

Subcommittee on Postsecondary Educational Support to the 2011 Child Support Workgroup May 20th, 2011

The subcommittee was formed by the larger workgroup to address the issue of Postsecondary Education Support as the statute, (RCW 26.19.090,) has not been reviewed in many years.

The subcommittee consists of the following members of the 2011 workgroup: Timothy Eastman, James Cox, Kathleen Schmidt, and Kathy Lynn. Andrew McDirmid attended as an alternate but has participated fully. George Smylie has provided administration support from DSHS.

The group met by telephone conference on April 20th, May 4th and May 17th.

- I. Is the issue of Postsecondary Educational Support worth using our time?
 - a. A member of our subcommittee feels that with limited time and three major workgroup issues to work on. Maybe we shouldn't work on this issue.
 - b. Other members of the subcommittee and the public feel that this issue hasn't been addressed in many years and needs to be looked at.
- II. Should the subcommittee discuss removing the statute or revise the statute we have?
 - a. Some members of the subcommittee and members of the public feel that the statute raises an equal protection issue. They feel that it is unfair to make divorced people and not married people pay for a child beyond the Age of Majority and out of high school.
 - b. One member pointed out that Washington appellate court cases e.g. *Childers v. Childers*, 89 Wn.2d 592, 575 P.2 201 (1978) established the legal principle that divorcing parents in specific circumstances may be ordered to pay post-secondary educational support for their dependent children. The current statute is a codification of this decision. There have been no successful challenges on equal protection grounds or any other grounds to the statute since it was passed and it seems unlikely that there is support in the legislature for the abolishment of post-secondary support via a change in this statute. Public policy supports the Court's authority to order divorced people to do things that married people are not required to do in many aspects of their lives not just child support and college support.
- III. Members have a consensus on three issues of discussion.
 - a. In section RCW 26.19.090(3) The statute does not specify that the child who is receiving post secondary educational support from parents be enrolled in post-secondary education on a full time basis. We agree this should be changed.
 - b. Section (3) provides for the suspension of post secondary support if the child fails to comply with the conditions set forth in the statute but the mechanism for "suspension" is not set forth; the resumption of payment when the child is back in compliance is not addressed by the statutory language. When support would terminate due to non compliance is not mentioned in the statute.
 - c. Section (6) which provides for payment to the parent who has been receiving child support is distasteful to some paying parents and some members suggested this option be eliminated or that it be made clearer that it is the least favored method of payment of the obligation.
- IV. Issues discussed but do not yet had consensus upon.
 - a. Should the child get long breaks? (i.e. Summers, Christmas, or take a term off)
 - i. Some members feel that, since the parents are paying this "Adult" child, the child shouldn't get breaks as if they were in high school.

- ii. Some members felt that there may still be a duty to support the child even during summer months
- b. What happens when a parent saves for higher education and the other parent doesn't?
 - i. This will be for further discussion.
- c. What happens when a child does not do well in high school and did not plan for a college education?
 - i. Kathleen commented from an anecdotal point of view in her practice that Court's look quite carefully at the criteria set forth in RCW 26.19.090 (2) and that a trial judge would look critically at a child who did not do well in high school and did not have a plan for college as part of the statutory scheme to look at the child's "prospects, desires, aptitudes, abilities and disabilities." The court has broad discretion to consider the parent's level of education, their standard of living and the parents' current and future resources. Not all parents are able to assist their children with college support and not all children are going to qualify for an order that requires both parents to help with the cost of the child's college education.

Members of the public feel that Postsecondary Education Support is an issue of "Equal Protection" against divorced parents and should be taken out of the statute as they do not apply to parents who were never divorced. They feel that summer vacations or breaks when the adult children are not in school is wrong and should not be allowed.

The PSES subcommittee could use input from the work group on items they feel need to be addressed in further subcommittee meetings.