

JUDICIAL IMPACT FISCAL NOTE

Bill Number: 2302 HB	Title: Concerning Child Support	Agency: 055 – Administrative Office of the Courts (AOC)
--------------------------------	---	--

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
Total:					

Estimated Expenditures from:

STATE	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE – Staff Years					
Account					
General Fund – State (001-1)					
State Subtotal					
COUNTY					
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal					
CITY					
City FTE Staff Years					
Account					
Local – Cities					
Cities Subtotal					
Local Subtotal					
Total Estimated Expenditures:					

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form parts I-V

☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

Legislative Contact:	Phone:	Date:
Agency Preparation: Pamela Kelly	Phone: 360-705-5318	Date: 1/14/2020
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date:
OFM Review:	Phone:	Date:

Part II: Narrative Explanation

This bill would make changes to the standards for determination of income, abatement of child support for incarcerated obligors, modifications of administrative orders and notices of support owed.

Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

Section 1(6) – Would define full-time employment as the customary number of maximum, non-overtime hours worked in an individual's historical occupation, industry, and labor market. "Full-time" does not necessarily mean forty hours per week.

Section 2(6) – Would modify the considerations the court would make when determining when the court shall impute income to a parent when the parent is voluntarily unemployed or underemployed. This section would expand considerations to include, assets, residence, employment and earning history, job skills, education attainment, literacy, health, age, criminal record, dependency court obligations, and other employment barriers, record of seeking work, the local job market, the availability of employers willing to hire the parent, the prevailing earnings level in the local community or any other relevant factors.

Section 2(6)(a)(iv) – When there is absence of records of a parent's actual earnings this section would add earnings of thirty-two hours per week at minimum wage in the jurisdiction where the parent resides if the parent is on or recently coming off temporary assistance for needy families or recently coming off of aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a recent high school graduate.

Section (2)(6)(b) – Would allow for imputation of earnings at twenty hours per week when parents, or a parent is currently enrolled in high school and determined to be voluntarily unemployed or underemployed.

Section 3 – Would automatically abate child support payment obligations when the parent required to pay support is incarcerated for at least six months and has no income or assets available to pay support.

Section 4(1) – Would allow for a rebuttable presumption when a child support order contains language providing for automatic abatement based on incarceration and unless the presumption is rebutted, the provisions of subsection (3) of this section apply.

Section 4(2)(a) - Would allow for the department, the person required to pay support, the payee under the order, or the person entitled to receive support to commence action to (i) Modify the support order to contain abatement language and(ii) abate the person's child support obligation, due to current incarceration, for at least six months.

Section 4(2)(b) – Would allow for a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. The department, the payee under the order, or the person entitled to receive support may rebut the presumption by demonstrating that the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated.

Section 4(3)(a) – Would automatically abate the child support obligation to ten dollars per month, without regard to the number children covered by that order, while the person required to

pay support is confined in a jail, prison or correctional facility for a time period of at least six months.

Section 4(3)(b) – Would allow for the incarcerated person’s abated child support to remain abated to ten dollars per month through the last day of the third month after the person is released from confinement.

Section 4(3)(c) – After abatement, this section would reinstate the underlying order at fifty percent of the support amount provided, but the amount may not be less than the presumptive minimum obligations of fifty dollars per month per child effective the first day of the fourth month after the person’s release from confinement. (i) Would allow for, upon showing of good cause by a party, that circumstances of the case allow the court or administrative forum to make specific provisions to the order abating the child support obligation regarding when and how the abatement may terminate. (ii) Would allow for the person required to pay support, the payee under the order or the person entitled to receive support during the period of abatement, to commence an action to modify the child support order.

Section 5(1) – Would specify when a request for abatement of child support owed under one child support order does not automatically qualify as a request for abatement of support owed under every order that may exist that requires that person to pay support. The request would only apply to any support order which is being enforced by the department at the time of the request.

Section 5(2) – Would specify if there are multiple orders requiring the incarcerated person to pay child support, the issue of whether abatement of the support due to incarceration is appropriate must be considered for each order.

Section 5(2)(a) - The payee or person entitled to receive support under each order would be entitled to notice and opportunity to be heard regarding the potential abatement of support under that order.

Section 5(2)(b) - Would allow that any other person entitled to receive support for the child or children when the children covered are not residing with the payee under the order the opportunity to be heard regarding the potential abatement of support under that order.

Section 6(1) – When a child support order contains language in reference to abatement to ten dollars per month per order based on incarceration of the person required to pay support for more than six months in a jail, prison or correctional facility the department would be required to:

- (a) Review the support order for abatement upon receiving the notice from the person required to pay support
- (b) Review its records and other available information to determine if the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated.
- (c) Decide whether abatement of the person’s support obligation is appropriate.

Section 6(2) – Would require that the department notify the person required to pay support, and the payee under the order entitled to receive support that the support obligation has been abated and the will continue until the first day of the fourth month after the person is released from confinement.

Section 6(2)(a) – Would allow for the payee under the order or the person entitled to receive the support to object to the abatement of support due to incarceration; (i) the objection would need to be received within twenty days of the notification of abatement; (ii) objections would be forwarded to the Office of Administrative Hearings for adjudicative proceedings under chapter 34.05 RCW; (iii) the department, the person required to pay support, and the payee under the

order all would have the right to participate in the hearing as parties; and (iv) the burden of proof is on the party objecting to the abatement of support to show that the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated.

Section 6(3) – Would allow for the department to decide that abatement of the incarcerated person's support obligation is not appropriate. The department would need to notify the person required to pay support and the payee under order or the person entitled to receive support that the department does not believe that abatement of the support obligation should occur.

Section 6(3)(a) – Would require the department to state why they decided that abatement of support obligation is not appropriate.

Section 6(3)(b) – Would allow for the person required to pay support and the payee under the order may object to the department's decision not abate the support obligations. (i) The objection would need to be received within twenty days of the notification of abatement; (ii) would require the objection be forwarded to the Office of Administrative hearings for an adjudicative proceeding under chapter 34.05 RCW; and (iii) the department, the incarcerated person, and the payee under the order to receive support would have the right to participate in the administrative hearing as parties.

Section 6(3)(c) – Would require that if the administrative law judge enters an order that abatement is appropriate, the department will take steps to document the abatement and would advise the parties of; (i) the effective date of the abatement of support; (ii) estimated date of release; (iii) estimated date that the abatement will end; and (iv) if the abated obligation was established by a court order, the department will file a copy of the notification in the court file.

Section 7(1) – Would require that if a court or administrative order does not contain language regarding abatement based on incarceration of a person required to pay support and the department receives notice that the person is currently confined in jail, prison or correctional facility for at least six months the department would refer the case to the appropriate forum for determination of whether the order should be modified to contain abatement language as provided in this act and abate the person's child support obligation due to current incarceration.

Section 7(2) – There would be rebuttable presumption that an incarcerated person is unable to pay the support obligation. The department, the payee or the person entitled to receive support may rebut the presumption by proving the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

Section 7(3) – Would require the court or administrative forum to enter an order providing that the child support obligation under the order is abated to ten dollars per month, without regard to the number of children covered by the order as long as the person required to pay support is confined to jail, prison, or correctional facility for least six months.

Section 7(4) – Would require the order include the appropriate language required by this act in order to provide for a rebuttable presumption of automatic abatement to ten dollars per month per order and the order would be reinstated at fifty percent of the previously ordered support amount but not less than fifty dollars per month per child effective on the first day of the fourth month after the person's release from confinement.

Section 8 – Would make the effective date of abatement of a child support obligation the date on which the person is confined in a jail, prison or correctional facility, regardless of when the department is notified of the incarceration.

Section 8(1) – The person required to pay support would not be entitled to a refund of any support collections that were received by the department prior to the date on which the department is notified of the incarceration and

Section 8(2) - the department, the payee under the order, or the person entitled to receive support would not be required to refund any support collections or payments that were received by the department prior to the date on which they were notified of the incarceration.

Section 9(1) – Would allow for any time during the period of incarceration, the department, the payee under order or the person entitled to receive support may file a request to reverse the abatement of support by demonstrating that the incarcerated person has possession of or access to, income or assets available to provide support while incarcerated.

Section 9(1)(a) – Would require the request for reversal or termination of the abatement be filed with the department or with the Office of Administrative Hearings.

Section 9(1)(b) – The request would include documents or other evidence showing that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

Section 9(1)(c) – If the request for hearing does not include documents or evidence showing the incarcerated person has possession of, or access to, income or assets, the department would request for a hearing dismissal before a hearing is scheduled.

Section 9(1)(d) – The party seeking to reverse or terminate the abatement would be able to seek to vacate the dismissal order by filing a motion which includes the required proof.

Section 9(1)(e) – Depending on the type of evidence provided at the hearing, the judge would be able to order that the abatement of the support obligations be; (i) reversed, meaning that the determination that support that would be abated is vacated and all amounts owed under the support order are reinstated; or (ii) terminated, meaning that the abatement of support would end as of the date specified in the order.

Section 9(2) – Would allow that any time during the period of incarceration, the person required to pay support would be able to file a request to reverse or terminate the abatement of support. The person required to pay would not be required to provide any evidence to support the request.

Section 9(3) – Abatement of a support obligation would not constitute modification or adjustment of the order.

II.B - Cash Receipt Impact

No impact

II.C – Expenditures

Indeterminate but expected to be minimal. There could be an increase in hearings, but most of those would heard through the Office of Administrative hearings. There is no available data to determine how many current inmates are eligible for child support abatement of \$10.00 per month.

There would be court form changes and the need for judicial officer education. These impacts would be managed within existing resources.