

RCW 26.09.345 Child support obligations—Abatement based on incapacitation—Rebuttable presumption of inability to pay—Reinstatement timeline. (Effective April 1, 2027.)

(1) When a child support order contains language providing for abatement based on incapacitation of the person required to pay child support, there is a rebuttable presumption that an incapacitated person is unable to pay the child support obligation. The presumption may be rebutted by evidence demonstrating that the person required to pay support has possession of, or access to, income or assets available to provide support while incapacitated. Unless the presumption is rebutted, the provisions of subsection (3) of this section apply.

(2) (a) If the child support order does not contain language providing for abatement based on incapacitation of the person required to pay support, the department, the person required to pay support, the payee under the order, or the person entitled to receive support may commence an action in the appropriate forum to:

(i) Modify or amend the support order to contain abatement language; and

(ii) Abate the person's child support obligation due to current incapacitation for a maximum of six months.

(b) In a proceeding brought under this subsection, there is a rebuttable presumption that an incapacitated 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 incapacitated.

(c) Unless the presumption is rebutted, the provisions of subsection (3) of this section apply.

(3) If the court or administrative forum determines that abatement of support is appropriate:

(a) The child support obligation under the order in front of the court will be abated to \$50 per month per child while the person required to pay support is undergoing court-ordered behavioral health treatment.

(b) Abatement of the support obligation to \$50 per month per child will remain in place until the earlier of: The last day of the month in which the person is discharged from court-ordered behavioral health treatment; or the last day of the sixth month after the effective date of the abatement.

(c) After abatement of support is terminated, the support obligation of the person required to pay support under the order is automatically reinstated at 100 percent of the support amount provided in the underlying order.

(4) The effective date of abatement of a child support obligation based on incapacitation to \$50 per month per child is the date on which the court order for treatment for a behavioral health disorder is entered. However:

(a) The person required to pay support is not entitled to a refund of any support collections or payments that were received by the department prior to the date on which the department is notified of the incapacitation; and

(b) The department, the payee under the order, or the person entitled to receive support is not required to refund any support collections or payments that were received by the department prior to the date on which the department is notified of incapacitation.

(5) Abatement of a child support obligation based on incapacitation of the person required to pay support does not constitute modification or adjustment of the order.

(6) Abatement of a child support obligation based on incapacitation of the person required to pay support shall only be approved one time in a person's lifetime, regardless of whether the abatement lasted the full six months. [2025 c 272 s 5.]

Effective date—2025 c 272 ss 4-12: "Sections 4 through 12 of this act take effect April 1, 2027." [2025 c 272 s 17.]

Rule-making authority—2025 c 272: "The department of social and health services is granted rule-making authority to adopt rules necessary for the implementation of this act." [2025 c 272 s 15.]