

SHORT TITLE: Child support; providing for additional method of computation of custodial parent's income; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 496

By: Douglass

AS INTRODUCED

An Act relating to child support; amending 43 O.S. 1991, Sections 118, as amended by Section 1, Chapter 251, O.S.L. 1992, and 119 (43 O.S. Supp. 1992, Section 118), which relate to computation of child support obligations; clarifying statutory references; deducting amount of current child support obligation from gross income; requiring use of household income for custodial spouses who have remarried or are cohabitating; requiring justification of certain child care expenses; placing burden of establishing reasonableness on custodial parent; requiring certain findings; requiring court to take certain actions when awarding additional child support; 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 amended by Section 1, Chapter 251, O.S.L. 1992 (43 O.S. Supp. 1992, 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 ~~1277.8~~ 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 or awarded in the current action 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~~ a. If the custodial parent has not remarried or is not cohabiting with another, then 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~~;~~.

b. If the custodial parent has remarried or is cohabiting with another, then the court shall calculate the income for each household using the method set forth in paragraphs 2, 3, 4, 5 and 6 of this section. The court shall then add together the household incomes and determine the percentage that each household contributes to that total figure. The percentage share of each parent's household income shall be applied to the total combined child support as

determined from paragraph 8 of this section in order to allocate the total combined child support between the parents;

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. The burden of establishing whether claimed child care expenses are reasonable is on the person claiming those expenses. Expenses which exceed, by ten percent (10%) or more, the average child care costs for facilities reasonably convenient to the home of the custodial parent shall not be allowed unless the court makes a factual finding specifically justifying such costs;

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 the court determines that it will not cause detriment to the child, in lieu of payment of child care costs incurred 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 ~~1275.4~~ 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

150	24	45	56	72	80	89
200	32	59	73	94	106	117
250	40	71	88	113	127	140
300	47	82	103	131	146	161
350	55	94	118	148	166	181
400	62	106	133	165	185	202
450	69	117	148	183	205	223
500	77	129	163	200	224	243
550	84	141	177	217	243	264
600	91	152	192	234	262	284
650	98	163	206	251	281	303
700	105	174	221	268	300	323
750	113	185	235	284	318	343
800	120	196	249	301	337	363
850	128	208	264	317	354	381
900	136	221	280	332	370	398
950	145	234	296	346	386	414
1,000	153	246	312	361	402	431
1,050	162	259	327	376	417	448
1,100	170	272	343	391	433	464
1,150	179	285	359	405	449	481
1,200	187	297	375	420	465	498
1,250	194	308	387	433	479	513
1,300	200	316	397	445	492	525
1,350	206	325	407	456	506	538
1,400	212	333	417	468	519	551
1,450	217	342	426	479	532	564
1,500	223	350	436	491	546	577
1,550	229	359	446	502	559	590
1,600	235	367	455	514	572	602
1,650	240	375	465	526	585	616
1,700	245	382	475	537	596	630

1,750	250	389	485	549	607	644
1,800	255	396	494	560	619	659
1,850	261	403	504	572	630	673
1,900	266	410	514	583	641	687
1,950	271	417	524	595	652	701
2,000	276	424	533	606	664	716
2,050	281	431	543	618	675	730
2,100	286	439	554	630	687	743
2,150	292	448	565	641	700	756
2,200	297	457	577	653	713	769
2,250	302	465	588	665	726	782
2,300	308	474	600	676	739	795
2,350	313	483	611	688	752	807
2,400	318	492	623	699	765	820
2,450	324	500	634	711	778	833
2,500	329	509	645	723	791	846
2,550	334	518	657	734	804	858
2,600	340	527	668	746	817	871
2,650	345	535	680	758	830	884
2,700	350	544	691	769	843	897
2,750	356	553	703	781	856	909
2,800	361	562	714	793	869	922
2,850	366	570	726	804	882	935
2,900	372	579	737	816	895	948
2,950	375	583	741	821	900	953
3,000	378	587	744	826	904	959
3,050	381	591	747	830	909	964
3,100	384	594	751	835	914	970
3,150	387	598	754	840	918	975
3,200	390	602	758	845	923	981
3,250	394	606	761	850	927	986
3,300	397	610	765	854	932	992

3,350	400	613	768	859	937	997
3,400	403	617	772	864	941	1,003
3,450	406	621	775	869	946	1,009
3,500	409	625	779	874	951	1,014
3,550	412	629	782	879	955	1,020
3,600	415	632	785	883	960	1,025
3,650	419	636	789	888	964	1,031
3,700	422	640	792	893	969	1,036
3,750	425	644	796	898	974	1,042
3,800	428	648	799	903	978	1,047
3,850	431	651	803	907	983	1,053
3,900	434	655	806	912	988	1,058
3,950	437	659	810	917	992	1,064
4,000	440	663	813	922	997	1,069
4,050	444	667	817	927	1,002	1,075
4,100	447	670	820	931	1,006	1,080
4,150	450	676	826	939	1,014	1,089
4,200	454	682	834	948	1,024	1,101
4,250	458	689	843	958	1,035	1,112
4,300	462	696	851	968	1,046	1,124
4,350	466	702	860	978	1,057	1,135
4,400	470	709	868	988	1,067	1,147
4,450	474	715	877	997	1,078	1,158
4,500	478	722	885	1,007	1,089	1,170
4,550	482	729	893	1,017	1,099	1,182
4,600	486	735	902	1,027	1,110	1,193
4,650	490	742	910	1,037	1,121	1,205
4,700	494	749	919	1,046	1,131	1,216
4,750	497	755	927	1,056	1,142	1,228
4,800	501	762	936	1,066	1,153	1,240
4,850	505	769	944	1,076	1,163	1,251
4,900	509	775	953	1,086	1,174	1,263

4,950	513	782	961	1,095	1,185	1,274
5,000	517	789	969	1,105	1,196	1,286
5,050	521	795	978	1,115	1,206	1,298
5,100	525	802	986	1,125	1,217	1,309
5,150	529	808	995	1,134	1,228	1,321
5,200	533	815	1,003	1,144	1,238	1,332
5,250	537	822	1,012	1,154	1,249	1,344
5,300	541	828	1,020	1,164	1,260	1,356
5,350	545	835	1,028	1,174	1,270	1,367
5,400	549	842	1,037	1,183	1,281	1,379
5,450	553	848	1,045	1,193	1,292	1,390
5,500	557	855	1,054	1,203	1,302	1,402
5,550	561	862	1,062	1,213	1,313	1,413
5,600	564	868	1,071	1,223	1,324	1,425
5,650	568	875	1,079	1,232	1,335	1,437
5,700	572	881	1,088	1,242	1,345	1,448
5,750	576	888	1,096	1,252	1,356	1,460
5,800	580	895	1,104	1,262	1,367	1,471
5,850	584	901	1,113	1,272	1,377	1,483
5,900	588	908	1,121	1,281	1,388	1,495
5,950	592	915	1,130	1,291	1,399	1,506
6,000	596	921	1,138	1,301	1,408	1,517
6,050	599	927	1,145	1,310	1,416	1,528
6,100	602	933	1,153	1,319	1,424	1,539
6,150	605	938	1,161	1,328	1,432	1,550
6,200	608	944	1,168	1,337	1,440	1,561
6,250	611	950	1,176	1,346	1,449	1,571
6,300	614	956	1,184	1,355	1,457	1,582
6,350	618	962	1,191	1,364	1,465	1,593
6,400	621	968	1,199	1,373	1,473	1,604
6,450	624	974	1,207	1,382	1,481	1,615
6,500	627	979	1,214	1,391	1,489	1,625

6,550	630	985	1,222	1,400	1,497	1,636
6,600	633	991	1,230	1,409	1,505	1,647
6,650	637	997	1,237	1,418	1,513	1,658
6,700	640	1,003	1,245	1,427	1,521	1,669
6,750	643	1,009	1,253	1,436	1,530	1,679
6,800	646	1,015	1,260	1,445	1,538	1,690
6,850	649	1,020	1,268	1,454	1,546	1,701
6,900	652	1,026	1,276	1,463	1,554	1,712
6,950	655	1,032	1,283	1,472	1,562	1,723
7,000	659	1,038	1,291	1,481	1,570	1,733
7,050	662	1,044	1,298	1,490	1,578	1,744
7,100	665	1,050	1,306	1,499	1,586	1,755
7,150	668	1,055	1,314	1,508	1,594	1,766
7,200	671	1,061	1,321	1,517	1,602	1,777
7,250	674	1,067	1,329	1,526	1,611	1,787
7,300	677	1,073	1,337	1,535	1,619	1,798
7,350	681	1,079	1,344	1,544	1,627	1,809
7,400	684	1,085	1,352	1,553	1,635	1,820
7,450	687	1,091	1,360	1,562	1,643	1,831
7,500	690	1,096	1,367	1,571	1,651	1,841
7,550	693	1,102	1,375	1,580	1,659	1,852
7,600	696	1,108	1,383	1,589	1,667	1,863
7,650	700	1,114	1,390	1,598	1,675	1,874
7,700	703	1,120	1,398	1,607	1,683	1,885
7,750	706	1,126	1,406	1,616	1,692	1,895
7,800	709	1,132	1,413	1,625	1,700	1,906
7,850	712	1,137	1,421	1,634	1,708	1,917
7,900	715	1,143	1,429	1,643	1,716	1,928
7,950	718	1,149	1,436	1,652	1,724	1,939
8,000	721	1,154	1,443	1,660	1,732	1,949
8,050	723	1,159	1,450	1,668	1,741	1,959
8,100	726	1,164	1,457	1,676	1,749	1,969

8,150	728	1,169	1,464	1,684	1,758	1,979
8,200	730	1,174	1,470	1,692	1,766	1,989
8,250	732	1,179	1,477	1,701	1,775	1,998
8,300	735	1,184	1,484	1,709	1,784	2,008
8,350	737	1,189	1,491	1,717	1,792	2,018
8,400	739	1,194	1,497	1,725	1,801	2,028
8,450	741	1,199	1,504	1,733	1,809	2,038
8,500	744	1,204	1,511	1,741	1,818	2,048
8,550	746	1,209	1,518	1,749	1,826	2,058
8,600	748	1,214	1,524	1,757	1,835	2,068
8,650	750	1,219	1,531	1,765	1,843	2,078
8,700	753	1,224	1,538	1,773	1,852	2,088
8,750	755	1,229	1,545	1,782	1,861	2,097
8,800	757	1,234	1,551	1,790	1,869	2,107
8,850	759	1,239	1,558	1,798	1,878	2,117
8,900	762	1,244	1,565	1,806	1,886	2,127
8,950	764	1,249	1,572	1,814	1,895	2,137
9,000	766	1,253	1,578	1,822	1,903	2,147
9,050	768	1,258	1,585	1,830	1,912	2,157
9,100	771	1,263	1,592	1,838	1,920	2,167
9,150	773	1,268	1,599	1,846	1,929	2,177
9,200	775	1,273	1,605	1,854	1,937	2,187
9,250	777	1,278	1,612	1,863	1,946	2,196
9,300	780	1,283	1,619	1,871	1,955	2,206
9,350	782	1,288	1,626	1,879	1,963	2,216
9,400	784	1,293	1,632	1,887	1,972	2,226
9,450	786	1,298	1,639	1,895	1,980	2,236
9,500	789	1,303	1,646	1,903	1,989	2,246
9,550	791	1,308	1,653	1,911	1,997	2,256
9,600	793	1,313	1,659	1,919	2,006	2,266
9,650	795	1,318	1,666	1,927	2,014	2,276
9,700	798	1,323	1,673	1,935	2,023	2,286

9,750	800	1,328	1,680	1,944	2,032	2,295
9,800	802	1,333	1,686	1,952	2,040	2,305
9,850	804	1,338	1,693	1,960	2,049	2,315
9,900	807	1,343	1,700	1,968	2,057	2,325
9,950	809	1,348	1,707	1,976	2,066	2,335
10,000	811	1,352	1,713	1,984	2,074	2,345

In the event monthly income exceeds Ten Thousand Dollars (\$10,000.00), the child support shall be that amount computed for a monthly income of Ten Thousand Dollars (\$10,000.00) and such additional amount as the court may determine. In determining what amount, if any, should be allowed in excess of that amount computed for a monthly income of Ten Thousand Dollars (\$10,000.00), the court shall consider the needs of the child or children. The court shall take appropriate measures to ensure that the amount awarded actually goes to the direct benefit of the child or children.

SECTION 3. This act shall become effective September 1, 1993.

44-1-0485 KS