

ENROLLED SENATE
BILL NO. 783

By: Hendrick of the Senate

and

Vaughn (Ray) of the House

An Act relating to child support; amending 43 O.S. 1991, Section 118, as last amended by Section 2, Chapter 307, O.S.L. 1993 (43 O.S. Supp. 1993, Section 118), which relates to child support guidelines; authorizing additional alternative care arrangements; establishing the Domestic Relations Recodification Committee; directing cooperation; stating Committee membership, method of appointment, term and procedure for vacancies; stating purposes and duties for Committee; establishing dates for Committee to submit recommendations; providing termination date for Committee; providing for appointment of chairman, co-chairman and officers; authorizing travel reimbursement; providing for meetings, quorum and record-keeping; requiring progress reports; providing staff to assist Committee; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43 O.S. 1991, Section 118, as last amended by Section 2, Chapter 307, O.S.L. 1993 (43 O.S. Supp. 1993, Section 118), is amended to read as follows:

Section 118. Except in those cases where parties represented by counsel have agreed to a different disposition, there shall be a rebuttable presumption in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the following guidelines is the correct amount of child support to be awarded. The court may deviate from the level of child support suggested by these guidelines where the amount of support so indicated is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved. In making such determination, the court may take into account the reasonable support obligations of either parent as to other children in the custody of said parent. If the court deviates from the amount of support indicated by these guidelines, it shall make specific findings of fact supporting such action.

1. All child support shall be computed as a percentage of the combined gross income of both parents. The Child Support Guideline Schedule as provided in Section 119 of this title shall be used for such computation. The child support obligations of each parent shall be computed, and the noncustodial parent's share shall be paid monthly to the custodial parent;

2. Gross income includes income from any source, except as excluded in this act, and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts and prizes. Specifically excluded are actual child support received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind and the Disabled;

3. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses for purposes of this section are amounts determined by the court to be inappropriate for determining gross income for purposes of calculating child support. The court shall carefully review income and expenses from self-employment or operation of a business to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. A determination of business income for tax purposes shall not control for purposes of determining a child support obligation.

Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they are significant and reduce personal living expenses. Such payments may include but are not limited to a company car, free housing, or reimbursed meals;

4. For purposes of computing gross income of the parents, the court shall include for each parent, either the actual monthly income, the average of the gross monthly income for the time actually employed during the previous three (3) years, or the minimum wage paid for a forty-hour week, whichever is the most equitable. If equitable, the court may instead impute as gross monthly income for either parent the amount a person with comparable education, training and experience could reasonably expect to earn; provided, however, that if a person is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

5. The amount of any preexisting court order for child support for children not before the court or for support alimony arising in a prior case shall be deducted from gross income to the extent payment is actually made under such order;

6. The amount of reasonable expenses of the parties attributable to debt service for preexisting, jointly acquired debt of the parties may be deducted from gross income to the extent payment of such expenses is actually made. In any case where deduction for such debt service is made, the court may make provision for prospective upward adjustments of support made possible by the reasonable anticipated reduction or elimination of such debt service;

7. The results of paragraphs 2, 3, 4, 5 and 6 of this section shall be denominated "adjusted gross income";

8. The adjusted gross income of both parents shall be added together and the Child Support Guideline Schedule consulted for the total combined child support;

9. After the total combined child support is determined, the percentage share of each parent shall be allocated by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the child support obligation to determine the base child support obligation of each parent;

10. The actual dependent medical insurance premium shall be determined by the court. The premium shall be allocated between the parents in the same proportion as base child support;

11. The payor shall receive credit for the payee's allocated share of medical insurance premium which the payor pays directly to the provider. The payor shall pay his or her (payor's) allocated share of the medical insurance premiums to payee, if payee pays the premium to the provider;

12. The court shall then determine the "actual" child care expenses reasonably necessary to enable both parents to maintain employment or to conduct an active search for employment;

13. The actual child care costs incurred due to employment or active employment search of either parent, or incurred as a result of either parent actually attending school for the purpose of enhancing their employment or income, shall be allocated in the same proportion as base child support. ~~Provided, if~~ If the court determines that it will not cause detriment to the child, in lieu of payment of child care costs incurred during employment, active employment search, or while the custodial parent is attending school, the noncustodial parent may be allowed to provide ~~alternate~~ care of the child during such time. The noncustodial parent shall be designated the "payor". The custodial parent shall be designated the "payee". Payor's proportionate amount of the child care fee for that month shall be paid to the payee on or before the date the child care fee is due to the provider. The court shall require the payee to provide payor with timely documentation of any change in the amount of the child care fee;

14. Visitation transportation expenses shall be determined by the court on a case by case basis and may be allocated in addition to or as a credit against the child support obligation of the payor. Such expenses may be adjusted at any time the court deems it equitable;

15. Payment of reasonable and necessary medical, dental, orthodontic, optometrical, psychological or any other physical or mental health expenses of the child not reimbursed by insurance shall be determined by the court on a case by case basis and may be allocated in addition to the child support obligation of the payor, as a percentage contribution by each parent toward future expenses;

16. If the court adopts a joint custody plan meeting the requirements of Section 109 of this title, the plan must provide for the support of the child equivalent to the amount of combined support the child would otherwise receive under these guidelines. The court shall have the authority, however, to accept a plan which allocates the payment of actual expenses of the children, rather than designating one custodial parent the "payor" and one the "payee", if the court finds the payments allocated to each respective parent are substantially equivalent to the amount of the child support obligation of the parent under these guidelines;

17. If each parent is awarded custody of one or more children, the child support obligation of each parent shall be computed for each custodial arrangement separately using the percentage applicable for the children residing with each parent. The payor obligation of each parent shall be compared with the other. The difference between the obligations of each parent shall be paid to

the parent with the smaller payor obligation in order to equalize the child support spent on all of the children, regardless of the custodial arrangements. Other minor children of the parties may be taken into account in determining child support;

18. The court may make adjustments to child support guidelines for periods of extended visitation;

19. Child support orders may be modified only upon a material change in circumstances. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order. If the court finds there is a basis for modification, the child support guidelines provided in this act shall be used in computing child support, subject to the court's discretion to deviate from the guidelines where the amount of support is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved, and such deviation is supported by specific findings. The enactment of these guidelines alone shall not constitute a material change in circumstances;

20. The child support computation worksheet provided in Section 120 of this title shall be signed by the judge;

21. Child support orders may include such provisions as the court deems appropriate to assure that the child support payments to the custodial parent are used for the support of the child; and

22. The court shall require and enforce a complete disclosure of assets by both parents.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 700.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The 44th Legislature hereby establishes the Domestic Relations Recodification Committee and directs said Committee to undertake a full, good faith and thorough study and recommended revision and recodification of the domestic relations and family laws and procedures of the Oklahoma Statutes.

B. All departments, officers, agencies and employees of this state shall cooperate with the Domestic Relations Recodification Committee in carrying out its duties and responsibilities, including providing any information, records and reports as may be requested by the chairman of the Committee.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 700.2 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The Domestic Relations Recodification Committee shall consist of fourteen (14) members appointed as follows:

1. One member shall be a presiding judge of a court having domestic relations jurisdiction, to be appointed by the Assembly of Presiding Judges;

2. One member shall be a professor of law from the University of Oklahoma Law Center, to be appointed by the Director of the Law Center;

3. One member shall be a professor of law from the University of Tulsa College of Law, to be appointed by the Dean of the College of Law;

4. One member shall be the Director of the Department of Human Services or his designee;

5. Three members shall be appointed by the President Pro Tempore of the Senate;

6. Three members shall be appointed by the Speaker of the House of Representatives;

7. One member shall be a judge or a justice of the Supreme Court of the State of Oklahoma, to be appointed by the justices of the Supreme Court of the State of Oklahoma; and

8. Three members shall be attorneys practicing in the area of family law and who are active members of the Family Law Section of the Oklahoma Bar Association, to be appointed by the chairman of the Family Law Section of the Oklahoma Bar Association.

B. Each member of the Domestic Relations Recodification Committee initially appointed shall make his appointment known to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by August 1, 1994. Appointed members shall serve until June 30, 1996.

C. The Domestic Relations Recodification Committee may divide into subcommittees in furtherance of its purposes.

D. Any vacancies in the appointive membership of the Domestic Relations Recodification Committee shall be filled for the unexpired term in the same manner as the original appointment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 700.3 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The purposes of the Domestic Relations Recodification Committee shall be to conduct a systematic review and study of all domestic and family law procedures in the Oklahoma Statutes and prepare a recommended draft to recodify the statutes. The duties of the Committee in preparing recommendations shall be as follows:

1. To consolidate similar statutes;
2. To renumber domestic and family law statutes;
3. To repeal obsolete or duplicate statutes or any statutes which shall have been declared unconstitutional by court decision;
4. To create a recommended Domestic and Family Law Code in Title 43 of the Oklahoma Statutes;
5. To incorporate into the Domestic and Family Law Code as many existing statutes relating to domestic and family law procedure found throughout the Oklahoma Statutes as is practicable;
6. To update statutory references within each section relating to domestic and family law procedure;
7. To clarify and update existing statutory language;
8. To recodify those sections of law which relate to domestic and family law procedure when the move will improve the location, use, application and appropriateness of the section; and
9. To perform any other act necessary to complete the above purposes of the Committee.

B. The Domestic Relations Recodification Committee shall be responsible for drafting recommended legislation in accordance with the current legislative drafting procedures.

C. 1. The Domestic Relations Recodification Committee shall prepare a final draft of a recommended Domestic and Family Law Code, and shall submit said recommended Code to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by November 1, 1995.

2. If, after the Committee submits the recommended Code, the Committee determines the Code needs additional revisions, said revisions shall be submitted as one final amendment. The recommended Code amendment shall be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives not later than January 7, 1996.

3. The Domestic Relations Recodification Committee shall submit a summary of every recommended change and addition to existing laws at the time the recommended Domestic and Family Law Code and any

amendments are presented to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

D. The Domestic Relations Recodification Committee shall cease to function June 30, 1996.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 700.4 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Within fifteen (15) days from the initial appointment of membership for the Domestic Relations Recodification Committee, the chairman and co-chairman of the Committee shall be appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives from the membership of the Committee, who shall serve until June 30, 1996.

B. Other officers may be elected to serve the Committee for terms of office as may be designated by the Committee members. The chairman of the Committee or his designee shall preside at meetings.

C. The Committee may meet at least one time per month and at such other times as may be set by the chairman of the Committee.

D. Members of the Committee shall receive no salary; however, all members of the Committee shall be reimbursed for their actual and necessary travel expenses as follows:

1. Legislative members of the Committee shall receive reimbursement from the house in which they serve as provided in the State Travel Reimbursement Act, except when the Legislature is in session and the meeting is held in Oklahoma City;

2. Nonlegislative Committee members employed by the state shall be reimbursed by their respective employing agency pursuant to the Travel Reimbursement Act; and

3. Any other Committee member shall receive reimbursement pursuant to the Travel Reimbursement Act from funds of the Legislative Service Bureau.

E. A majority of the members appointed to the Committee shall constitute a quorum and a majority present may act for the Committee.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 700.5 of Title 43, unless there is created a duplication in numbering, reads as follows:

The Domestic Relations Recodification Committee shall provide a written progress report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before March 1, 1995.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 700.6 of Title 43, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Senate and the Oklahoma House of Representatives may provide staff assistance to the Domestic Relations Recodification Committee as necessary to assist the Committee in the performance of its duties.

SECTION 8. This act shall become effective September 1, 1994.
Passed the Senate the 2nd day of May, 1994.

President of the Senate

Passed the House of Representatives the 6th day of April, 1994.

Speaker of the House of
Representatives

