

For the following reasons, two non-custodial parents dissent from the rest of the workgroup and argue that Washington State should implement a presumptive, formula-based **residential credit** rather than continue the use of **residential schedule deviations** to address shared parenting child support orders.

### 1) Equity

As residence-based child rearing expenses are presumptive for custodial parents, they should also be presumptive for non-custodial parents. Judges can deviate from the presumptive formula (“presumptive” is NOT “automatic”), but must justify such deviations with a finding of fact. Presuming that non-custodial parents do not incur child-rearing expenses when children reside with them – as is the case under both the current law and changes proposed by the workgroup majority – is fundamentally unjust.

### 2) Federal guidelines

Federal child support regulations require states to establish “*presumptive guidelines for child support based on specific descriptive and numeric criteria that result in the computation of an equitable support obligation*” (45 CFR 302.56). Deviations are specifically to be minimized because excessive judicial discretion results in uneven, biased, and unpredictable child support orders. The result is greater legal conflict, and a greater likelihood that child support is not paid.

### 3) Accessibility for *Pro Se* parents

A presumptive residential credit can be incorporated into the existing online child support calculator. *Pro se* parents simply enter the number of overnights (or equivalent overnights) into the calculator and the appropriate transfer payment is computed – just as the calculator currently adjusts for insurance payments and retirement contributions. Moreover, an online calculator can automatically take into account more complicated factors like self-support reserve restrictions.

### 4) Modifications and adjustments

With a presumptive residential credit, changes in residential time can be readily addressed via the existing adjustment mechanism whereas a residential schedule deviation can only be changed by demonstrating a “*substantial change in circumstances.*” Proposed new statutory language is underlined below:

RCW 26.09.170

(7)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

- (i) Changes in the income of the parents; or
- (ii) Changes in the amount of time the children reside in each parent’s home; or
- (iii) Changes in the economic table or standards in chapter 26.19 RCW.

### 5) Office of Administrative Hearings/ DCS system

The work group has proposed writing new statutory language that allows parents to receive a residential schedule deviation via an administrative order. With a presumptive residential credit, there is no need to develop this complicated workaround – the residential credit is available to all parents requiring a child support order.