

No. 65317-2-I

COURT OF APPEALS, DIVISION ONE
OF THE STATE OF WASHINGTON

JOHN EDWARD PENNINGTON, Respondent

v.

ANNE LAUGHLIN PENNINGTON, Appellant

BRIEF OF APPELLANT

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Regulations and Rules

Not applicable

Other Authorities

Not applicable

I. Assignments Of Error

A. Assignment Of Error No. 1

Ordering the parties to sign documentation necessary to change the name of the child of the parties from Pennington Laughlin to Laughlin Pennington.

Issues pertaining to assignment of error:

- a) The only authority of a child's name change is through a proceeding under RCW 4.24.130.
- b) There was no evidence presented nor argument made that the name change is in Katelin's best interests.

B. Assignment Of Error No. 2

Ordering joint decision making authority over parenting issues to go into effect one year after entry of the parenting plan.

- a) Since there should have been a finding of willful abandonment for a substantial period of time or substantial refusal to perform parenting functions (RCW 26.09.191 (1)).
- b) Where there should have been a finding of neglect of substantial non performance of parenting functions (RCW 26.09.191)).
- c) Where limitations were found to exist, RCW 26.09.187 (2) (c) (i) by virtue of which an award of joint decision making is an abuse of discretion.
- d) Where there was no evidence of participation in decisions pertaining to Katelin or that the parents have an ability to cooperate under RCW 26.09.187 (2) and (c) (2) and (3).

- e) Where the award of joint decision making to go into effect in the future is based on a speculative hope of mutual parental cooperation.

C. Assignment Of Error No. 3

The court has no authority to impose joint decision making as to extracurricular activities, choice of daycare provider, body tattoos, military services or marriage prior to age 18, absent agreement by the parties.

D. Assignment Of Error No. 4

Failing to compensate Ms. Laughlin through the entry of a monetary judgment:

- a) For failing to treat Mr. Pennington's use of the 2007 and 2008 tax refunds as predispositions of property with a compensating award to Ms. Laughlin.
- b) By failing to award Ms. Laughlin a judgment for \$5,000 for home improvements.

E. Assignment Of Error No. 5 – Deviating From The Standard Calculation Of Child Support

- a) Failing to utilize the property standard calculation to determine the transfer payment of child support.
- b) Where the deviation was based upon a new post trial allegation of unreported tutoring income not supported by any evidence.

II. Statement Of The Case

The parties were married on September 16, 2007, and physically separated when Ms. Laughlin left the family home in May of 2008 (RP 103 and 104). She was pregnant at the time with their only child (CP 375).

A. Parenting Issues

On July 1, 2008, Katelin Anne Pennington Laughlin was born (Exhibit 116). About six weeks after her birth, through counsel, Mr. Pennington asked about the baby and indicated that he would not seek any contact with the baby of any kind until Ms. Laughlin was ready for it, to which Ms. Laughlin, responded on August 19th, 2008:

“As to the baby, we have never taken the position that visitation between your client and their child should only begin when my client is ready...

...the baby was born on July 1 and is doing well”
(Exhibit 116).

Mr. Pennington did not seek any sort of contact with the child until trial some 16 months later (RP 698, RP 747).

Family Court Services caseworker Debra Hunter issued her final parenting plan evaluation and recommendations on November 3, 2009 (Exhibit 25). She decided to have psychological evaluations performed of

both parents by Dr. Marsha Hedrick (Trial Exhibit 25). As part of its findings the court adopted by reference the observations of the parties expressed by both Dr. Hedrick and Ms. Hunter (CP 372).

Both experts observed that Ms. Laughlin failed to see ambiguity in behavior that could be interpreted a number of different ways, and that this propensity could result in abusive use of conflict (Exhibit 25 and 129). As part of its findings, the court noted the following to be abusive use of conflict that warranted therapy: that at a hearing in August 2008, between Mr. Pennington and his ex wife, Valerie Fox, Ms Laughlin who was subpoenaed (Exhibit 108) but not allowed to testify, told Ms. Fox's lawyer that their daughter Grace was in danger (Exhibit 91). She told Dr. Hedrick in August of 2009, that she knew that a man who looked like her husband and asked about her while she was having her hair done, although surveillance proved the man not to be her husband. She suspected her husband of a third party violation of her protection order (Exhibit 21 and RP 564).

The court effectively made a similar finding as to Mr. Pennington. Although the court did not find a history of acts of domestic violence, it did find his behavior towards her "concerning, even alarming" (CP 373).

Another example of his abusive use of conflict during the separation also involved his daughter Grace. Notwithstanding his stated opposition to abortion as being so profound that he described it as one of only two issues that “pulls at my heart and soul” (CP 36), he directly involved Grace by having her attend a political campaign rally in 2009 directed against Ms. Laughlin, in support of a candidate who was pro abortion (RP 274, 276, 505 and 506). Ms. Laughlin, who he had Grace refer to as “mother” (Exhibit 25), was present at the rally (RP 275).

Both Dr. Hedrick and Debra Hunter observed that Mr. Pennington is prone to excessive rigidity and need for control; lack of awareness of how his anger impacts those on the receiving end of that anger (Exhibit 129); has no empathy “for adults or children” and that he uses anger as a tool of manipulation (RP 377).

During her home visit Ms. Hunter observed him manipulating and distorting information (Exhibit 25), coaching his daughter Grace to express negative things about Ms. Laughlin. She observed that he minimizes his behavior (RP 333), that both parties paint each other as the bad guy (RP 381) and concluded that there was a great likelihood of future conflict (RP 349, 352 and 432).

Thus, the court agreed that “the big issue is the conflict between the parents” (RP 401). It entered a finding that with each party’s need for validation and marshalling the aid of others, “this will be very problematic to developing co-parenting sufficiently functional to work for Katelin” (CP 373).

Nevertheless the court ordered joint decision making to go into effect one year from entry of its final parenting plan, with Mr. Pennington to attend a state certified domestic violence treatment (not batterers treatment), for Ms. Laughlin to be in therapy as well, and appointed a case manager with the hope that the parents would achieve an ability to co-parent in the future. It even expanded the issues that would require joint agreement of the parties beyond education and health care issues to include among other issues the choice of day care provider, and even “driving privileges” (CP 393).

The court also ordered the last name of the child to be changed on her birth certificate. There was no evidence presented as to why doing so would serve the best interest of the child. There was no finding in this regard.

B. Property Issues

1. Predisposition Of \$24,730 In Community Property

Mr. Pennington did not come to accept the futility of seeking reconciliation until sometime in July of 2008 (CP 26-32; Exhibit 73; RP 151). He unilaterally cashed the parties' 2007 \$13,714 tax refund from their joint return and the \$11,016 refund check for 2008 without her knowledge or consent (RP 21 and 22).

He admitted that these funds were not expended for the benefit of the community and did not deny that he had the full use and benefit of these funds post separation (RP 21 and 22). The court did not compensate her and did not treat his unilateral use of these funds post separation as a predisposition of property through which compensation in the form of a judgment should be awarded to Ms. Laughlin.

2. Compensation For Home Improvements - \$5,000

Mr. Pennington came into the marriage with a home that they occupied. Ms. Laughlin and her family worked extensively towards improvement while the parties lived together before the marriage and

during the marriage as well. These improvements were extensive and performed largely with their own labor (RP 112 – 117).

His petition for dissolution acknowledged the contribution where it stated in the relief section: “3. \$5,000 to the wife from the husband for any contribution of materials made to the husband’s separate residence” (CP 32 and 109).

The court would only allow compensation for out of pocket costs for any receipts that she could produce for a limited period of one month, June of 2007, which she testified she did not have (RP 603-604) and which he did not dispute.

C. Child Support

Ms. Laughlin was on unemployment compensation at the time of trial (RP 472). She had done some tutoring in years past earning upwards of \$2,000 in a year (RP 604), which she reported on prior tax returns (RP 604). This testimony was un-refuted. There was no evidence that she earned tutoring income during the marriage nor was there any allegation or evidence at trial that there was any market for such work or what she could earn as of the time of trial from that endeavor.

Since being laid off in October of 2009, she had looked assiduously for regular full time employment without success (Exhibit 86, RP 472-475). There was no evidence otherwise.

Mr. Pennington worked for Snohomish County. He asked the court to impute income to her of \$5,000 per month (RP 690), which is what she earned at her last employment. (Trial exhibit 130). He also asked for a deviation based on the blended family formula in light of the fact that he had primary residential care of a child, Grace, from his previous marriage to Valerie Fox (RP 689). The court denied both requests and signed a child support worksheet that did not impute income to Ms. Laughlin and that did not deviate from the standard calculation (CP 399, 400 and 408). Mr. Pennington did not move for reconsideration of those decisions.

In a post trial motion filed on behalf of Ms. Laughlin, the parties agreed that the worksheet used by the court to determine the standard calculation was based upon the wrong economic table on which the maximum advisory level of support capped at combined net incomes of \$7000 per month. This resulted in a standard calculation of \$741 per month (CP 408). Since the combined net incomes of these parties was

\$9,433 per month (CP 400), under the correct economic table, the parties agreed that the standard calculation is \$940 per month (see **Appendix 1**).

Instead of correcting the error, the court adhered to the wrong standard calculation and decided to call it a deviation based upon an unsupported new allegation of unreported tutoring income of Ms. Laughlin, suggested for the first time in the proceeding in Mr. Pennington's counsel's responsive memorandum to the motion to reconsider/clarify (CP 459 and 508).

III. Argument

A. Assignment Of Error No. 1: The Court Has No Authority To Order A Name Change For Katelin In A Proceeding Under RCW 26.09 *et. seq.*

The birth name of the child is Katelin Anne Pennington Laughlin (RP 752). Section 3.13(5) of the final parenting plan order requires the parents to "... cooperate to change the child's birth certificate to reflect the name of the child as: Katelin Laughlin Pennington" (CP 388). This order is an abuse of discretion for the following reasons.

1. The Only Authority For A Child's Name Change Is Through A Proceeding Under RCW 4.24.130.

There is no authority under RCW 26.09, *et. seq.* for a change of a child's name. That application must be made under RCW 4.24.130. See

In re the Marriage of Hurta, 25 Wn. App. 95 at 96, 605 P.2d 1278 (Div. I – 1979).

Our State Supreme Court affirmed *Hurta*, *supra* (see *Daves v. Nastos*, 105 Wn.2d 24, 711 P.2d 314 (1985)) in holding:

“... that the best interests of the child be considered does not grant, by implication, the trial court the authority to change the child’s name.” *Daves v. Nastos*, *supra* at 29 (1985).

Although rendered under the old paternity act, this line of cases is still good law.

The legislature under the old paternity statute (RCW 26.26 *et. seq.*) gave the courts authority to fashion relief as to “**any other matter** [*emphasis supplied*] in the best interest of the child” (see RCW 26.26.130(3)). By virtue of that qualifying language under the former RCW 26.26 *et. seq.*, the court could order a name change if in the child’s best interest.

However, under RCW 26.09 *et. seq.* the legislature has limited application of the best interests standard to the specific parenting issues it has authorized the courts to decide in the various provisions of the act. The “**any other matter**” language has never been included in any statute under RCW 26.09 *et. seq.* Thus, under the principles of *Daves, supra*, and

Hurta, supra, the court exceeded its authority in requiring the name change.

2. There Was No Evidence Presented Nor Argument Made That The Name Change Is In Katelin's Best Interests.

The Hurta court went on to comment, in its dicta, that even if proper application had been made under RCW 4.24.130:

“the court would have had to deny the petition, because there is nothing in the record to show that the proposal was considered from the standpoint of the child, and it is the child’s best interests which control (citation omitted)”. See *Hurta, supra* at 96 (1979).

Although the parties disputed in their testimony whether Mr. Pennington participated in the choice of name prior to separation, he presented no evidence as to why her name should be changed from Pennington Laughlin to Laughlin Pennington. He did not testify about the name change issue at all and his attorney did not bring it up in closing argument.

Thus, the court did not find that the name change was in Katelin’s best interest. Nor could it. No evidence was presented on the basis of which it could make such a finding.

“The absence of a finding in favor of the party with the burden of proof as to a disputed issue is the equivalent of a finding against that party on that issue.” *In re Marriage of Olivares*, 69 Wn. App. 324 at 334, 848 P.2d 1281 (1993). This principle also applies in parenting disputes. See *George v. Helliard*, 62 Wn. App. 378 at 384, 814 P.2d 238 (1991). Thus

Since it was Mr. Pennington’s burden by a preponderance of the evidence to prove that the name change was in the child’s best interest, the court’s failure to render this finding compels the conclusion that it was otherwise.

B. Assignment Of Error No. 2: Ordering Joint Decision-Making To Go Into Effect One Year After Entry Of Final Parenting Plan Order

1. Since There Should Have Been A Finding Of Willful Abandonment For A Substantial Period Of Time Or Substantial Refusal To Perform Parenting Functions (RCW 26.09.191 (1))

Ms. Laughlin sought this finding (RP 747). It was her burden to provide a preponderance of the evidence to support it. See *In re the Marriage of Olivares*, *supra*, at 334. She fulfilled that burden.

Mr. Pennington admitted that he made no effort to see or have any connection with Katelin for the first 18 months of her life (RP 52). He contributed no financial support, even voluntarily, of any kind (RP 86).

He even failed to cover her under his medical insurance plan, which he admitted would be at no cost to add as beneficiary of his life insurance (see RP 86, 87). Financial support of a child is defined as a parenting function (See RCW 26.09.004 (3) (f)).

He sought to justify his refusal to have anything to do with his child until trial on the notion that if he did, he would set himself up for false accusations of some sort of abuse or inappropriate conduct (see RP 252). However, he refused a proposal to enable him to begin seeing the child with professional monitoring as a vehicle to protect himself from such allegations four months prior to trial (RP 252).

The term “willful” is “...often used to denote an act which is voluntary or knowing.” *State v. Bauer*, 92 Wn.2d 162 at 167, 595 P.2d 544 (1979). Whatever his motives may have been, they do not belie the fact that he willfully abandoned, for a substantial period of time (the entire life of the child at that point), and substantially refused to perform any parenting functions.

RCW 26.09.191(1) provides:

“The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful

abandonment that continues for an extended period of time or substantial refusal to perform parenting functions...”

A finding made under either (1), (a), (b) or (c) precludes the court from having any discretion to award joint decision making authority or mediation as a dispute resolution process. See *In re the Marriage of Caven*, 136 Wn.2d 800, 966 P.2d 1247 (1998).

Thus, that Mr. Pennington had willfully abandoned the child for a substantial period of time and/or that he otherwise refused to perform any parenting functions was not contradicted in any way. Ms. Laughlin met her burden, the finding should have been made as a result of which the court had no discretion but to award sole decision making to Ms. Laughlin rather than joint decision making to go into effect a year hence under RCW 26.09.191 (1).

2. Where There Should Have Been A Finding Of Neglect Or Substantial Non Performance Of Parenting Functions (RCW 26.09.191)

The foregoing analysis of evidence supports this finding as well under RCW 26.09.191 (3).

3. Where Limitations Were Found To Exist – RCW 26.09.187 (2) (c) (i) By Virtue Of Which An Award Of Joint Decision Making And Mediation Of Future Disputes Is An Abuse Of Discretion.

The legal standards for deciding whether mutual or sole decision-making authority is appropriate as an exercise of discretion are contained under the provisions of RCW 26.09.187(2)(b) entitled “sole decision making authority” and (c) entitled “mutual decision making authority.”

“The court shall order sole decision making to one parent when it finds that: ... (ii) Both parents are opposed to mutual decision-making; (iii) One parent is opposed to mutual decision making, and such opposition is reasonable based on the criteria in (c) of this subsection.”

The criteria under subsection (c) are as follows:

“(i) The existence of a limitation under RCW 26.09.191; (ii) The history of participation in decision making in each of the areas in RCW 26.09.184(4)(a); (iii) Whether parents have a demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(4)(a)...”

Before the court can award mutual decision making authority, it was Mr. Pennington’s burden to demonstrate that there are no limitations under RCW 26.09.191 of any kind and/or a history of participation in

decision making regarding health and education or that there is a demonstrated ability and desire to cooperate regarding the major areas of decision-making. Here, the court found the existence of limitations under RCW 26.09.191.

“The petitioner’s involvement or conduct may have an adverse effect on the child’s best interests because of ...

The absence or substantial impairment of emotional ties between the parent and child due to the fact that the respondent had no contact with the child.

Other:

Anger management and control issues that indicate the petitioner would benefit from extended therapy to address the behaviors identified in psychological reports and parenting evaluation. See supplemental findings of the court.” (CP 376)

Mr. Pennington did not appeal these findings. They, therefore stand as verities on appeal. *Talps v. Arreola*, 83 Wn.2d 655, 521 P.2d 206 (1974). Those findings compel an award of sole decision making to the mother.

- 4. Where There Was No Evidence Of Participation In Decisions Pertaining To Katelin Or That The Parents Have An Ability To Cooperate Under RCW 26.09.187 (2) And (2) (c) And (3).**

The parents did not demonstrate an ability and desire to cooperate with each other with respect to the specific areas of child rearing under RCW 26.09.184(4)(a).

The court found in its supplemental findings:

“John’s behaviors, and psychological profile have many of the characteristics found in domestic violence perpetrators so the court has ordered a similar type of therapy... in this connection the court ordered the father’s program of therapy... to address the behavior issues identified in the father’s psychological evaluation particularly those concerns in the middle paragraph of page 10 of Dr. Hedrick’s evaluation, exhibit 129, the parenting evaluation and the court’s supplemental findings.” (CP 373)

Dr. Hedrick’s evaluation expressed concerns that Mr. Pennington

“...appears to view himself as a victim of circumstances...However his problem solving appears to be characterized by excessive rigidity and excessive need for control. His lack of self-awareness would make it difficult for him to realistically view his own anger and its impact on those who are on the receiving end of that anger.” (Trial Exhibit 124)

The court appointed Family Court Services caseworker, Debra Hunter, reflected the same concerns. As to his displays of anger she noted:

“Dr. Hedrick notes that despite having participated in anger management, the father continued this pattern of conduct during his participation in the most recent psychological evaluation...In addition to his displays of anger, there are several examples of the father manipulating information, withholding unfavorable information and distorting information...These behaviors are indicative of a long-term, learned behavior that will need substantial effort in domestic violence treatment.” (Trial Exhibit 25, page 22).

Hunter also testified that Mr. Pennington’s manipulation of his daughter, Grace, against Ms. Laughlin and unfounded allegations of sexual improprieties between the maternal grandmother and her son, which took place in Hunter’s presence at a home visit raised concerns about the likelihood of future parental conflict (RP 349, 352 and 432). The court was also concerned about Ms. Laughlin’s tendency to see ambiguous behavior in an unambiguous light (Exhibit 129). Thus, the trial court noted near the end of the trial:

“...that the big issue is the conflict between the parents.”

Hunter agreed (see RP 401).

Thus, the evidence at trial supported the conclusion that these parties did not have the ability to cooperate in the areas of major decision-making identified under RCW 26.09.184 (4)(a). No evidence was presented that they could cooperate.

5. Where The Award Of Joint Decision Making To Go Into Effect One Year In The Future Is Based On A Speculative Hope Of Mutual Parental Cooperation

The parenting plan order requires joint decision making to go into effect one year from the date of entry because a case manager is ordered to work with the parties during that year (CP 394). There is no evidence and no finding that these protocols would create any likelihood that the parents will have developed the ability and willingness to cooperate by then or that the basis of the 191 restrictions necessitated the therapy for both parents will have been ameliorated.

The trial court even found:

“Both parents have a strong need for validation which motivates them to seek allies. This will be very problematic to developing co-parenting sufficiently functional to work for Katelin.” (CP 373)

How then could the court award joint decision making to go into effect one year from entry of the final plan?

The court could only be basing its decision on an assumption, not borne out by the evidence, that the parties will develop the ability to cooperate for the benefit of the child; that the currently existing limitations

found under RCW 26.09.191(3) as to both parties will no longer exist one year from February 2010 when the final plan order went into effect.

Not only is there no evidence upon which such a prediction could be based, but case law is clear that a trial court abuses its discretion when it makes custodial decisions based upon speculative hopes for future change. See *Storgaard v. Storgaard*, 26 Wn.2d 388 at 391, 174 P.2d 309 (1946) and *Shultz v. Shultz*, 66 Wn.2d 713 at 716-717, 404 P.2d 987 (1965). The court must take the parties as it finds them. This court failed to do so.

C. Assignment Of Error No. 3: The Court Has No Authority To Impose Joint Decision Making As To Extracurricular Activities, Choice Of Daycare Provider, Body Tattoos, Military Service Or Marriage Prior To Age 18, Absent Agreement Of The Parties.

The areas of joint decision making that a court can impose absent agreement are identified under RCW 26.09.184(4)(a). They are limited to education, health care, and religious upbringing. Any others cannot be imposed, absent agreement of the parties by the explicit terms of the statute.

“The plan shall allocate decision-making authority to one or both parties regarding the children’s education, health care, and religious upbringing...” RCW 26.09.184 (4)(a).

The statute goes on to permit other areas of joint decision making but only if the parties agree to include them:

“...The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in RCW 26.09.187 and 26.09.191. Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.” RCW 26.09.184 (4) (a).”

Contrary to the express directive of the statute, the court included a plethora of other areas of decision making: driving lessons; driving privileges; tattoos; extra curricular activities; day care provider. There was no agreement on these issues. None of them can be the subject of mutual decision making authority absent agreement of the parties. The court abused its discretion by imposing them.

D. Assignment Of Error No. 4: The Court Erred by Failing To Award Petitioner A Monetary Judgment

1. By Failing to Treat Mr. Pennington’s Use Of The 2007 And 2008 Tax Refunds As Predispositions Of Property With A Compensating Award To Ms. Laughlin

Mr. Pennington took the \$13,714 tax refund from the parties’ joint tax return for 2007 and \$11,016 tax refund for 2008, and spent the money on himself and his post separation expenses (RP 21-22).

Six months of the refund for 2008 was attributable to his pre separation earnings and, at least to that extent, is community property. See RCW 26.16.160. This is because he had not given up on the viability of the marriage until July 2008, so that, as a matter of law, the marriage was not defunct until that time (RP 151; CP 26-32). (see *In re the Marriage of Short*, 125 Wn.2d 865, 890 P.2d 12 (1995)).

Each spouse has the duty to expend community funds under their respective management and control for the use and benefit of the community. See *Kolmorgan v. Shaller*, 51 Wn.2d 94, 316 P.2d 111 (1995).

Where the spouse fails to prove that the funds they managed were spent for the use and benefit of the community, they are to be treated as a predisposition of property with an award of property to the other spouse to compensate (see *In re the Marriage of Manry*, 60 Wn. App. 146, 803 P.2d 8 (1991); see also, *In re the Marriage of Sedlock*, 69 Wn. App. 484, 849 P.2d 1243 (1993)).

Here, Mr. Pennington admitted that he did not spend the money for any community debt or expenses (RP 21-22). Nor did he spend any of the funds for the benefit of their child, since he admitted contributing nothing

for the child (RP 86, 87). The court rendered no explanation as to why it failed to do so. It simply denied the application.

2. By Failing To Award Ms. Laughlin A Judgment For \$5,000 For Home Improvements

Ms. Laughlin and members of her family, prior to the marriage while the parties cohabitated and after the marriage, made extensive improvements to the home of Mr. Pennington (RP 112 through 117).

Although Ms. Laughlin believed the value contributed was far greater (RP 718), Mr. Pennington acknowledged that he owed her \$5,000 for these efforts because he so pled in his petition for legal separation (CP 32), as well as in his amended petition for dissolution (CP 109). Thus the issue, framed by the pleadings was not whether, but how much Mr. Pennington would compensate Ms. Laughlin for these improvements as part of the overall property division.

The court would only compensate her if she could provide receipts for a one month period prior to the marriage in June, which she testified she did not have (RP 604) without explanation as to why, or why she was not awarded more. Its failure to award her at least the amount pled by Mr. Pennington as part of his proposed property division in his pleadings is an abuse of discretion.

E. Assignment Of Error No. 5: Failing To Utilize The Proper Standard Calculation To Determine The Transfer Payment Of Child Support, And Deviating Based Upon A Post Trial Allegation Of Unreported Tutoring Income Unsupported By Any Evidence.

The original child support order of February 11, 2010 denied Mr. Pennington's request for imputation of income to Ms. Laughlin (CP 407 and 408). Alternatively, he sought a deviation based upon consideration of him having primary residential care of a child, Grace, of a former marriage. That request for deviation was also denied. Mr. Pennington did not seek reconsideration of the court's decision.

The worksheet accurately reflected that the combined net incomes of the parties was \$9,432.90, and that the Petitioner's obligation is 75.2%. The parties also agreed that the trial court's original worksheet calculation of the transfer payment was erroneously based on an outdated economic table in that it capped the combined net incomes of the parties at \$7,000 per month to determine the maximum advisory amount of \$986 per month for one child under 12 years of age, 75.2%, of which is \$741 per month. (CP 431). The parties also agreed that the legislature amended the economic table effective October 1, 2009, by raising the upper limit of combined net incomes to \$12,000 net per month (see **Appendix 2**).

Since the court ruled that imputation of income to Ms. Laughlin and a deviation based upon the whole family method were unwarranted, the transfer payment should have been \$940 per month, not \$741 per month (see **Appendix 3**). A corrective worksheet was submitted (see CP 451-455, see **Appendix 1**).

In response to Ms. Laughlin's post trial motion, which sought correction of this error, only a memorandum from counsel was submitted on behalf of Mr. Pennington, which admitted the outdated status of the economic table used by the court (CP 431). However, in it, he raised a new issue: deviation based upon unreported income of Ms. Laughlin from tutoring (CP 431-432). No allegation had been made nor evidence presented that Ms. Laughlin had been earning income from tutoring, not reporting it, or what income she was earning or what income she could earn by doing so as of that time. Nor was any evidence presented in response to her post trial motion.

The court, without explanation, accepted the allegation without evidence and decided to leave the transfer payment the same by considering it to be a deviation based upon undisclosed income (CP 286). This is an abuse of discretion in several respects.

First, RCW 26.19.075 defines the limits of the court's discretion in determining whether and to what extent to deviate. Undisclosed income is not one of them. Note the court did not adjust the percentage contributions to uninsured healthcare and work related daycare costs as a result of unreported income.

Second, since there is no evidence of undisclosed income the order is, in essence, a finding, a basis of which the court could deviate. Findings have to be based upon substantial evidence (*Group Health Coop. Of Puget Sound, Inc. v. Dep't of Revenue*, 106 Wn.2d 391, 722 P.2d 787 (1986)). Here, there was no evidence.

IV. Attorney's Fees and Costs

Ms. Laughlin reserves the right to obtain attorney fees and costs for this appeal.

V. Conclusion

An abuse of discretion has been defined as a decision made based upon untenable grounds or for untenable reasons. See *In re the Marriage of Tower*, 55 Wn. App. 697, 780 P.2d 863 (1989).

Where a trial judge deviates from a standard calculation with no evidence to support its decision, the decision is based upon untenable

grounds. There was no evidence that Ms. Laughlin could presently find work tutoring or how much she could earn if she could.

As it relates to the name change and the award of joint decision making to go into effect one year after February 10, 2010, a clarification of what an abuse of discretion means was adopted by our Court of Appeals 40 years ago, from renowned U.S. Supreme Court Justice, Benjamin Cardozo. It provides insight as to what the trial judge did here that was impermissible. Notwithstanding the archaic reference to a judge as necessarily being of the male gender:

“The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence.” See *Rehak v. Rehak*, 1 Wn. App. 963 at 965, 465 P.2d 687 (1970).

The trial judge had a vision of what he hoped the parties could achieve: a co-parenting arrangement with the aid of individual therapy and the involvement of a case manager. This was his vision of beauty and goodness. It ignored the evidence and his own expressed realization that these parents do not have the ability to cooperate with each other.

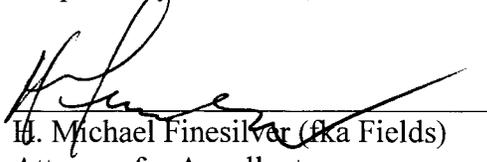
Neither the legislation, nor case law that interprets it, mentions co-parenting as a goal or a legal principle as being in the best interests of a child. Instead, it focuses on the ability of parents to cooperate as a prerequisite to joint decision making. That is the principle governing whether it is in the child's best interest to provide the parents with the joint decision making authority. And it is the best interests of the child standard, not those of the parents, that governs all parenting decisions under RCW 26.09 *et. seq.* (See, RCW 26.00.002, Statement of Policy).

The trial court's vision of hope as to future ability to co parent, is an untenable reason to award joint decision making authority to go into effect at a defined time in the future. It may well be that the court's decision to order a name change, without statutory authority, was designed to perpetuate the realization of that hope. There is no way to tell because the court made no explanation and no finding in support of that decision.

In any event, the court's vision is an untenable reason to justify joint decision-making because there is no evidence that these parents will have the capability of getting where he thought they ought to be one year hence, if ever.

DATED this 27 day of July, 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. Michael Finesilver", written over a horizontal line.

H. Michael Finesilver (fka Fields)
Attorney for Appellant
W.S.B.A. #5495

APPENDIX

A-1: Child Support Worksheet With \$940 Transfer Payment

A-2: October 2009 Child Support Worksheet Revisions

A-3: Child Support Worksheet Entered February 11, 2010

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Washington State Child Support Schedule Worksheets

Proposed by State of WA Other (CSWP)
Or, Signed by the Judicial/Reviewing Officer. (CSW)

Mother: Anne Laughlin Pennington

Father: John Edward Pennington

County: KING

Case No.: 08-3-03941-6 SEA

Child Support Order Summary Report

This section must be completed for all Worksheets signed by the judicial/reviewing officer.

- A. The order **does** **does not** replace a prior court or administrative order
- B. The **Standard Calculation** listed on line 17 of the Worksheet for the paying parent is:
\$940.00.
- C. The **Transfer Amount** ordered by the Court from the Order of Child Support is:
- to be paid by mother father.
- D. The Court deviated (changed) from the **Standard Calculation** for the following reasons:
 Does not apply
 Nonrecurring income Sources of income and tax planning
 Split custody Residential schedule (including shared custody)
 Child(ren) from other relationships for whom the parent owes support
 High debt not voluntarily incurred and high expenses for the child(ren)
 Other (please describe):
- E. Income for the Father is imputed actual income.
Income for the Mother is imputed actual income.
Income was imputed for the following reasons:
- F. If applicable: All health care, day care and special child rearing expenses are included in the Worksheets in Part III.

Worksheets

Child(ren) and Age(s): Katelin Pennington, 1		
Part I: Income (see Instructions, page 6)		
1. Gross Monthly Income	Father	Mother
a. Wages and Salaries	\$10597.00	\$2,600.00
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)	\$10597.00	\$2,600.00
2. Monthly Deductions from Gross Income		
a. Income Taxes (Federal and State) Tax Year: Manual	\$2,140.49	\$61.25
b. FICA (Soc. Sec. + Medicare)/Self-Employment Taxes	\$705.46	\$198.90
c. State Industrial Insurance Deductions	\$6.00	-
d. Mandatory Union/Professional Dues	-	-
e. Mandatory Pension Plan Payments	\$652.00	-
f. Voluntary Retirement Contributions	-	-
g. Maintenance Paid	-	-
h. Normal Business Expenses	-	-
i. Total Deductions from Gross Income (add lines 2a through 2h)	\$3,503.95	\$260.15
3. Monthly Net Income (line 1g minus 2i)	\$7,093.05	\$2,339.85
4. Combined Monthly Net Income (line 3 amounts combined)	\$9,432.90	
5. Basic Child Support Obligation (Combined amounts →)		
Katelin Pennington \$1250.00		
-		
-		
-		
-		
	\$1,250.00	
6. Proportional Share of Income (each parent's net income from line 3 divided by line 4)	.752	.248
Part II: Basic Child Support Obligation (see Instructions, page 8)		
7. Each Parent's Basic Child Support Obligation without consideration of low income limitations (Each parent's Line 6 times Line 5.)	\$940.00	\$310.00
8. Calculating low income limitations: (Complete those that apply.)		
Self-Support Reserve: (125% of the Federal Poverty Guideline.)	\$1,128.00	
a. Combined Net Income Less Than \$1,000: If line 4 is less than \$1000, then for each parent enter the presumptive \$50 per child.	-	-
b. Monthly Net Income Less Than Self-Support Reserve: If a parent's monthly net income on line 3 is less than the self-support reserve, then for that parent enter the presumptive \$50 per child.	-	-
c. Monthly Net Income Greater Than Self-Support Reserve: For each parent subtract the self-support reserve from line 3. If that amount is less than line 7, then 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, 8b or 8c.	\$940.00	\$310.00

Part III: Health Care, Day Care, and Special Child Rearing Expenses (see Instructions, page 8)		
10. Health Care Expenses	Father	Mother
a. Monthly Health Insurance Paid for Child(ren)	-	-
b. Uninsured Monthly Health Care Expenses Paid for Child(ren)	-	-
c. Total Monthly Health Care Expenses (line 10a plus line 10b)	-	-
d. Combined Monthly Health Care Expenses (line 10c amounts combined)		-
11. Day Care and Special Child Rearing 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 (line 11e amounts Combined)		-
13. Total Health Care, Day Care, and Special Expenses (line 10d plus line 12)		-
14. Each Parent's Obligation for Health Care, Day Care, and Special Expenses (multiply each number on line 6 by line 13)	-	-
Part IV: Gross Child Support Obligation		
15. Gross Child Support Obligation (line 9 plus line 14)	\$940.00	\$310.00
Part V: Child Support Credits (see Instructions, page 9)		
16. Child Support Credits		
a. Monthly Health Care Expenses Credit	-	-
b. Day Care and Special Expenses Credit	-	-
c. Other Ordinary Expenses Credit (describe)	-	-
	-	-
d. Total Support Credits (add lines 16a through 16c)	-	-
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)	\$940.00	\$310.00
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)	\$3,191.87	\$1,052.93
19. 25% of each parent's basic support obligation from line 9 (.25 x amount from line 9 for each parent)	\$235.00	\$77.50

24. Child Support Owed, Monthly, for Biological or Legal Child(ren)	Father's Household	Mother's Household
Name/age: _____ Paid <input type="checkbox"/> Yes <input type="checkbox"/> No	-	-
Name/age: _____ Paid <input type="checkbox"/> Yes <input type="checkbox"/> No	-	-
Name/age: _____ Paid <input type="checkbox"/> Yes <input type="checkbox"/> No	-	-
25. Other Child(ren) Living In Each Household (First name(s) and age(s))		
26. Other Factors For Consideration (attach additional pages as necessary)		
Signature and Dates		
I declare, under penalty of perjury under the laws of the State of Washington, the information contained in these Worksheets is complete, true, and correct.		
_____ Mother's Signature	_____ Father's Signature	
_____ Date	_____ City	_____ Date
_____ Date	_____ City	_____ Date

Judicial/Reviewing Officer

Date

**Worksheet certified by the State of Washington Administrative Office of the Courts.
Photocopying of the worksheet is permitted.**

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CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1794

Chapter 84, Laws of 2009

61st Legislature
2009 Regular Session

CALCULATION OF CHILD SUPPORT

EFFECTIVE DATE: 10/01/09

Passed by the House March 3, 2009
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 2, 2009
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved April 13, 2009, 3:52 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 1794 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 14, 2009

Secretary of State
State of Washington

1	((0				
2	100				
3	200				
4	300	For income less than \$600 the obligation is			
5	400	based upon the resources and living expenses of			
6	500	each household. Minimum support shall not be			
		less than \$25 per child per month except when			
		allowed by RCW 26.19.065(2).			
7	600	133	164	193	127
8	700	155	191	120	148
9	800	177	218	137	170
10	900	199	246	154	191))
11		For income less than \$1000 the obligation is			
12		based upon the resources and living expenses of			
13		each household. Minimum support may not be			
14		less than \$50 per child per month except when			
15		allowed by RCW 26.19.065(2).			
16	1000	220	272	171	211
17	1100	242	299	188	232
18	1200	264	326	205	253
19	1300	285	352	221	274
20	1400	307	379	238	294
21	1500	327	404	254	313
22	1600	347	428	269	333
23	1700	367	453	285	352
24	1800	387	478	300	371
25	1900	407	503	316	390
26	2000	427	527	331	409
27	2100	447	552	347	429
28	2200	467	577	362	448
29	2300	487	601	378	467
30	2400	506	626	393	486
31	2500	526	650	408	505
32	2600	534	661	416	513
33	2700	542	670	421	520
34	2800	549	679	427	527
35	2900	556	686	431	533
36	3000	561	693	436	538
37	3100	566	699	439	543

1	3200	569	704	442	546
2	3300	573	708	445	549
3	3400	574	710	446	551
4	3500	575	711	447	552
5	3600	577	712	448	553
6	3700	578	713	449	554
7	3800	581	719	452	558
8	3900	596	736	463	572
9	4000	609	753	473	584
10	4100	623	770	484	598
11	4200	638	788	495	611
12	4300	651	805	506	625
13	4400	664	821	516	637
14	4500	677	836	525	649
15	4600	689	851	535	661
16	4700	701	866	545	673
17	4800	713	882	554	685
18	4900	726	897	564	697
19	5000	738	912	574	708
20	5100	751	928	584	720
21	5200	763	943	593	732
22	5300	776	959	602	744
23	5400	788	974	612	756
24	5500	800	989	622	768
25	5600	812	1004	632	779
26	5700	825	1019	641	791
27	5800	837	1035	650	803
28	5900	850	1050	660	815
29	6000	862	1065	670	827
30	6100	875	1081	680	839
31	6200	887	1096	689	851
32	6300	899	1112	699	863
33	6400	911	1127	709	875
34	6500	924	1142	718	887
35	6600	936	1157	728	899
36	6700	949	1172	737	911
37	6800	961	1188	747	923

1	6900	974	1203	757	935
2	7000	986	1218	767	946
3	<u>7100</u>	<u>998</u>	<u>1233</u>	<u>776</u>	<u>958</u>
4	<u>7200</u>	<u>1009</u>	<u>1248</u>	<u>785</u>	<u>971</u>
5	<u>7300</u>	<u>1021</u>	<u>1262</u>	<u>794</u>	<u>982</u>
6	<u>7400</u>	<u>1033</u>	<u>1276</u>	<u>803</u>	<u>993</u>
7	<u>7500</u>	<u>1044</u>	<u>1290</u>	<u>812</u>	<u>1004</u>
8	<u>7600</u>	<u>1055</u>	<u>1305</u>	<u>821</u>	<u>1015</u>
9	<u>7700</u>	<u>1067</u>	<u>1319</u>	<u>830</u>	<u>1026</u>
10	<u>7800</u>	<u>1078</u>	<u>1333</u>	<u>839</u>	<u>1037</u>
11	<u>7900</u>	<u>1089</u>	<u>1346</u>	<u>848</u>	<u>1048</u>
12	<u>8000</u>	<u>1100</u>	<u>1360</u>	<u>857</u>	<u>1059</u>
13	<u>8100</u>	<u>1112</u>	<u>1374</u>	<u>865</u>	<u>1069</u>
14	<u>8200</u>	<u>1123</u>	<u>1387</u>	<u>874</u>	<u>1080</u>
15	<u>8300</u>	<u>1134</u>	<u>1401</u>	<u>882</u>	<u>1091</u>
16	<u>8400</u>	<u>1144</u>	<u>1414</u>	<u>891</u>	<u>1101</u>
17	<u>8500</u>	<u>1155</u>	<u>1428</u>	<u>899</u>	<u>1112</u>
18	<u>8600</u>	<u>1166</u>	<u>1441</u>	<u>908</u>	<u>1122</u>
19	<u>8700</u>	<u>1177</u>	<u>1454</u>	<u>916</u>	<u>1133</u>
20	<u>8800</u>	<u>1187</u>	<u>1467</u>	<u>925</u>	<u>1143</u>
21	<u>8900</u>	<u>1198</u>	<u>1481</u>	<u>933</u>	<u>1153</u>
22	<u>9000</u>	<u>1208</u>	<u>1493</u>	<u>941</u>	<u>1163</u>
23	<u>9100</u>	<u>1219</u>	<u>1506</u>	<u>949</u>	<u>1173</u>
24	<u>9200</u>	<u>1229</u>	<u>1519</u>	<u>957</u>	<u>1183</u>
25	<u>9300</u>	<u>1239</u>	<u>1532</u>	<u>966</u>	<u>1193</u>
26	<u>9400</u>	<u>1250</u>	<u>1545</u>	<u>974</u>	<u>1203</u>
27	<u>9500</u>	<u>1260</u>	<u>1557</u>	<u>982</u>	<u>1213</u>
28	<u>9600</u>	<u>1270</u>	<u>1570</u>	<u>989</u>	<u>1223</u>
29	<u>9700</u>	<u>1280</u>	<u>1582</u>	<u>997</u>	<u>1233</u>
30	<u>9800</u>	<u>1290</u>	<u>1594</u>	<u>1005</u>	<u>1242</u>
31	<u>9900</u>	<u>1300</u>	<u>1606</u>	<u>1013</u>	<u>1252</u>
32	<u>10000</u>	<u>1310</u>	<u>1619</u>	<u>1021</u>	<u>1262</u>
33	<u>10100</u>	<u>1319</u>	<u>1631</u>	<u>1028</u>	<u>1271</u>
34	<u>10200</u>	<u>1329</u>	<u>1643</u>	<u>1036</u>	<u>1281</u>
35	<u>10300</u>	<u>1339</u>	<u>1655</u>	<u>1044</u>	<u>1290</u>
36	<u>10400</u>	<u>1348</u>	<u>1666</u>	<u>1051</u>	<u>1299</u>
37	<u>10500</u>	<u>1358</u>	<u>1678</u>	<u>1059</u>	<u>1308</u>

1	<u>10600</u>	<u>1367</u>	<u>1690</u>	<u>1066</u>	<u>1318</u>
2	<u>10700</u>	<u>1377</u>	<u>1701</u>	<u>1073</u>	<u>1327</u>
3	<u>10800</u>	<u>1386</u>	<u>1713</u>	<u>1081</u>	<u>1336</u>
4	<u>10900</u>	<u>1395</u>	<u>1724</u>	<u>1088</u>	<u>1345</u>
5	<u>11000</u>	<u>1404</u>	<u>1736</u>	<u>1095</u>	<u>1354</u>
6	<u>11100</u>	<u>1413</u>	<u>1747</u>	<u>1102</u>	<u>1363</u>
7	<u>11200</u>	<u>1422</u>	<u>1758</u>	<u>1110</u>	<u>1371</u>
8	<u>11300</u>	<u>1431</u>	<u>1769</u>	<u>1117</u>	<u>1380</u>
9	<u>11400</u>	<u>1440</u>	<u>1780</u>	<u>1124</u>	<u>1389</u>
10	<u>11500</u>	<u>1449</u>	<u>1791</u>	<u>1131</u>	<u>1398</u>
11	<u>11600</u>	<u>1458</u>	<u>1802</u>	<u>1138</u>	<u>1406</u>
12	<u>11700</u>	<u>1467</u>	<u>1813</u>	<u>1145</u>	<u>1415</u>
13	<u>11800</u>	<u>1475</u>	<u>1823</u>	<u>1151</u>	<u>1423</u>
14	<u>11900</u>	<u>1484</u>	<u>1834</u>	<u>1158</u>	<u>1431</u>
15	<u>12000</u>	<u>1492</u>	<u>1844</u>	<u>1165</u>	<u>1440</u>

COMBINED

MONTHLY NET INCOME	THREE CHILDREN FAMILY		FOUR CHILDREN FAMILY		FIVE CHILDREN FAMILY		
	A	B	A	B	A	B	
21	((0						
22	100						
23	200						
24	300						
25	400						
26	500						
			For income less than \$600 the obligation is based upon the resources and living expenses of each household. Minimum support shall not be less than \$25 per child per month except when allowed by RCW 26.19.065(2).				
27	600	86	106	73	90	63	78
28	700	100	124	85	105	74	91
29	800	115	142	97	120	84	104
30	900	129	159	109	135	95	118))

For income less than \$1000 the obligation
 is based upon the resources and living
 expenses of each household. Minimum
 support may not be less than \$50 per child
 per month except when allowed by RCW
 26.19.065(2).

7	1000	143	177	121	149	105	130
8	1100	157	194	133	164	116	143
9	1200	171	211	144	179	126	156
10	1300	185	228	156	193	136	168
11	1400	199	246	168	208	147	181
12	1500	212	262	179	221	156	193
13	1600	225	278	190	235	166	205
14	1700	238	294	201	248	175	217
15	1800	251	310	212	262	185	228
16	1900	264	326	223	275	194	240
17	2000	277	342	234	289	204	252
18	2100	289	358	245	303	213	264
19	2200	302	374	256	316	223	276
20	2300	315	390	267	330	233	288
21	2400	328	406	278	343	242	299
22	2500	341	421	288	356	251	311
23	2600	346	428	293	362	256	316
24	2700	351	435	298	368	259	321
25	2800	356	440	301	372	262	324
26	2900	360	445	305	376	266	328
27	3000	364	449	308	380	268	331
28	3100	367	453	310	383	270	334
29	3200	369	457	312	386	272	336
30	3300	371	459	314	388	273	339
31	3400	372	460	315	389	274	340
32	3500	373	461	316	390	275	341
33	3600	374	462	317	391	276	342
34	3700	375	463	318	392	277	343
35	3800	377	466	319	394	278	344
36	3900	386	477	326	404	284	352
37	4000	395	488	334	413	291	360

1	4100	404	500	341	422	298	368
2	4200	413	511	350	431	305	377
3	4300	422	522	357	441	311	385
4	4400	431	532	364	449	317	392
5	4500	438	542	371	458	323	400
6	4600	446	552	377	467	329	407
7	4700	455	562	384	475	335	414
8	4800	463	572	391	483	341	422
9	4900	470	581	398	491	347	429
10	5000	479	592	404	500	353	437
11	5100	487	602	411	509	359	443
12	5200	494	611	418	517	365	451
13	5300	503	621	425	525	371	458
14	5400	511	632	432	533	377	466
15	5500	518	641	439	542	383	473
16	5600	527	651	446	551	389	480
17	5700	535	661	452	559	395	488
18	5800	543	671	459	567	401	495
19	5900	551	681	466	575	407	502
20	6000	559	691	473	584	413	509
21	6100	567	701	479	593	418	517
22	6200	575	710	486	601	424	524
23	6300	583	721	493	609	430	532
24	6400	591	731	500	617	436	539
25	6500	599	740	506	626	442	546
26	6600	607	750	513	635	448	554
27	6700	615	761	520	643	454	561
28	6800	623	770	527	651	460	568
29	6900	631	780	533	659	466	575
30	7000	639	790	540	668	472	583
31	<u>7100</u>	<u>647</u>	<u>800</u>	<u>547</u>	<u>677</u>	<u>478</u>	<u>591</u>
32	<u>7200</u>	<u>654</u>	<u>809</u>	<u>554</u>	<u>684</u>	<u>484</u>	<u>598</u>
33	<u>7300</u>	<u>662</u>	<u>818</u>	<u>560</u>	<u>693</u>	<u>490</u>	<u>605</u>
34	<u>7400</u>	<u>670</u>	<u>828</u>	<u>567</u>	<u>701</u>	<u>496</u>	<u>613</u>
35	<u>7500</u>	<u>677</u>	<u>837</u>	<u>574</u>	<u>709</u>	<u>502</u>	<u>620</u>
36	<u>7600</u>	<u>685</u>	<u>846</u>	<u>581</u>	<u>718</u>	<u>507</u>	<u>627</u>
37	<u>7700</u>	<u>692</u>	<u>855</u>	<u>587</u>	<u>726</u>	<u>513</u>	<u>634</u>

1	<u>7800</u>	<u>700</u>	<u>865</u>	<u>594</u>	<u>734</u>	<u>519</u>	<u>642</u>
2	<u>7900</u>	<u>707</u>	<u>874</u>	<u>601</u>	<u>742</u>	<u>525</u>	<u>649</u>
3	<u>8000</u>	<u>714</u>	<u>883</u>	<u>607</u>	<u>750</u>	<u>531</u>	<u>656</u>
4	<u>8100</u>	<u>722</u>	<u>892</u>	<u>614</u>	<u>759</u>	<u>536</u>	<u>663</u>
5	<u>8200</u>	<u>729</u>	<u>901</u>	<u>620</u>	<u>767</u>	<u>542</u>	<u>670</u>
6	<u>8300</u>	<u>736</u>	<u>910</u>	<u>627</u>	<u>775</u>	<u>548</u>	<u>677</u>
7	<u>8400</u>	<u>743</u>	<u>919</u>	<u>633</u>	<u>783</u>	<u>553</u>	<u>684</u>
8	<u>8500</u>	<u>750</u>	<u>928</u>	<u>640</u>	<u>791</u>	<u>559</u>	<u>691</u>
9	<u>8600</u>	<u>758</u>	<u>936</u>	<u>646</u>	<u>799</u>	<u>565</u>	<u>698</u>
10	<u>8700</u>	<u>765</u>	<u>945</u>	<u>653</u>	<u>807</u>	<u>570</u>	<u>705</u>
11	<u>8800</u>	<u>772</u>	<u>954</u>	<u>659</u>	<u>815</u>	<u>576</u>	<u>712</u>
12	<u>8900</u>	<u>779</u>	<u>962</u>	<u>665</u>	<u>822</u>	<u>582</u>	<u>719</u>
13	<u>9000</u>	<u>786</u>	<u>971</u>	<u>672</u>	<u>830</u>	<u>587</u>	<u>726</u>
14	<u>9100</u>	<u>792</u>	<u>980</u>	<u>678</u>	<u>838</u>	<u>593</u>	<u>732</u>
15	<u>9200</u>	<u>799</u>	<u>988</u>	<u>684</u>	<u>846</u>	<u>598</u>	<u>739</u>
16	<u>9300</u>	<u>806</u>	<u>996</u>	<u>691</u>	<u>854</u>	<u>604</u>	<u>746</u>
17	<u>9400</u>	<u>813</u>	<u>1005</u>	<u>697</u>	<u>861</u>	<u>609</u>	<u>753</u>
18	<u>9500</u>	<u>820</u>	<u>1013</u>	<u>703</u>	<u>869</u>	<u>614</u>	<u>759</u>
19	<u>9600</u>	<u>826</u>	<u>1021</u>	<u>709</u>	<u>877</u>	<u>620</u>	<u>766</u>
20	<u>9700</u>	<u>833</u>	<u>1030</u>	<u>716</u>	<u>884</u>	<u>625</u>	<u>773</u>
21	<u>9800</u>	<u>840</u>	<u>1038</u>	<u>722</u>	<u>892</u>	<u>631</u>	<u>779</u>
22	<u>9900</u>	<u>846</u>	<u>1046</u>	<u>728</u>	<u>900</u>	<u>636</u>	<u>786</u>
23	<u>10000</u>	<u>853</u>	<u>1054</u>	<u>734</u>	<u>907</u>	<u>641</u>	<u>793</u>
24	<u>10100</u>	<u>859</u>	<u>1062</u>	<u>740</u>	<u>915</u>	<u>647</u>	<u>799</u>
25	<u>10200</u>	<u>866</u>	<u>1070</u>	<u>746</u>	<u>922</u>	<u>652</u>	<u>806</u>
26	<u>10300</u>	<u>872</u>	<u>1078</u>	<u>752</u>	<u>930</u>	<u>657</u>	<u>812</u>
27	<u>10400</u>	<u>879</u>	<u>1086</u>	<u>758</u>	<u>937</u>	<u>662</u>	<u>819</u>
28	<u>10500</u>	<u>885</u>	<u>1094</u>	<u>764</u>	<u>944</u>	<u>668</u>	<u>825</u>
29	<u>10600</u>	<u>891</u>	<u>1102</u>	<u>770</u>	<u>952</u>	<u>673</u>	<u>832</u>
30	<u>10700</u>	<u>898</u>	<u>1109</u>	<u>776</u>	<u>959</u>	<u>678</u>	<u>838</u>
31	<u>10800</u>	<u>904</u>	<u>1117</u>	<u>782</u>	<u>966</u>	<u>683</u>	<u>844</u>
32	<u>10900</u>	<u>910</u>	<u>1125</u>	<u>788</u>	<u>974</u>	<u>688</u>	<u>851</u>
33	<u>11000</u>	<u>916</u>	<u>1132</u>	<u>794</u>	<u>981</u>	<u>693</u>	<u>857</u>
34	<u>11100</u>	<u>922</u>	<u>1140</u>	<u>799</u>	<u>988</u>	<u>698</u>	<u>863</u>
35	<u>11200</u>	<u>928</u>	<u>1147</u>	<u>805</u>	<u>995</u>	<u>703</u>	<u>869</u>
36	<u>11300</u>	<u>934</u>	<u>1155</u>	<u>811</u>	<u>1002</u>	<u>708</u>	<u>876</u>
37	<u>11400</u>	<u>940</u>	<u>1162</u>	<u>817</u>	<u>1009</u>	<u>714</u>	<u>882</u>

1	<u>11500</u>	<u>946</u>	<u>1170</u>	<u>822</u>	<u>1017</u>	<u>719</u>	<u>888</u>
2	<u>11600</u>	<u>952</u>	<u>1177</u>	<u>828</u>	<u>1024</u>	<u>723</u>	<u>894</u>
3	<u>11700</u>	<u>958</u>	<u>1184</u>	<u>834</u>	<u>1031</u>	<u>728</u>	<u>900</u>
4	<u>11800</u>	<u>964</u>	<u>1191</u>	<u>839</u>	<u>1038</u>	<u>733</u>	<u>906</u>
5	<u>11900</u>	<u>970</u>	<u>1199</u>	<u>845</u>	<u>1045</u>	<u>738</u>	<u>912</u>
6	<u>12000</u>	<u>975</u>	<u>1206</u>	<u>851</u>	<u>1051</u>	<u>743</u>	<u>919</u>

7 The economic table is presumptive for combined monthly net incomes
8 up to and including ~~((five))~~ twelve thousand dollars. ~~((When combined~~
9 ~~monthly net income exceeds five thousand dollars, support shall not be~~
10 ~~set at an amount lower than the presumptive amount of support set for~~
11 ~~combined monthly net incomes of five thousand dollars unless the court~~
12 ~~finds a reason to deviate below that amount. The economic table is~~
13 ~~advisory but not presumptive for combined monthly net incomes that~~
14 ~~exceed five thousand dollars.))~~ When combined monthly net income
15 exceeds ~~((seven))~~ twelve thousand dollars, the court may ~~((set support~~
16 ~~at an advisory amount of support set for combined monthly net incomes~~
17 ~~between five thousand and seven thousand dollars or the court may))~~
18 exceed the ~~((advisory))~~ presumptive amount of support set for combined
19 monthly net incomes of ~~((seven))~~ twelve thousand dollars upon written
20 findings of fact.

21 Sec. 2. RCW 26.19.065 and 1998 c 163 s 1 are each amended to read
22 as follows:

23 (1) Limit at forty-five percent of a parent's net income. Neither
24 parent's ((total)) child support obligation owed for all his or her
25 biological or legal children may exceed forty-five percent of net
26 income except for good cause shown. ~~((Good cause includes but is not~~
27 ~~limited to possession of substantial wealth, children with day care~~
28 ~~expenses, special medical need, educational need, psychological need,~~
29 ~~and larger families.))~~

30 (a) Each child is entitled to a pro rata share of the income
31 available for support, but the court only applies the pro rata share to
32 the children in the case before the court.

33 (b) Before determining whether to apply the forty-five percent
34 limitation, the court must consider whether it would be unjust to apply
35 the limitation after considering the best interests of the child and
36 the circumstances of each parent. Such circumstances include, but are

1 not limited to, leaving insufficient funds in the custodial parent's
2 household to meet the basic needs of the child, comparative hardship to
3 the affected households, assets or liabilities, and any involuntary
4 limits on either parent's earning capacity including incarceration,
5 disabilities, or incapacity.

6 (c) Good cause includes, but is not limited to, possession of
7 substantial wealth, children with day care expenses, special medical
8 need, educational need, psychological need, and larger families.

9 (2) ((Income below six hundred dollars)) Presumptive minimum
10 support obligation. (a) When ((combined)) a parent's monthly net
11 income is ((less than six hundred dollars)) below one hundred twenty-
12 five percent of the federal poverty guideline, a support order of not
13 less than ((twenty five)) fifty dollars per child per month shall be
14 entered ((for each parent)) unless the obligor parent establishes that
15 it would be unjust ((or inappropriate)) to do so in that particular
16 case. The decision whether there is a sufficient basis to deviate
17 below the presumptive minimum payment must take into consideration the
18 best interests of the child and the circumstances of each parent. Such
19 circumstances can include leaving insufficient funds in the custodial
20 parent's household to meet the basic needs of the child, comparative
21 hardship to the affected households, assets or liabilities, and earning
22 capacity. ((A parent's))

23 (b) The basic support obligation of the parent making the transfer
24 payment, excluding health care, day care, and special child-rearing
25 expenses, shall not reduce his or her net income below ((the need
26 standard for one person established pursuant to RCW 74.04.770)) the
27 self-support reserve of one hundred twenty-five percent of the federal
28 poverty level, except for the presumptive minimum payment of ((twenty-
29 five)) fifty dollars per child per month or ((in cases where the court
30 finds reasons for deviation)) when it would be unjust to apply the
31 self-support reserve limitation after considering the best interests of
32 the child and the circumstances of each parent. Such circumstances
33 include, but are not limited to, leaving insufficient funds in the
34 custodial parent's household to meet the basic needs of the child,
35 comparative hardship to the affected households, assets or liabilities,
36 and earning capacity. This section shall not be construed to require
37 monthly substantiation of income.

1 (3) Income above ~~((five thousand and seven))~~ twelve thousand
2 dollars. The economic table is presumptive for combined monthly net
3 incomes up to and including ~~((five))~~ twelve thousand dollars. ~~((When~~
4 ~~combined monthly net income exceeds five thousand dollars, support~~
5 ~~shall not be set at an amount lower than the presumptive amount of~~
6 ~~support set for combined monthly net incomes of five thousand dollars~~
7 ~~unless the court finds a reason to deviate below that amount. The~~
8 ~~economic table is advisory but not presumptive for combined monthly net~~
9 ~~incomes that exceed five thousand dollars.))~~ When combined monthly net
10 income exceeds ~~((seven))~~ twelve thousand dollars, the court may ~~((set~~
11 ~~support at an advisory amount of support set for combined monthly net~~
12 ~~incomes between five thousand and seven thousand dollars or the court~~
13 ~~may))~~ exceed the ~~((advisory))~~ presumptive amount of support set for
14 combined monthly net incomes of ~~((seven))~~ twelve thousand dollars upon
15 written findings of fact.

16 Sec. 3. RCW 26.19.071 and 2008 c 6 s 1038 are each amended to read
17 as follows:

18 (1) **Consideration of all income.** All income and resources of each
19 parent's household shall be disclosed and considered by the court when
20 the court determines the child support obligation of each parent. Only
21 the income of the parents of the children whose support is at issue
22 shall be calculated for purposes of calculating the basic support
23 obligation. Income and resources of any other person shall not be
24 included in calculating the basic support obligation.

25 (2) **Verification of income.** Tax returns for the preceding two
26 years and current paystubs shall be provided to verify income and
27 deductions. Other sufficient verification shall be required for income
28 and deductions which do not appear on tax returns or paystubs.

29 (3) **Income sources included in gross monthly income.** Except as
30 specifically excluded in subsection (4) of this section, monthly gross
31 income shall include income from any source, including:

32 (a) Salaries;

33 (b) Wages;

34 (c) Commissions;

35 (d) Deferred compensation;

36 (e) Overtime, except as excluded for income in subsection (4) (h) of
37 this section;

- 1 (f) Contract-related benefits;
- 2 (g) Income from second jobs, except as excluded for income in
- 3 subsection (4)(h) of this section;
- 4 (h) Dividends;
- 5 (i) Interest;
- 6 (j) Trust income;
- 7 (k) Severance pay;
- 8 (l) Annuities;
- 9 (m) Capital gains;
- 10 (n) Pension retirement benefits;
- 11 (o) Workers' compensation;
- 12 (p) Unemployment benefits;
- 13 (q) Maintenance actually received;
- 14 (r) Bonuses;
- 15 (s) Social security benefits; ((and))
- 16 (t) Disability insurance benefits; and
- 17 (u) Income from self-employment, rent, royalties, contracts,
- 18 proprietorship of a business, or joint ownership of a partnership or
- 19 closely held corporation.

20 (4) Income sources excluded from gross monthly income. The
 21 following income and resources shall be disclosed but shall not be
 22 included in gross income:

- 23 (a) Income of a new spouse or new domestic partner or income of
- 24 other adults in the household;
- 25 (b) Child support received from other relationships;
- 26 (c) Gifts and prizes;
- 27 (d) Temporary assistance for needy families;
- 28 (e) Supplemental security income;
- 29 (f) General assistance; ((and))
- 30 (g) Food stamps; and
- 31 (h) Overtime or income from second jobs beyond forty hours per week
- 32 averaged over a twelve-month period worked to provide for a current
- 33 family's needs, to retire past relationship debts, or to retire child
- 34 support debt, when the court finds the income will cease when the party
- 35 has paid off his or her debts.

36 Receipt of income and resources from temporary assistance for needy
 37 families, supplemental security income, general assistance, and food
 38 stamps shall not be a reason to deviate from the standard calculation.

1 (5) Determination of net income. The following expenses shall be
2 disclosed and deducted from gross monthly income to calculate net
3 monthly income:

4 (a) Federal and state income taxes;

5 (b) Federal insurance contributions act deductions;

6 (c) Mandatory pension plan payments;

7 (d) Mandatory union or professional dues;

8 (e) State industrial insurance premiums;

9 (f) Court-ordered maintenance to the extent actually paid;

10 (g) Up to ~~((two))~~ five thousand dollars per year in voluntary
11 ~~((pension payments))~~ retirement contributions actually made if the
12 contributions ~~((were made for the two tax years preceding the earlier~~
13 ~~of the (i) tax year in which the parties separated with intent to live~~
14 ~~separate and apart or (ii) tax year in which the parties filed for~~
15 ~~dissolution))~~ show a pattern of contributions during the one-year
16 period preceding the action establishing the child support order unless
17 there is a determination that the contributions were made for the
18 purpose of reducing child support; and

19 (h) Normal business expenses and self-employment taxes for self-
20 employed persons. Justification shall be required for any business
21 expense deduction about which there is disagreement.

22 Items deducted from gross income under this subsection shall not be
23 a reason to deviate from the standard calculation.

24 (6) **Imputation of income.** The court shall impute income to a
25 parent when the parent is voluntarily unemployed or voluntarily
26 underemployed. The court shall determine whether the parent is
27 voluntarily underemployed or voluntarily unemployed based upon that
28 parent's work history, education, health, and age, or any other
29 relevant factors. A court shall not impute income to a parent who is
30 gainfully employed on a full-time basis, unless the court finds that
31 the parent is voluntarily underemployed and finds that the parent is
32 purposely underemployed to reduce the parent's child support
33 obligation. Income shall not be imputed for an unemployable parent.
34 Income shall not be imputed to a parent to the extent the parent is
35 unemployed or significantly underemployed due to the parent's efforts
36 to comply with court-ordered reunification efforts under chapter 13.34
37 RCW or under a voluntary placement agreement with an agency supervising
38 the child. ~~((In the absence of information to the contrary, a parent's~~

1 ~~imputed income shall be based on the median income of year round full-~~
2 ~~time workers as derived from the United States bureau of census,~~
3 ~~current populations reports, or such replacement report as published by~~
4 ~~the bureau of census.)~~ In the absence of records of a parent's actual
5 earnings, the court shall impute a parent's income in the following
6 order of priority:

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

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

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

12 (d) Full-time earnings at minimum wage in the jurisdiction where
13 the parent resides if the parent has a recent history of minimum wage
14 earnings, is recently coming off public assistance, general assistance-
15 unemployable, supplemental security income, or disability, has recently
16 been released from incarceration, or is a high school student;

17 (e) Median net monthly income of year-round full-time workers as
18 derived from the United States bureau of census, current population
19 reports, or such replacement report as published by the bureau of
20 census.

21 **Sec. 4.** RCW 26.19.075 and 2008 c 6 s 1039 are each amended to read
22 as follows:

23 (1) Reasons for deviation from the standard calculation include but
24 are not limited to the following:

25 (a) Sources of income and tax planning. The court may deviate from
26 the standard calculation after consideration of the following:

27 (i) Income of a new spouse or new domestic partner if the parent
28 who is married to the new spouse or in a partnership with a new
29 domestic partner is asking for a deviation based on any other reason.
30 Income of a new spouse or new domestic partner is not, by itself, a
31 sufficient reason for deviation;

32 (ii) Income of other adults in the household if the parent who is
33 living with the other adult is asking for a deviation based on any
34 other reason. Income of the other adults in the household is not, by
35 itself, a sufficient reason for deviation;

36 (iii) Child support actually received from other relationships;

37 (iv) Gifts;

1 (v) Prizes;

2 (vi) Possession of wealth, including but not limited to savings,
3 investments, real estate holdings and business interests, vehicles,
4 boats, pensions, bank accounts, insurance plans, or other assets;

5 (vii) Extraordinary income of a child; (~~or~~)

6 (viii) Tax planning considerations. A deviation for tax planning
7 may be granted only if the child would not receive a lesser economic
8 benefit due to the tax planning; or

9 (ix) Income that has been excluded under RCW 26.19.071(4)(h) if the
10 person earning that income asks for a deviation for any other reason.

11 (b) **Nonrecurring income.** The court may deviate from the standard
12 calculation based on a finding that a particular source of income
13 included in the calculation of the basic support obligation is not a
14 recurring source of income. Depending on the circumstances,
15 nonrecurring income may include overtime, contract-related benefits,
16 bonuses, or income from second jobs. Deviations for nonrecurring
17 income shall be based on a review of the nonrecurring income received
18 in the previous two calendar years.

19 (c) **Debt and high expenses.** The court may deviate from the
20 standard calculation after consideration of the following expenses:

21 (i) Extraordinary debt not voluntarily incurred;

22 (ii) A significant disparity in the living costs of the parents due
23 to conditions beyond their control;

24 (iii) Special needs of disabled children;

25 (iv) Special medical, educational, or psychological needs of the
26 children; or

27 (v) Costs incurred or anticipated to be incurred by the parents in
28 compliance with court-ordered reunification efforts under chapter 13.34
29 RCW or under a voluntary placement agreement with an agency supervising
30 the child.

31 (d) **Residential schedule.** The court may deviate from the standard
32 calculation if the child spends a significant amount of time with the
33 parent who is obligated to make a support transfer payment. The court
34 may not deviate on that basis if the deviation will result in
35 insufficient funds in the household receiving the support to meet the
36 basic needs of the child or if the child is receiving temporary
37 assistance for needy families. When determining the amount of the
38 deviation, the court shall consider evidence concerning the increased

1 expenses to a parent making support transfer payments resulting from
2 the significant amount of time spent with that parent and shall
3 consider the decreased expenses, if any, to the party receiving the
4 support resulting from the significant amount of time the child spends
5 with the parent making the support transfer payment.

6 (e) Children from other relationships. The court may deviate from
7 the standard calculation when either or both of the parents before the
8 court have children from other relationships to whom the parent owes a
9 duty of support.

10 (i) The child support schedule shall be applied to the mother,
11 father, and children of the family before the court to determine the
12 presumptive amount of support.

13 (ii) Children from other relationships shall not be counted in the
14 number of children for purposes of determining the basic support
15 obligation and the standard calculation.

16 (iii) When considering a deviation from the standard calculation
17 for children from other relationships, the court may consider only
18 other children to whom the parent owes a duty of support. The court
19 may consider court-ordered payments of child support for children from
20 other relationships only to the extent that the support is actually
21 paid.

22 (iv) When the court has determined that either or both parents have
23 children from other relationships, deviations under this section shall
24 be based on consideration of the total circumstances of both
25 households. All child support obligations paid, received, and owed for
26 all children shall be disclosed and considered.

27 (2) All income and resources of the parties before the court, new
28 spouses or new domestic partners, and other adults in the households
29 shall be disclosed and considered as provided in this section. The
30 presumptive amount of support shall be determined according to the
31 child support schedule. Unless specific reasons for deviation are set
32 forth in the written findings of fact and are supported by the
33 evidence, the court shall order each parent to pay the amount of
34 support determined by using the standard calculation.

35 (3) The court shall enter findings that specify reasons for any
36 deviation or any denial of a party's request for any deviation from the
37 standard calculation made by the court. The court shall not consider

1 reasons for deviation until the court determines the standard
2 calculation for each parent.

3 (4) When reasons exist for deviation, the court shall exercise
4 discretion in considering the extent to which the factors would affect
5 the support obligation.

6 (5) Agreement of the parties is not by itself adequate reason for
7 any deviations from the standard calculation.

8 Sec. 5. RCW 26.19.080 and 1996 c 216 s 1 are each amended to read
9 as follows:

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

13 (2) ~~((Ordinary))~~ Health care ((expenses)) costs are not included in
14 the economic table. Monthly health care ~~((expenses that exceed five
15 percent of the basic support obligation))~~ costs shall be ~~((considered
16 extraordinary health care expenses. Extraordinary health care expenses
17 shall be))~~ shared by the parents in the same proportion as the basic
18 child support obligation. Health care costs shall include, but not be
19 limited to, medical, dental, orthodontia, vision, chiropractic, mental
20 health treatment, prescription medications, and other similar costs for
21 care and treatment.

22 (3) Day care and special child rearing expenses, such as tuition
23 and long-distance transportation costs to and from the parents for
24 visitation purposes, are not included in the economic table. These
25 expenses shall be shared by the parents in the same proportion as the
26 basic child support obligation. If an obligor pays court or
27 administratively ordered day care or special child rearing expenses
28 that are not actually incurred, the obligee must reimburse the obligor
29 for the overpayment if the overpayment amounts to at least twenty
30 percent of the obligor's annual day care or special child rearing
31 expenses. The obligor may institute an action in the superior court or
32 file an application for an adjudicative hearing with the department of
33 social and health services for reimbursement of day care and special
34 child rearing expense overpayments that amount to twenty percent or
35 more of the obligor's annual day care and special child rearing
36 expenses. Any ordered overpayment reimbursement shall be applied first
37 as an offset to child support arrearages of the obligor. If the

1 obligor does not have child support arrearages, the reimbursement may
2 be in the form of a direct reimbursement by the obligee or a credit
3 against the obligor's future support payments. If the reimbursement is
4 in the form of a credit against the obligor's future child support
5 payments, the credit shall be spread equally over a twelve-month
6 period. Absent agreement of the obligee, nothing in this section
7 entitles an obligor to pay more than his or her proportionate share of
8 day care or other special child rearing expenses in advance and then
9 deduct the overpayment from future support transfer payments.

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

13 NEW SECTION. Sec. 6. This act takes effect October 1, 2009.

Passed by the House March 3, 2009.

Passed by the Senate April 2, 2009.

Approved by the Governor April 13, 2009.

Filed in Office of Secretary of State April 14, 2009.

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1 **3.20 Back Child Support**

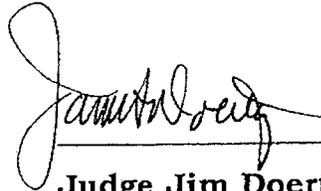
2 No back child support is owed at this time.

3
4 **3.21 Back Interest**

5 No back interest is owed at this time.

6
7 **3.22 Other**

8
9
10
11 Dated: February 11, 2010



12 **Judge Jim Doerty**

13
14
15
16 Presented by:

Approved for entry:

17 Notice of presentation waived:

18
19
20 Frank C. DeMarco
21 WSBA # 13107
Attorney for Petitioner

22 H. Michael Finesilver
23 WSBA # 5495
24 Attorney for Respondent

Washington State Child Support Schedule Worksheets

Proposed by Mother Father State of WA Other (CSWP)

Or, Signed by the Judicial/Reviewing Officer. (CSW)

Mother: Anne Pennington

Father: John Pennington

County: KING

Superior Court/OAH Case No.: 08-3-03941-6 SEA

Child Support Order Summary Report

A. The order <input type="checkbox"/> does <input type="checkbox"/> does not replace a prior court or administrative order.
B. The Standard Calculation listed on line 15e of the Worksheet for the paying parent is: \$741.47.
C. The Transfer Amount ordered by the Court from the Order of Child Support is: - to be paid by <input type="checkbox"/> mother <input checked="" type="checkbox"/> father.
D. The Court deviated (changed) from the Standard Calculation for the following reasons: <input type="checkbox"/> Does not apply <input type="checkbox"/> Nonrecurring income <input type="checkbox"/> Sources of income and tax planning <input type="checkbox"/> Split custody <input type="checkbox"/> Residential schedule (including shared custody) <input type="checkbox"/> Children from other relationships for whom the parent owes support <input type="checkbox"/> High debt not voluntarily incurred and high expenses for the child(ren) <input type="checkbox"/> Other (please describe):
E. Income for the Father is <input type="checkbox"/> imputed <input checked="" type="checkbox"/> actual income. Income for the Mother is <input type="checkbox"/> imputed <input checked="" type="checkbox"/> actual income.
F. If applicable: <input type="checkbox"/> All health care, day care and special child rearing expenses are included in the worksheets in Part II.

Worksheets

Children and Ages: Katelin, 1		
Part I: Basic Child Support Obligation (See Instructions, Page 1)		
1. Gross Monthly Income	Father	Mother
a. Wages and Salaries	\$10597.00	\$2,600.00
b. Interest and Dividend Income	-	-
c. Business Income	-	-
d. Maintenance Received	-	-
e. Other Income	-	-
f. Total Gross Monthly Income (add lines 1a through 1e)	\$10597.00	\$2,600.00

2. Monthly Deductions from Gross Income	Father	Mother
a. Income Taxes (Federal and State) Tax Year: 2009	\$2,140.49	\$61.25
b. FICA (Soc. Sec. + Medicare)/Self-Employment Taxes	\$705.46	\$198.90
c. State Industrial Insurance Deductions	\$6.00	-
d. Mandatory Union/Professional Dues	-	-
e. Pension Plan Payments	\$652.00	-
f. Maintenance Paid	-	-
g. Normal Business Expenses	-	-
h. Total Deductions from Gross Income (add lines 2a through 2g)	\$3,503.95	\$260.15
3. Monthly Net Income (line 1f minus 2h)	\$7,093.05	\$2,339.85
4. Combined Monthly Net Income (Line 3 amounts combined) (If line 4 is less than \$600, skip to line 7.)		\$9,432.90
5. BASIC CHILD SUPPORT OBLIGATION: Combined <input type="checkbox"/> Katelin \$986.00 - - -		\$986.00
6. Proportional Share of Income (Each parent's net income from line 3 divided by line 4)	.752	.248
7. Each Parent's Basic Child Support Obligation (Multiply each number on line 6 by line 5) (If line 4 is less than \$600, enter each parent's support obligation of \$25 per child. Number of children: 1 (Skip to line 15a and enter this amount.)	\$741.47	\$244.53
Part II: Health Care, Day Care, and Special Child Rearing Expenses (See Instructions, Page 3)		
8. Health Care Expenses		
a. Children's Monthly Health Insurance	-	-
b. Children's Uninsured Monthly Health Care	-	-
c. Total Monthly Health Care Expenses (line 8a plus line 8b)	-	-
d. Combined Monthly Health Care Expenses (add father's and mother's totals from line 8c)		-
e. Maximum Ordinary Monthly Health Care (multiply line 5 times .05)		\$49.30
f. Extraordinary Monthly Health Care Expenses (line 8d minus line 8e., if "0" or negative, enter "0")		-
9. Day Care and Special Child Rearing 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 9a through 9d)	-	-
10. Combined Monthly Total Day Care and Special Expenses (Combine amounts on line 9e)		-

11. Total Extraordinary Health Care, Day Care, and Special Expenses (line 8f plus line 10)		-
	Father	Mother
12. Each Parent's Obligation for Extraordinary Health Care, Day Care, and Special Expenses (Multiply each number on line 6 by line 11)	-	-
Part III: Gross Child Support Obligation		
13. Gross Child Support Obligation (line 7 plus line 12)	\$741.47	\$244.53
Part IV: Child Support Credits (See Instructions, Page 3)		
14. Child Support Credits		
a. Monthly Health Care Expenses Credit	-	-
b. Day Care and Special Expenses Credit	-	-
c. Other Ordinary Expenses Credit (describe)	-	-
	-	-
d. Total Support Credits (add lines 14a through 14c)	-	-
Part V: Standard Calculation/Presumptive Transfer Payment (See Instructions, Page 4)		
15. Standard Calculation		
	Father	Mother
a. Amount from line 7 if line 4 is below \$600. Skip to Part VI.	-	-
b. Line 13 minus line 14d, if line 4 is over \$600 (see below if appl.)	\$741.47	\$244.53
Limitation standards adjustments		
c. Amount on line 15b adjusted to meet 45% net income limitation	-	-
d. Amount on line 15b adjusted to meet need standard limitation <small>Need Standard Year: 2009</small>	-	-
e. Enter the lowest amount of lines 15b, 15c or 15d:	\$741.47	\$244.53
Part VI: Additional Factors for Consideration (See Instructions, Page 4)		
16. Household Assets (List the Present estimated value of all major household assets.)		
	Father's Household	Mother's Household
a. Real Estate	-	-
b. Stocks and Bonds	-	-
c. Vehicles	-	-
d. Boats	-	-
e. Pensions/IRAs/Bank Accounts	-	-
f. Cash	-	-
g. Insurance Plans	-	-
h. Other:	-	-
	-	-
	-	-
	-	-
17. Household Debt (List liens against household assets, extraordinary debt.)		
a.	-	-
b.	-	-
c.	-	-

(Household Debt continued)	Father's Household	Mother's Household
d.	-	-
e.	-	-
f.	-	-
18. 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	-	-
c. Income of Children (if considered extraordinary)		
Name	-	-
Name	-	-
d. Income from Child Support		
Name	-	-
Name	-	-
e. Income From Assistance Programs		
Program	-	-
Program	-	-
f. Other Income (describe)		
	-	-
	-	-
19. Non-Recurring Income (describe)		
	-	-
	-	-
20. Child Support Paid For Other Children		
Name/age:	-	-
Name/age:	-	-
Name/age:	-	-
21. Other Children Living In Each Household (First names and ages)		

22. Other Factors For Consideration

Father receives \$127,170 annually (a 5.8% reduction in previous salary). FEMA contracts have not been included. The court has considered the likelihood of such contracts in denying a whole family deviation.

Income tax deductions calculated on the basis of each party filing with 2 exemptions (John for himself and Grace; Anne for herself and Katelin).

Note: There is no social security deduction for father; he pays for medicare only. There is a mandatory pension contribution to PERS 2.

Signature and Dates

I declare, under penalty of perjury under the laws of the State of Washington, the information contained in these Worksheets is complete, true, and correct.

Mother's Signature

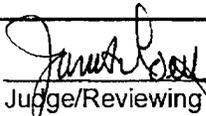
Father's Signature

Date

City

Date

City



Judge/Reviewing Officer

Feb. 11 2010
Date

**Worksheet certified by the State of Washington Administrative Office of the Courts.
Photocopying of the worksheet is permitted.**

COURT OF APPEALS, DIVISION ONE
OF THE STATE OF WASHINGTON

JOHN EDWARD PENNINGTON,)	
)	
Respondent,)	DECLARATION OF
)	SERVICE
v.)	
)	
ANNE LAUGHLIN PENNINGTON,)	
)	
Appellant,)	
_____)	

I, Leona Bernard, state and declare as follows:

I am a Paralegal in the Law Offices of Anderson, Fields, McIlwain & Dermody, Inc., P.S. On the 29th day of July, 2010, I placed true and correct copies of the Brief of Appellant and Legal Report of Proceedings with Seattle Legal Messengers for delivery on July 29, 2010 to:

Karen D. Moore
Brewer Layman
333 Colbalt Building
3525 Colby Avenue
PO Box 488
Everett, WA 98206

I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DECLARATION OF SERVICE - 1

2010 JUL 29 AM 11:29
 COURT OF APPEALS, DIVISION ONE
 STATE OF WASHINGTON
 FILED

DATED at Seattle, Washington, on this 18th day of July, 2010.



Leona Bernard

Anderson, Fields, McIlwain & Dermody
207 E. Edgar Street
Seattle, Washington 98102
(206) 322-2060