

No. 50178-3

**IN THE COURT OF APPEALS FOR
THE STATE OF WASHINGTON
DIVISION II**

In re the Marriage of:

KATHRYN MCRAE,

Respondent,

and

DANIEL MCRAE,

Appellant.

BRIEF OF APPELLANT

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INTRODUCTION

Before and during his marriage to Kathryn McRae, Daniel McRae worked at least two – and at times three – full-time jobs (owning and running several geoduck diving vessels, and captaining or diving on them as well). Daniel¹ earned well over \$150,000 a year working 80+ hours a week.

Daniel and Kathryn separated after 5.8 years. They agreed to 50/50 custody of their two children. Daniel thus had to cut back on his 80+ hours per week jobs. But he kept one full-time job (working 40-50 hours per week). He still makes over \$90,000 a year. Kathryn makes \$56,500 a year, plus bonuses.

Yet Kathryn asked the trial court to find Daniel “voluntarily underemployed,” and it did. She also asked the court to impute to Daniel the income he could make only while working several jobs at a time, and it did. But she omitted the controlling statutory language from her motion, and failed to cite on-point authority in the jurisdiction. She submitted a child support order containing wholly unsupported findings, which the trial court signed. This Court should reverse and remand for recalculation of child support.

¹ We use first names for convenience, intending no disrespect.

ASSIGNMENTS OF ERROR

1. The trial court erred in imputing over \$130,000 yearly income to Daniel. CP 413, 420.²
2. The trial court erred in finding Daniel voluntarily underemployed. CP 412-13.
3. The trial court erred in finding that the children spend most of their time with Kathryn under the 50/50 parenting plan. CP 413.
4. The trial court erred in failing to deviate downward from the standard child support calculation. CP 413-14.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

Did the trial court err as a matter of law in imputing income to Daniel, where he is fully employed making over \$90,000 a year?

Did the trial court err as a matter of law in finding Daniel voluntarily underemployed under these circumstances?

Did the trial court err in finding that the children spend most of their time with Kathryn under the 50/50 parenting plan?

Did the trial court err in refusing to deviate downward due to the 50/50 parenting plan based on an erroneous finding that “a deviation would leave insufficient funds in the mother’s household”?

² The Child Support Order is attached as Appendix A.

STATEMENT OF THE CASE

- A. Prior to and during the marriage, Daniel owned and operated up to four commercial diving boats, and during the marriage, Kathryn worked as a medical coder until their first child was born.**

Prior to the marriage, Daniel started a commercial geoduck harvest diving operation in October 2004. CP 377. He owned and maintained up to four commercial diving boats, ran the businesses, and was employed as a diver/captain on his boats. *Id.* He typically worked more than 80 hours a week, including 12-hours-a-day on the water, and additional time running the businesses. CP 378. He could earn over \$150,000 a year working those many jobs. CP 380-81.

The parties married in July 2010. CP 360. During the marriage, Kathryn worked as a medical coder until their first child was born. CP 377-78. She then became a stay-at-home mom. *Id.* Daniel continued to work roughly 80 hours per week until six months before the parties separated. *Id.*

- B. After a 5.8-year marriage, the parties dissolved their marriage by agreement, dividing their property, agreeing to roughly 50/50 custody of their two children, and leaving only child support for judicial resolution.**

The parties separated in March 2016. CP 360. Kathryn became employed again in July 2016, earning \$56,500 a year. CP 341.

Through mediation, the parties entered into CR 2(A) Agreements in December 2016, dividing their property, and providing essentially 50/50 custody for their two children. CP 298-314. The court incorporated the terms of their Agreements into its final orders in February 2017. CP 348-76. The parties left child support for judicial resolution.

C. Procedure.

- 1. Kathryn asked the trial court to impute to Daniel the income he made working 80+ hours a week even though he now has 50% custody of the children.**

Kathryn filed a motion seeking child support. CP 341-47. She argued that Daniel was now “voluntarily underemployed” because he could no longer work 80-hours-a-week and meet his 50% parenting responsibilities. CP 342-43. She asked the court to impute income at his 80-hour-a-week rate, citing RCW 26.19.071(6). CP 344.

- 2. Kathryn omitted the dispositive statutory language from her motion.**

While she quoted a portion of that statute (*id.*), she omitted the dispositive portion that expressly forbids imputing income when a parent is gainfully employed on a full-time basis, unless the court also finds *both* that the parent is voluntarily underemployed *and* that he is “purposely underemployed” *to reduce his child support obligation*:

The court shall impute income to a parent when the parent is . . . voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed . . . based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation.

RCW 26.19.071(6) (emphasis added). There is even an unchecked box on the Child Support Order for "this parent works full-time but is purposely under-employed to reduce child support." CP 412-13.

And the portion of the statute that Kathryn did disclose to the trial court expressly and solely refers to *full-time earnings* (CP 344, quoting RCW 26.19.170(6)(a-c)):

. . . the court shall impute a parent's income in the following order of priority:

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

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

(c) Full-time earnings at a past rate of pay where information is incomplete or sporadic . . .

3. **Daniel explained that he is fully employed (40-50 hours per week) making over \$90,000 a year, but can't work 80+ hours per week under the 50/50 parenting plan.**

Daniel responded with a declaration explaining his earnings at 80-hours-a-week, that he could no longer work all those jobs with 50% responsibility for the children, and that he made \$93,094 in 2016, working "only" 40-50 hours per week running the companies (and no longer captaining/diving). CP 378, 381. He asked the court not to impute more income to him and not to ignore the 50/50 parenting arrangement in setting child support. CP 383.

Daniel also submitted sworn declarations from Corey Elkins and Curtis Bakker. CP 385-91. Like Daniel, Elkins is a commercial fishing-boat owner. CP 385. He conservatively estimated that he spends 38 hours a week just running his business, which has one boat (compared to Daniel's four boats). *Id.*

Also like Daniel, Bakker owns multiple geoduck dive vessels, and his work duties are similar to Daniel's current duties. *Compare* CP 388-90 *with* CP 377-79. Bakker works 50-60 hours per week, and his work week sometimes exceeds 65 hours. CP 388-89.

4. The trial court imputed income to Daniel and refused to deviate downward based on unsupported findings.

Despite this undisputed evidence that Daniel is employed (at least) full time, the trial court nonetheless imputed Daniel's gross income at roughly \$133,000 per year, using his "Historical income, averaged from 2014, 2015 & 2016." CP 413, 420 (\$11,052.20 per mos. x 12 = \$132,626.40). It found that although Daniel works 40-50 hours a week, he is "voluntarily underemployed." CP 412. The court did not check the very next box ("this parent works full-time but is purposely under-employed to reduce child support"). CP 412-13. The court somehow found that the children spend most of their time with Kathryn under the 50/50 plan. CP 413. The court also refused to deviate downward due to the 50/50 parenting plan. CP 413-14.

ARGUMENT

A. Standard of Review.

Interpreting the child support statute is a question of law, reviewed *de novo*. **Marriage of Sprute**, 186 Wn. App. 342, 349, 344 P.3d 730 (2015) (citing **Anthiss v. Copland**, 173 Wn.2d 752, 755, 270 P.3d 574 (2012)). Interpreting a child support order is also a legal question reviewed *de novo*. *Id.* (citing **Marriage of Sagner**, 159 Wn. App. 741, 749, 247 P.3d 444 (2011)). A trial court has broad

discretion in awarding child support. *Marriage of Wright*, 179 Wn. App. 257, 261, 319 P.3d 45 (2013). It abuses that discretion when its decisions are manifestly unreasonable, or based on untenable grounds or reasons. *Id.* at 261-62. And an error of law is always an abuse of discretion. *Sprute*, 186 Wn. App. at 357 (citing *Marriage of Choate*, 143 Wn. App. 235, 240, 177 P.3d 175 (2008)).

B. The trial court erred as a matter of law in imputing income to a fully-employed parent who is not seeking to evade his child-support obligations, but rather to spend time with his children under a 50/50 parenting plan.

The trial court erred as a matter of law in imputing income to a fully-employed parent who is not seeking to evade his child-support obligations, but rather to spend time with his children under a 50/50 parenting plan. Kathryn omitted the key statutory language, leading the trial court into legal error. This Court should reverse.

As explained above, Kathryn's motion quoting the statute omitted key language that is dispositive here:

A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation.

RCW 26.19.071(6). While the trial court did (erroneously) find Daniel "voluntarily underemployed," it did not check the very next box with

the required finding: “this parent works full-time but is purposely under-employed to reduce child support”. *Id.*; CP 412-13.

In interpreting this statutory language, the court’s primary goal is to find and effectuate the Legislature’s intent. ***Marriage of Buecking***, 179 Wn.2d 438, 444, 316 P.3d 999 (2013) (citing ***Bylsma v. Burger King Corp.***, 176 Wn.2d 555, 558, 293 P.3d 1168 (2013); ***Dep’t of Ecology v. Campbell & Gwinn, LLC***, 146 Wn.2d 1, 9, 43 P.3d 4 (2002)). The Court begins with the plain language and, if it is clear and unambiguous, the Court follows it without further interpretation. ***Buecking***, 179 Wn.2d at 444 (citing ***Manary v. Anderson***, 176 Wn.2d 342, 350, 292 P.3d 96 (2013); ***Campbell & Gwinn***, 146 Wn.2d at 9).

This statute is unambiguous. The phrase “[a] court shall not impute income to a parent who is gainfully employed on a full-time basis” plainly bars income imputation to parents like Daniel who work full-time to make a substantial living. See, e.g., ***Parentage of K.R.P.***, 160 Wn. App. 215, 223, 247 P.3d 491 (2011) (“as a general rule, this court interprets statutory directives using the word ‘shall’ as mandatory or imperative in character”) (citing ***Ballasiotes v. Gardner***, 97 Wn.2d 191, 195, 642 P.2d 397 (1982)). The sole proviso has two elements: “unless the court [1] finds that the parent

is voluntarily underemployed and [2] finds that the parent is purposely underemployed to reduce the parent's child support obligation." RCW 26.19.071(6). While the trial court here did (erroneously) find that Daniel was voluntarily underemployed, it did not find that he was purposely underemployed to reduce his child support obligation. CP 412-13.

This interpretation was also confirmed in *In re Peterson*, 80 Wn. App. 148, 906 P.2d 1009 (1995). There, the father had a law degree, but had worked for a union (making far less than the "national average"); he lost that job and opened his own shop (unsuccessfully); and then he worked full-time for a bail-bond company as in-house legal counsel and a bail-bond agent, where his income was less than half the median net income for a man of his age. 80 Wn. App. at 151. The trial court erroneously imputed income to him under RCW 26.19.071(6) simply because he *could* make more money. *Id.*

The Court of Appeals reversed, holding that under any interpretation, the statute expressly bars imputing income to a gainfully employed parent, where no finding is made that he was purposefully underemployed to reduce his child support. *Id.* at 154-55. This holding is dispositive here.

The trial court thus erred as a matter of law in imputing income to Daniel. This Court should reverse and remand for recalculation of child support. *Id.* at 155.

C. The trial court also erred in finding Daniel voluntarily underemployed.

The trial court also erred in finding Daniel voluntarily underemployed. Kathryn cited and discussed only *Marriage of Wright*, 78 Wn. App. 230, 896 P.2d 735 (1995) ("*Wright 1995*").³ But that payor worked only part-time. 78 Wn. App. at 234. This Court held that part-time work is insufficient, whatever the reason (*id.*):

Because the record discloses that Lynette Wright could have obtained full-time employment as a nurse, we cannot say that the trial court erred in imputing additional income of \$ 300 per month to her for purposes of calculating child support. This was an amount that was substantially less than the additional amount she could earn if she obtained full-time employment and, thus, the imputation cannot be said to be an abuse of discretion. [Emphases added.]

Wright 1995 plainly does not apply here, as Daniel works 40-50 hours a week (or more) and makes over \$90,000 a year.

³ A later *Marriage of Wright* is cited *supra*.

Moreover, the statute (even the portion that Kathryn did quote to the trial court) references only full-time earnings (CP 344, quoting RCW 26.19.170(6)(a-c)) (emphases added):

. . . the court shall impute a parent's income in the following order of priority:

(a) *Full-time earnings* at the current rate of pay;

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

(c) *Full-time earnings* at a past rate of pay where information is incomplete or sporadic;

Daniel's full-time earnings are over \$90,000 a year. The trial court was not legally required or permitted to find Daniel *underemployed*. Its conclusion is untenable, and this Court should reverse.

D. The trial court erred in finding that the children spend most of their time with Kathryn under the parties' agreed 50/50 parenting plan.

The trial court erred in finding that the children spend most of their time with Kathryn under the parties' agreed 50/50 parenting plan (CP 413):

All children living together - All of the children are living with (name): Kathryn McRae most of the time. The other parent must pay child support. The standard calculation from the Child Support Schedule Worksheets line 17 for the parent paying support is ~~\$1,883~~ [interlineated] \$1631.

No substantial evidence supports this finding. See, e.g., **Marriage of Katore**, 175 Wn.2d 23, 283 P.3d 546 (2012) (“Substantial evidence is that which is sufficient to persuade a fair-minded person of the truth of the matter asserted.” (citation omitted)).

On the contrary, Kathryn admitted that she “agreed to a 50/50 parenting plan because our children were doing well.” CP 328. She admitted that her “rent and daycare for the children is nearly 65% of my earnings,” working full time at \$56,500 per year – in other words, she, like Daniel, works full time. *Id.* She nowhere presented facts suggesting that 50/50 parenting is anything less than equal time with the children. See, e.g., CP 327-29.

This Court should strike this erroneous finding.

E. The trial court erred in refusing to grant a residential credit without the necessary finding that a deviation would result in insufficient funds in Kathryn’s household to meet the basic needs of the children.

Daniel requested a credit under RCW 26.19.075(1)(d):

Residential schedule. The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families.

At equal time, the children plainly spend a significant amount of time with Daniel. The remaining question is then whether Kathryn showed that her household would have “insufficient funds . . . to meet the basic needs of the child[ren]”?⁴ She did not.

This Court reviews the trial court’s grounds for granting or denying a deviation from the presumptive child support schedule for an abuse of discretion. **Marriage of Bell**, 101 Wn. App. 366, 371 n.8, 4 P.3d 849 (2000) (citing **Fernando v. Nieswandt**, 87 Wn. App. 103, 111, 940 P.2d 1380 (1997)). The trial court abuses its discretion when its decisions are manifestly unreasonable or based on untenable grounds or reasons. **Curran v. Curran**, 26 Wn. App. 108, 110, 611 P.2d 1350 (1980) (citing **Marriage of Nicholson**, 17 Wn. App. 110, 114, 561 P.2d 1116 (1977)).

Generally, the child support schedule assumes that (a) the primary residential parent pays their support share by caring for the child, and (2) the nonresidential parent pays child support to the primary residential parent. See, e.g., **Marriage of Oakes**, 71 Wn. App. 646, 649, 861 P.2d 1065 (1993) (assumption that residential parent pays by housing and raising the child). The trial court should

⁴ There is no evidence that the children receive any public support.

deviate when the equities so require. **Marriage of Goodell**, 130 Wn. App. 381, 391, 122 P.3d 929 (2005) (citing **Marriage of Burch**, 81 Wn. App. 756, 760, 916 P.2d 443 (1996)).

In determining whether to deviate, the court must consider the payor's expenses for time with his children, and the payee's decreased expenses due to that time:

[T]he court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support from the significant amount of time the child spends with the parent making the support transfer payment.

RCW 26.19.075(1)(d). Accordingly, the trial court must enter "written findings of fact supporting the reasons for any deviation or denial of a party's request for deviation." **Marriage of Schnurman**, 178 Wn. App. 634, 640, 316 P.3d 514 (2013); (citing RCW 26.19.075(3); **State ex rel. M.M.G. v. Graham**, 159 Wn.2d 623, 626, 632, 152 P.3d 1005 (2007)). The trial court failed to do so.

Indeed, this is the trial court's sole finding:

~~The parent asking for the deviation has not met his burden that a deviation would be appropriate. Further, a deviation would leave insufficient funds in the mother's household.~~

CP 414 (strikethrough in Order). One might ask, insufficient for what? There is neither evidence in this record, nor findings explaining whether or why Kathryn would have insufficient funds to meet the basic needs of the children. She makes roughly \$60,000 a year with bonuses, so one cannot simply infer that she cannot meet the children's basic needs when she supplies only 50% of them.

And indeed, Kathryn did not argue this standard, but instead seemed to suggest to the trial court that this is really a balancing test, contrary to the statutory language. CP 345-47. One purpose of the child support schedule is to reduce "the adversarial nature of the proceedings by increasing voluntary settlements as a result of the greater predictability achieved by a uniform statewide child support schedule." RCW 26.19.001(3). Kathryn's choices to argue for imputation without citing controlling authority and to resist a fair and reasonable residential credit without substantial evidence undermine this basic goal of the statute. This Court should reverse and remand for recalculation of child support, and reconsideration of the residential credit in light of the relevant statutory factors.

CONCLUSION

For the reasons stated above, this Court should reverse and remand for recalculation of child support, and reconsideration of the residential credit in light of the relevant statutory factors.

RESPECTFULLY SUBMITTED this 29th day of August, 2017.

MASTERS LAW GROUP, P.L.L.C.

A handwritten signature in black ink, appearing to read 'K. Masters', is written over a horizontal line.

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CERTIFICATE OF SERVICE

I certify that I caused to be mailed, a copy of the foregoing **BRIEF OF APPELLANT** postage prepaid, via U.S. mail on the 29th day of August, 2017, to the following counsel of record at the following addresses:

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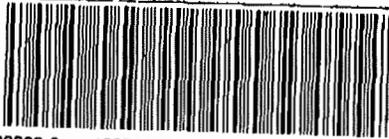
Kenneth W. Masters, WSBA 22278
Attorney for Appellant

APPENDIX A

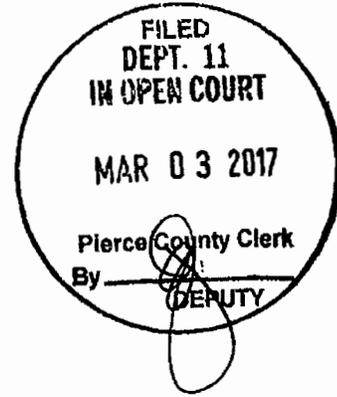
Child Support Order

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16-3-00928-9 48828177 ORSW 03-07-17



Superior Court of Washington, County of PIERCE

In re: Petitioner: KATHRYN Q. MCRAE And Respondent: DANIEL S. MCRAE	No. 16-3-00928-9 Child Support Order Final (ORS) <input checked="" type="checkbox"/> Clerk's Action Required.
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Child Support Order

1. Money Judgment Summary

No money judgment is ordered.

Findings and Orders

- 2. The court orders child support as part of this family law case. This is a *(check one)*:
final order.
- 3. The *Child Support Schedule Worksheets* attached or filed separately are approved by the court and made part of this Order.
- 4. **Parents' contact and employment information**

Each parent must fill out and file with the court a *Confidential Information* form (FL All Family 001) including personal identifying information, mailing address, home address, and employer contact information.

Important! If you move or get a new job any time while support is still owed, you must:

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- Notify the Support Registry, and
- Fill out and file an updated *Confidential Information* form with the court.

Warning! Any notice of a child support action delivered to the last address you provided on the *Confidential Information* form will be considered adequate notice, if the party trying to serve you has shown diligent efforts to locate you.

5. Parents' Income

Parent (name): Kathryn McRae	Parent (name): Daniel McRae
Net monthly income \$ 3,827. <i>(line 3 of the Worksheets)</i> This income is (check one): <input type="checkbox"/> imputed to this parent. (Skip to 6.) <input checked="" type="checkbox"/> this parent's actual income (after any exclusions approved below)	Net monthly income \$11,400 \$ 8,062.15 <i>(line 3 of the Worksheets)</i> This income is (check one): <input checked="" type="checkbox"/> imputed to this parent. (Skip to 6.) <input type="checkbox"/> this parent's actual income (after any exclusions approved below)
Does this parent have income from overtime or a 2 nd job? <input checked="" type="checkbox"/> No. (Skip to 6.)	Does this parent have income from overtime or a 2 nd job? <input checked="" type="checkbox"/> No. (Skip to 6.)

6. Imputed Income

To calculate child support, the court may **impute** income to a parent:

- whose income is unknown, or
- who the Court finds is unemployed or under-employed by choice.

Imputed income is not actual income. It is an assigned amount the court finds a parent could or should be earning. (RCW 26.19.071(6))

Parent (name): Kathryn McRae	Parent (name): Daniel McRae
<input checked="" type="checkbox"/> Does not apply. This parent's actual income is used. (Skip to 7.) <input type="checkbox"/> This parent's monthly net income is imputed because (check one): <input type="checkbox"/> this parent's income is unknown. <input type="checkbox"/> this parent is voluntarily unemployed. <input type="checkbox"/> this parent is voluntarily under-employed. <input type="checkbox"/> this parent works full-time but is purposely	<input type="checkbox"/> Does not apply. This parent's actual income is used. (Skip to 7.) <input checked="" type="checkbox"/> This parent's monthly net income is imputed because (check one): <input type="checkbox"/> this parent's income is unknown. <input type="checkbox"/> this parent is voluntarily unemployed. <input checked="" type="checkbox"/> this parent is voluntarily under-employed. <input type="checkbox"/> this parent works full-time but is purposely

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Parent (name): Kathryn McRae	Parent (name): Daniel McRae
under-employed to reduce child support.	under-employed to reduce child support.
The imputed amount is based on the information below: (Options are listed in order of required priority. The Court used the first option possible based on the information it had.)	The imputed amount is based on the information below: (Options are listed in order of required priority. The Court used the first option possible based on the information it had.)
<input type="checkbox"/> Full-time pay at current pay rate.	<input type="checkbox"/> Full-time pay at current pay rate.
<input type="checkbox"/> Full-time pay based on reliable information about past earnings.	<input checked="" type="checkbox"/> Full-time pay based on reliable information about past earnings.
<input type="checkbox"/> Full-time pay based on incomplete or irregular information about past earnings.	<input type="checkbox"/> Full-time pay based on incomplete or irregular information about past earnings.
<input type="checkbox"/> Full-time pay at minimum wage in the area where the parent lives because this parent (check all that apply):	<input type="checkbox"/> Full-time pay at minimum wage in the area where the parent lives because this parent (check all that apply):
<input type="checkbox"/> is a high school student.	<input type="checkbox"/> is a high school student.
<input type="checkbox"/> recently worked at minimum wage jobs.	<input type="checkbox"/> recently worked at minimum wage jobs.
<input type="checkbox"/> recently stopped receiving public assistance, supplemental security income (SSI), or disability.	<input type="checkbox"/> recently stopped receiving public assistance, supplemental security income (SSI), or disability.
<input type="checkbox"/> was recently incarcerated.	<input type="checkbox"/> was recently incarcerated.
<input type="checkbox"/> Table of Median Net Monthly Income.	<input type="checkbox"/> Table of Median Net Monthly Income.
<input type="checkbox"/> Other (specify):	<input checked="" type="checkbox"/> Other (specify): Historical income, averaged from 2014, 2015 & 2016

7. Limits affecting the monthly child support amount.

The monthly amount has been affected by (check all that apply):

Combined Monthly Net Income over \$12,000. Together the parents earn more than \$12,000 per month (Worksheets line 4). The child support amount (check one):

is the presumptive amount from the economic table.

8. Standard Calculation

All children living together - All of the children are living with (name): Kathryn McRae most of the time. The other parent must pay child support. The standard calculation from the Child Support Schedule Worksheets line 17 for the parent paying support is ~~\$1,800~~.

9. Deviation from standard calculation

Should the monthly child support amount be different from the standard calculation?:

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No - The monthly child support amount ordered in section 10 is the same as the standard calculation listed in section 8 because (check one):

~~The parent asking for the deviation has not met his burden that a deviation would be appropriate.~~ Further, a deviation would leave insufficient funds in the mother's household.

TS

10. Monthly child support amount (transfer payment)

After considering the standard calculation and whether or not to apply a deviation, the court orders the following monthly child support amount (transfer payment).

All children living together - (Name): Daniel McRae must pay child support to (name): Kathryn McRae each month as follows for the children listed below (add lines for additional children if needed):

Child's Name	Age	Amount
1. Audrey Q. McRae	3 4	\$ 815.50 \$947.25
2. Charles S. McRae	2	\$ 815.50 \$947.25
3.		\$
4.		\$
5.		\$
Total monthly child support amount:		\$-4,882.50

1631

Total monthly child support amount: **\$4882.50**

1631

11. Starting date and payment schedule

The monthly child support amount must be paid starting *March 1, 2017* on the following payment schedule:

In two payments each month: 1/2 by the 1st and 1/2 by the 15th day of the month.

12. Step Increase (for modifications or adjustments only)

Does not apply.

13. Periodic Adjustment

Child support may be changed according to state law. The Court is not ordering a specific periodic adjustment schedule below.

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14. Payment Method

Send payment to the *(check one)*:

Washington State Support Registry. The Division of Child Support (DCS) will forward the payments to the person owed support and keep records of all payments.

Address for payment: Washington State Support Registry
PO Box 45868, Olympia, WA 98504

Important! *If you are ordered to send your support payments to the Washington State Support Registry, and you pay some other person or organization, you will not get credit for your payment.*

DCS Enforcement *(check one)*:

DCS will **enforce** this order because *(check all that apply)*:

One of the parties has asked DCS for services by signing the application statement at the end of this order (above the *Warnings*).

15. Enforcement through income withholding (garnishment)

DCS or the person owed support can collect the support owed from the wages, earnings, assets or benefits of the parent who owes support, and can enforce liens against real or personal property as allowed by any state's child support laws without notice to the parent who owes the support.

If this order is not being enforced by DCS and the person owed support wants to have support paid directly from the employer, the person owed support must ask the court to sign a separate wage assignment order requiring the employer to withhold wages and make payments. (Chapter 26.18 RCW.)

Income withholding may be delayed until a payment becomes past due if the court finds good reason to delay.

Does not apply. There is no good reason to delay income withholding.

16. End date for support

Support must be paid for each child until *(check one)*:

the child turns 18 or is no longer enrolled in high school, whichever happens last, unless the court makes a different order in section 17.

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17. Post-secondary educational support (for college or vocational school)

Reserved - A parent or non-parent custodian may ask the court for post-secondary educational support at a later date without showing a substantial change of circumstances by filing a *Petition to Modify Child Support Order* (form FL Modify 501) The *Petition* must be filed *before* child support ends as listed in section **16**.

18. Claiming children as dependents on tax forms

The parties have the right to claim the children as their dependents on their tax forms as follows (*check one*):

Every year - (*name*): Father has the right to claim Audrey and Mother has the right to claim Charles. *One one child is left, they alternate*

Father must be current on his support obligations by December 31 of each year in order to claim Audrey.

For tax years when a non -custodial parent has the right to claim the children, the parents must cooperate to fill out and submit IRS Form 8332 in a timely manner.

Warning! Under federal law, the parent who claims a child as a dependent may owe a tax penalty if the child is not covered by health insurance.

19. Health Insurance

Important! Read the Health Insurance Warnings at the end of this order.

Kathryn McRae must pay the premium to provide health insurance coverage for the children. The court has considered the needs of the children, the cost and extent of coverage, and the accessibility of coverage.

The other parent must pay his/her proportional share* of the premium paid. Health insurance premiums (*check one*):

are included on the *Worksheets* (line 14). No separate payment is needed.

Neither parent can be ordered to pay an amount towards health insurance premiums that is more than 25% of his/her basic support obligation (*Worksheets*, line 19) unless the court finds it is in the best interest of the children.

20. Health insurance if circumstances change or court has not ordered

If the parties' circumstances change, or if the court is not ordering how health insurance must be provided for the children in section **19**:

3/7/2017 10:07 AM

- A parent, non-parent custodian, or DCS can enforce medical support.
- If a parent does not provide proof of accessible private insurance (insurance that can be used for the children's primary care), that parent may have to:
 - Get (or keep) insurance through his/her work or union, unless the insurance costs more than 25% of his/her basic support obligation (line 19 of the *Worksheets*),
 - Pay his/her share of the other parent's monthly premium up to 25% of his/her basic support obligation (line 19 of the *Worksheets*), or
 - Pay his/her share of the monthly cost of any public health care coverage, such as Healthy Kids, BHP, or Medicaid, for which there is an assignment.

21. Children's expenses not included in the monthly child support amount

Uninsured medical expenses - Each parent is responsible for a share of uninsured medical expenses as ordered below. Uninsured medical expenses include premiums, co-pays, deductibles, and other health care costs not covered by insurance. A parent can ask DCS to collect those expenses, or a parent or non-parent custodian can ask the court for a judgment.

Children's Expenses for:	Parent (name):	Parent (name):	Make payments to:	
	Kathryn McRae pays monthly	Daniel McRae pays monthly	Person who pays the expense	Service Provider
Uninsured medical expenses	<input checked="" type="checkbox"/> Proportional Share* [X] 25.0%**	<input checked="" type="checkbox"/> Proportional Share* [X] 75.0%**	[X]	[]

* Proportional Share is each parent's percentage share of the combined net income from line 6 of the Child Support Schedule Worksheets.

** If the percentages ordered are different from the Proportional Share, explain why:

Other shared expenses (check one):

The parents will share the cost for the expenses listed below (check all that apply):

Children's Expenses for:	Parent (name):	Parent (name):	Make payments to:	
	Daniel McRae pays monthly	Kathryn McRae pays monthly	Person who pays the expense	Service Provider
[X] Day care:	<input checked="" type="checkbox"/> Proportional Share* [X] 25.0%**	<input checked="" type="checkbox"/> Proportional Share* [X] 75.0%**	[]	[X]

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Children's Expenses for:	Parent (name): Daniel McRae pays monthly	Parent (name): Kathryn McRae pays monthly	Make payments to:	
			Person who pays the expense	Service Provider
[X] Education: <i>AS AGREED</i>	[X] Proportional Share* [X] 25.0%**	[X] Proportional Share* [X] 75.0%**	[]	[X]

* Proportional Share is each parent's percentage share of the combined net income from line 6 of the Child Support Schedule Worksheets.

** If any percentages ordered are different from the Proportional Share, explain why:

22. Past due child support, medical support and other expenses

This order does not address any past due amounts or interest owed.

23. Overpayment caused by change

Does not apply.

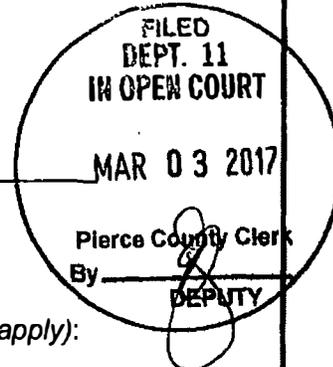
24. Other Orders

All the *Warnings* below are required by law and are incorporated and made part of this order.

Ordered.

3/3/2017
Date

G. Stephen Whitener
Judge or Commissioner



Petitioner and Respondent or their lawyers fill out below:

This document (check any that apply):

- Is an agreement of the parties
- Is presented by me
- May be signed by the court without notice to me

This document (check any that apply):

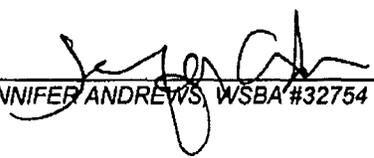
- Is an agreement of the parties
- Is presented by me
- May be signed by the court without notice to me

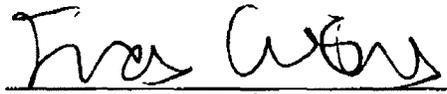
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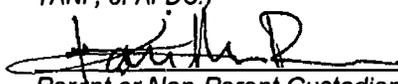
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JENNIFER ANDREWS, WSBA #32754

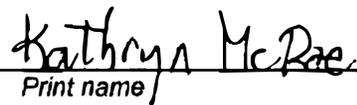

Travis Groves, WSBA #91735

Parent or Non-Parent Custodian applies for DCS enforcement services:

I ask the Division of Child Support (DCS) to enforce this order. I understand that DCS will keep \$25 each year as a fee if DCS collects more than \$500, unless I ask to be excused from paying this fee in advance. (You may call DCS at 1-800-442-5437. DCS will **not** charge a fee if you have ever received TANF, tribal TANF, or AFDC.)



Parent or Non-Parent Custodian signs here
(lawyer cannot sign for party)


Kathryn McRae

Print name


3/3/17

Date

Warnings!

If you don't follow this child support order...

- DOL or other licensing agencies may deny, suspend, or refuse to renew your licenses, including your driver's license and business or professional licenses, and
- Dept. of Fish and Wildlife may suspend or refuse to issue your fishing and hunting licenses and you may not be able to get permits. (RCW 74.20A.320)

If you receive child support...

You may have to:

- Document how that support and any cash received for the children's health care was spent.
- Repay the other parent for any day care or special expenses included in the support if you didn't actually have those expenses. (RCW 26.19.080)

Health Insurance Warnings!

Both parents must keep the Support Registry informed whether or not they have access to health insurance for the children at a reasonable cost, and provide the policy information for any such insurance.

If you are ordered to provide children's health insurance...

You have **20 days** from the date of this order to send:

- proof that the children are covered by insurance, or
- proof that insurance is not available as ordered.

Send your proof to the other parent or to the Support Registry (if your payments go there).

If you do **not** provide proof of insurance:

- The other parent or the support agency may contact your employer or union, without notifying you, to ask for direct enforcement of this order (RCW 26.18.170), and
- The other parent may:
 - Ask the Division of Child Support (DCS) for help,
 - Ask the court for a contempt order, or
 - File a Petition in court.

Don't cancel your children's health insurance without the court's approval, unless your job ends and you can no

longer get or continue coverage as ordered in section **19** through your job or union. If your insurance coverage for the children ends, you must notify the other parent and the Support Registry.

If an insurer sends you payment for a medical provider's service:

- you must send it to the medical provider if the provider has not been paid; or
- you must send the payment to whoever paid the provider if someone else paid the provider; or
- you may keep the payment if you paid the provider.

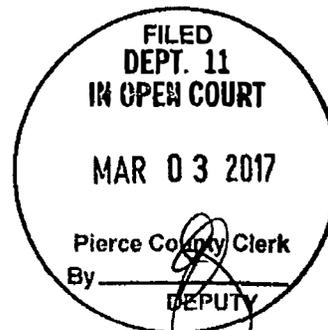
If the children have public health care coverage, the state can make you pay for the cost of the monthly premium.

Always inform the Support Registry and other parent if your access to health insurance changes or ends

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3/7/2017



Washington State Child Support Schedule Worksheets

Signed by the Judicial/Reviewing Officer. (CSW)

County 16-3-00928-9

Case No.

Child/ren and Age/s: Audrey, 4; Charles, 2

Parents' Names: Kathryn McRae (Column 1)

Daniel McRae (Column 2)

	Kathryn	Daniel
Part I: Income (see Instructions, page 6)		
1. Gross Monthly Income		
a. Wages and Salaries	\$4,708.00	\$11052.20
b. Interest and Dividend Income	-	-
c. Business Income	-	-
d. Maintenance Received	-	-
e. Other Income	-	-
f. Imputed Income	-	-
g. Total Gross Monthly Income (add lines 1a through 1f)	\$4,708.00	\$11052.20
2. Monthly Deductions from Gross Income		
a. Income Taxes (Federal and State) Tax Year: 2017	\$520.85	\$2,172.59
b. FICA (Soc.Sec.+Medicare)/Self-Employment Taxes	\$360.17	\$817.46
c. State Industrial Insurance Deductions	-	-
d. Mandatory Union/Professional Dues	-	-
e. Mandatory Pension Plan Payments	-	-
f. Voluntary Retirement Contributions	-	-
g. Maintenance Paid	-	-
h. Normal Business Expenses	-	-
i. Total Deductions from Gross Income (add lines 2a through 2h)	\$881.02	\$2,990.05
3. Monthly Net Income (line 1g minus 2i)	\$3,826.98	\$8,062.15
4. Combined Monthly Net Income (add both parents' monthly net incomes from line 3)	\$11,889.13	
5. Basic Child Support Obligation (Combined amounts →)		
Audrey \$1158.00		
Charles \$1158.00		
-		
-		
-		
	\$2,316.00	
6. Proportional Share of Income (divide line 3 by line 4 for each parent)	.322	.678

WSCSS-Worksheets – Mandatory (CSW/CSWP) 05/2016 Page 1 of 5

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	Kathryn	Daniel
Part II: Basic Child Support Obligation (see Instructions, page 7)		
7. Each Parent's Basic Child Support Obligation without consideration of low income limitations (Each parent's Line 6 times Line 5.)	\$745.75	\$1,570.25
8. Calculating low income limitations: Fill in only those that apply.		
Self-Support Reserve: (125% of the Federal Poverty Guideline.)	\$1,256.00	
a. Is combined Net Income Less Than \$1,000? If yes, for each parent enter the presumptive \$50 per child.	-	-
b. Is Monthly Net Income Less Than Self-Support Reserve? If yes, for that parent enter the presumptive \$50 per child.	-	-
c. Is Monthly Net Income equal to or more than Self-Support Reserve? If yes, for each parent subtract the self-support reserve from line 3. If that amount is less than line 7, enter that amount or the presumptive \$50 per child, whichever is greater.	-	-
9. Each parent's basic child support obligation after calculating applicable limitations. For each parent, enter the lowest amount from line 7, 8a - 8c, but not less than the presumptive \$50 per child.	\$745.75	\$1,570.25
Part III: Health Care, Day Care, and Special Child Rearing Expenses (see Instructions, page 8)		
10. Health Care Expenses		
a. Monthly Health Insurance Premiums Paid for Child(ren)	\$90.00	-
b. Uninsured Monthly Health Care Expenses Paid for Child(ren)	-	-
c. Total Monthly Health Care Expenses (line 10a plus line 10b)	\$90.00	-
d. Combined Monthly Health Care Expenses (add both parent's totals from line 10c)	\$90.00	
11. Day Care and Special Expenses		
a. Day Care Expenses	-	-
b. Education Expenses	-	-
c. Long Distance Transportation Expenses	-	-
d. Other Special Expenses (describe)		
	-	-
	-	-
	-	-
e. Total Day Care and Special Expenses (Add lines 11a through 11d)	-	-
12. Combined Monthly Total Day Care and Special Expenses (add both parents' day care and special expenses from line 11e)		
13. Total Health Care, Day Care, and Special Expenses (line 10d plus line 12)	\$90.00	
14. Each Parent's Obligation for Health Care, Day Care, and Special Expenses (multiply each number on line 6 by line 13)	\$28.98	\$61.02
Part IV: Gross Child Support Obligation		
15. Gross Child Support Obligation (line 9 plus line 14)	\$774.73	\$1,631.27

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 2017 1021/1/5

	Kathryn	Daniel
Part V: Child Support Credits (see Instructions, page 9)		
16. Child Support Credits		
a. Monthly Health Care Expenses Credit	\$90.00	-
b. Day Care and Special Expenses Credit	-	-
c. Other Ordinary Expenses Credit (describe)	-	-
	-	-
	-	-
d. Total Support Credits (add lines 16a through 16c)	\$90.00	-
Part VI: Standard Calculation/Presumptive Transfer Payment (see Instructions, page 9)		
17. Standard Calculation (line 15 minus line 16d or \$50 per child whichever is greater)	\$684.73	\$1,631.27
Part VII: Additional Informational Calculations		
18. 45% of each parent's net income from line 3 (.45 x amount from line 3 for each parent)	\$1,722.14	\$3,627.97
19. 25% of each parent's basic support obligation from line 9 (.25 x amount from line 9 for each parent)	\$186.44	\$392.56
Part VIII: Additional Factors for Consideration (see Instructions, page 9)		
20. Household Assets (List the estimated value of all major household assets.)		
a. Real Estate	-	-
b. Investments	-	-
c. Vehicles and Boats	-	-
d. Bank Accounts and Cash	-	-
e. Retirement Accounts	-	-
f. Other: (describe)	-	-
	-	-
	-	-
	-	-
21. Household Debt (List liens against household assets, extraordinary debt.)		
a.	-	-
b.	-	-
c.	-	-
d.	-	-
e.	-	-
f.	-	-
22. Other Household Income		
a. Income Of Current Spouse or Domestic Partner (if not the other parent of this action)		
Name	-	-
Name	-	-
b. Income Of Other Adults in Household		
Name	-	-
Name	-	-

MASTERS LAW GROUP PLLC

August 29, 2017 - 4:01 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 50178-3
Appellate Court Case Title: Marriage of: Kathryn McRae, Respondent v. Daniel McRae
Superior Court Case Number: 16-3-00928-9

The following documents have been uploaded:

- 3-501783_Briefs_20170829155929D2111047_0116.pdf
This File Contains:
Briefs - Appellants
The Original File Name was Brief of Appellant.pdf

A copy of the uploaded files will be sent to:

- jennifer@andrewsarbenz.com
- travis@groveslawoffices.com

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