, the execution of notice and finding of responsibility shall be stayed pending the decision on such hearing. If no timely written request for a hearing has previously been made, the responsible parent may petition the secretary or the secretary's designee at any time for a hearing as provided for in this section upon a showing of good cause for the failure to make a timely request for hearing. The filing of the petition for a hearing after the twenty-day period shall not affect any collection action previously taken under this chapter. The granting of a request for the hearing shall operate

as a stay on any future collection action, pending the final decision of the secretary or the secretary's designee on the hearing. Moneys withheld as a result of collection action in effect at the time of the granting of the request for the hearing shall be delivered to the department and shall be held in trust by the department pending the final order of the secretary or during the pendency of any appeal to the courts made under chapter 34.04 RCW. The department may petition the administrative law judge to set temporary current and future support to be paid beginning with the month in which the petition for an untimely hearing is granted. The administrative law judge shall order payment of temporary current and future support if appropriate in an amount determined pursuant to ~~((the scale of suggested minimum contributions adopted under RCW 74.20.270))~~ the child support schedule adopted under section 5 of this 1988 act. In the event the responsible parent does not make payment of the temporary current and future support as ordered by the hearing examiner, the department may take collection action pursuant to chapter 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the order. Temporary current and future support paid, or collected, during the pendency of the hearing or appeal shall be disbursed to the custodial parent or as otherwise appropriate when received by the department. If the final decision of the department, or of the courts on appeal, 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. Any such hearing shall be a "contested case" as defined in RCW 34.04.010. 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 request a hearing 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 request a hearing, 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 a hearing is requested, it shall be promptly scheduled, in no more than thirty days. The hearing, including a hearing on prospective modification, shall be conducted by an administrative law judge appointed under chapter 34.12 RCW.

After evidence has been presented at hearings conducted by the administrative law judge, the administrative law judge shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The administrative law judge shall file the original of the initial decision and order, signed by the administrative law judge, with the secretary or the secretary's designee. Copies of the initial decision and order shall be mailed by the administrative law judge to the department and to the appellant by certified mail to the last known address of each party. Within thirty days of filing, either the appellant or the department may file with the secretary or the secretary's designee a written petition for review of the initial decision and order. The petition for review shall set forth in detail the basis for the requested review and shall be mailed by the petitioning party to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any of the following causes materially affecting the substantial rights of the petitioner:

(a) Irregularity in the proceedings of the administrative law judge or adverse party, or any order of the administrative law judge, or abuse of discretion, by which the moving party was prevented from having a fair hearing;

(b) Misconduct of the prevailing party;

(c) Accident or surprise which ordinary prudence could not have guarded against;

(d) Newly discovered evidence, material for the party making the application, which the party could not with reasonable diligence have discovered and produced at the hearing;

(e) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law;

(f) Error in mathematical computation;

(g) Error in law occurring at the hearing and objected to at the time by the party making the application;

(h) That the moving party is unable to perform according to the terms of the order without further clarification;

(i) That substantial justice has not been done;

(j) Fraud or misstatement of facts by any witness, which materially affects the debt;

(k) Clerical mistakes in the decision arising from oversight or omission;

or

(l) That the decision and order entered because the responsible parent failed to appear at the hearing should be vacated and the matter be remanded for a hearing upon showing of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

In the event no petition for review is made as provided in this subsection by any party, the initial decision and order of the administrative law judge is final as of the date of filing and becomes the decision and order of the secretary. No appeal may be taken therefrom to the courts and the debt created is subject to collection action as authorized by this chapter.

After the receipt of a petition for review, the secretary or the secretary's designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof, and such additional evidence and argument as the secretary or the secretary's designee may in his or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the administrative law judge for additional evidence or argument. The secretary or the secretary's designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of the denial and all parties shall forthwith be notified, in writing, of the denial, by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or the secretary's designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings of fact and conclusions of law as to each contested issue of fact and law. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The decision and order shall authorize collection action, as appropriate, under this chapter.

(6) The administrative law judge in his or her initial decision, or the secretary or the secretary's designee in review of the initial decision, 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 section 5 of this 1988 act in making these determinations, the administrative law judge, and the secretary or the secretary's designee, shall ~~((include in his or her considerations:~~

~~(a) All earnings and income resources of the responsible parent, including real and personal property;~~

~~(b) The earnings potential of the responsible parent;~~

~~(c) The reasonable necessities of the responsible parent;~~
~~(d) The ability of the responsible parent to borrow;~~
~~(e) The needs of the child for whom the support is sought;~~
~~(f) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;~~
~~(g) The existence of other dependents; and~~
~~(h) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children of the responsible parent)) comply with section 3(4), (5), and (6) of this 1988 act.~~

If the responsible parent fails to appear at the hearing, upon a showing of valid service, the administrative law judge 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. Within thirty days of entry of said decision and order, the responsible parent may petition the secretary or the secretary's designee to vacate said decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

(7) The final decision entered pursuant to this section shall be entered as a decision and order and shall limit the support debt to the amounts stated in said decision: **PROVIDED**, That said decision 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 hearing order or decision: **PROVIDED FURTHER**, 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 decision 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. A hearing shall be set not less than fifteen nor more than thirty days from the date of service, unless extended for good cause shown. Prospective modification may be ordered, but only upon a showing of good cause and material change of circumstances. The decision and order for prospective modification entered by the administrative law judge shall be an initial decision subject to review by the secretary or the secretary's designee as provided for in this section.

(8) The administrative law judge, in making the initial decision and the secretary or the secretary's designee in the final decision determining liability and/or future periodic support payments, shall ~~((consider the standards~~

~~promulgated pursuant to RCW 74.20.270 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent))~~ order support payments under the child support schedule adopted under section 5 of this 1988 act.

(9) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by the administrative law judge, or the secretary or secretary's designee.

(10) "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 ~~((schedule of suggested minimum contributions adopted under RCW 74.20.270, based on the earnings, resources, and property of the alleged responsible parent))~~ child support schedule adopted under section 5 of this 1988 act, 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.

Sec. 11. Section 16, chapter 164, Laws of 1971 ex. sess. as last amended by section 8, chapter 276, Laws of 1985 and RCW 74.20A.160 are each amended to read as follows:

With respect to any arrearages on a support debt assessed under ~~((RCW 74.20A.040, 74.20A.055, or 74.20A.270))~~ this chapter, the secretary may at any time consistent with the income, earning capacity and resources of the debtor, set or reset a level and schedule of payments to be paid upon a support debt. The secretary may, upon petition of the debtor providing sufficient evidence of hardship, after consideration of the ~~((standards established in RCW 74.20.270))~~ child support schedule adopted under section 5 of this 1988 act, release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of the responsible parent or parents and minor children in the home of the responsible parent. Nothing in this section shall be construed to require the secretary to take any action which would require collection of less than the obligation for current support required under a superior court order or an administrative order or to take any action which would result in a bar of collection of arrearages from the debtor by reason of the statute of limitations.

NEW SECTION. Sec. 12. A new section is added to chapter 26.10 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 13. A new section is added to chapter 26.21 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 14. A new section is added to chapter 13.32A RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 15. A new section is added to chapter 13.34 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 16. A new section is added to chapter 26.26 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

*Sec. 17. Section 17, chapter 157, Laws of 1973 1st ex. sess. as amended by section 1, chapter 430, Laws of 1987 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.

(5) 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. 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.

*Sec. 17 was partially vetoed, see message at end of chapter.

Sec. 18. Section 3, chapter 435, Laws of 1987 and RCW 26.23.030 are each amended to read as follows:

There is created a Washington state support registry within the office of support enforcement as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

(1) Account for and disburse all support payments received by the registry;

(2) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due; the date and amount of payments; and the names, social security numbers, and addresses of the parties;

(3) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry;

(4) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered.

The child support registry shall distribute all moneys received in compliance with 42 U.S.C. Sec. 657. Support received by the office of support enforcement shall be distributed promptly but not later than eight days from the date of receipt unless circumstances exist which make such distribution impossible. Such circumstances include when: (a) The location of the custodial parent is unknown; (b) the child support debt is in litigation; or (c) the responsible parent or custodial parent cannot be identified. When, following termination of public assistance, the office of support enforcement collects support, all moneys collected up to the maximum of the support due for the period following termination from public assistance shall, to the extent permitted by federal law, be paid to the custodial parent before any distribution to the office of support enforcement under 42 U.S.C. Sec. 657.

This section shall not apply to support collected through intercepting federal tax refunds under 42 U.S.C. Sec. 664. When a responsible parent has more than one support obligation, or a support debt is owed to more than one party, moneys received will be distributed between the parties proportionally, based upon the amount of the support obligation and/or support debt owed.

If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and up to ten percent of amounts collected as current support.

Sec. 19. Section 22, chapter 171, Laws of 1979 ex. sess. as amended by section 3, chapter 276, Laws of 1985 and RCW 74.20.330 are each amended to read as follows:

(1) Whenever public assistance is paid under this title, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made. Payment of public assistance under this title operates as an assignment by operation of law.

(2) Upon the recipient's request, the department (~~((may, and under appropriate circumstances))~~) shall ~~((:))~~ continue to establish the support obligation and to enforce and collect the support debt (~~((for a period not to exceed three months from the month following the month in which such family ceased))~~) after the family ceases to receive public assistance, and thereafter if a nonassistance request for support enforcement services has been made under RCW 74.20.040 (2) and (3). The department shall distribute all amounts collected in accordance with 42 U.S.C. Sec. 657 and RCW 26.23.030.

Sec. 20. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 31, chapter 435, Laws of 1987 and RCW 74.20A.030 are each amended to read as follows:

The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 74.20A.055.

Distribution of any support moneys shall be made in accordance with 42 U.S.C. Sec. 657.

Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.

No collection action shall be taken against parents of children eligible for admission to, or children who have been released from, a state school for the developmentally disabled as defined by chapter 72.33 RCW.

The department may initiate, continue, maintain, or execute action to establish, enforce, and collect a support obligation, including establishing paternity and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state, for a period not to exceed three months from the month following the month in which the family or any member thereof ceases to receive public assistance and thereafter if a non-assistance request for support enforcement services has been made under RCW 74.20.040 and RCW 26.23.030.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 12, chapter 206, Laws of 1963, section 369, chapter 141, Laws of 1979 and RCW 74.20.270; and

(2) Section 4, chapter 440, Laws of 1987 (uncodified).

NEW SECTION. Sec. 22. Sections 1 through 7 of this act shall constitute a new chapter in Title 26 RCW.

NEW SECTION. Sec. 23. Except for sections 4, 8, and 9 of this act, this act shall take effect July 1, 1988. Sections 4 and 8 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 24. 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 8, 1988.

Passed the Senate March 4, 1988.

Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to sections 17(1) through (4) Substitute House Bill No. 1465, entitled:

"AN ACT Relating to child support."

Substitute House Bill No. 1465 establishes a statewide schedule for determining child support payments. This legislation is in the best interest of children, for it will result in support payments which more closely reflect the cost of raising children.

A veto of section 17(1) through (4), will retain language adopted in 1987 at the request of the Department of Social and Health Services and upon the recommendation of the Governor's Executive Task Force on Support Enforcement. It makes access to court easier for correcting unintended and unforeseen inequities in child support orders. This section was included in the legislation based on a fear that improved access to the courts would result in an unmanageable increase in the number of actions brought to the court. The Office of the Administrator for the Courts has determined that this increase has not occurred in Washington to date or in other states which have had similar laws for a longer time.

With the exception of section 17(1) through (4), Substitute House Bill No. 1465 is approved."

CHAPTER 276

[Second Substitute Senate Bill No. 5378]

PRENATAL TESTING

AN ACT Relating to prenatal testing for heritable and congenital disorders; adding a new chapter to Title 70 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; adding a new section to chapter 70.54 RCW; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that the availability and competent utilization of certain prenatal tests for congenital and heritable disorders is crucial to protect the health of both mothers and infants. The legislature further finds that the public health, safety, and welfare will be protected by promoting the performance of these tests and the obtaining of data on the utilization of these tests.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

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

(2) "Laboratory" means a private or public agency or organization performing prenatal tests for congenital and heritable disorders.

(3) "Prenatal tests" means any test that predicts congenital or heritable disorders which: (a) As determined by the state board of health can by improper utilization clearly harm or endanger the health, safety, or welfare of the public, and the potential harm is easily recognizable and not remote or dependent upon tenuous argument, and (b) are enumerated by the department by rule.

(4) "Secretary" means the secretary of social and health services.

NEW SECTION. Sec. 3. The department shall adopt rules establishing requirements for the reporting and other activities required by this chapter. The department shall adopt rules in accordance with the administrative procedure act, chapter 34.04 RCW. In adopting rules the department shall consult with the prenatal test advisory committee.