

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 2194

By: Williamson of the Senate

3 and

4 Duncan of the House

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6

7

8 (marriage and family - child support guidelines -

9 codification -

10 effective date)

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13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

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"An Act relating to marriage and family; amending 43 O.S. 2001, Section 118, as last amended by Section 25, Chapter 1, O.S.L. 2007 (43 O.S. Supp. 2007, Section 118), which relates to the child support guidelines; modifying guidelines; modifying what constitutes gross income; excluding certain expenses from base child support obligation; specifying circumstances in which a court may deviate from the guidelines; requiring specific findings of fact upon deviation; providing considerations for extreme economic hardship; defining terms; specifying the inclusion of certain compensation as gross income; specifying considerations for imputed income, self-employment income, fringe benefits, and social security benefits; specifying adjustments to gross income; specifying formula for computing child support obligation; providing for extraordinary educational expenses; providing for special expenses; providing guidelines for the adjustment of

1 child support based on certain parenting times;
2 providing for medical support order; specifying
3 content of final order; providing standards for a
4 court to apply when entering a medical support
5 order; providing exception in certain circumstances;
6 specifying guidelines for health insurance coverage;
7 providing for health expenses not covered by
8 insurance; requiring certain review for adjustment;
9 providing for actual child care costs; requiring
10 timely documentation of change in amount of costs;
11 requiring certain standard of proof when requesting
12 support in excess of the highest amount on the child
13 support guidelines schedule; specifying procedures;
14 providing for modification of child support orders;
15 prohibiting retroactive modification; providing for
16 informal review for adjustment; specifying certain
17 procedures for adjustment; providing for exchange of
18 certain information; providing for modification
19 through the Department of Human Services; amending
20 30 O.S. 2001, Section 2-108, which relates to
21 education and maintenance expenses for minors;
22 modifying and adding requirements; providing for
23 codification; and providing an effective date.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43 O.S. 2001, Section 118, as last
amended by Section 25, Chapter 1, O.S.L. 2007 (43 O.S. Supp. 2007,
Section 118), is amended to read as follows:

Section 118. A. ~~Except in those cases where parties
represented by counsel have agreed to a different disposition, there~~
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

1 following guidelines is the correct amount of child support to be
2 awarded.

3 B. The Schedule of Basic Child Support Obligations assumes that
4 all families incur certain child-rearing expenses and includes in
5 the basic child support obligation an average amount to cover these
6 expenses for various levels of the parents' combined income and
7 number of children. The bulk of these child-rearing expenses is
8 comprised of housing, food, transportation, basic public educational
9 expenses, clothing, and entertainment. The base child support
10 obligation does not include the child's health insurance premium,
11 work or education-related child care costs, the child's uninsured
12 medical expenses, special expenses, or extraordinary educational
13 expenses.

14 C. 1. The district or administrative court may deviate from
15 the amount of child support indicated by the child support
16 guidelines if the ~~amount of support so indicated is unjust,~~
17 ~~inequitable, unreasonable, or inappropriate under the circumstances,~~
18 ~~or not~~ deviation is in the best interests of the child, and:

- 19 a. the amount of support so indicated is unjust or
20 inappropriate under the circumstances,
21 b. the parties are represented by counsel and have agreed
22 to a different disposition, or
23 c. one party is represented by counsel and the deviation
24 benefits the unrepresented party.

1 2. If the district or administrative court deviates from the
2 amount of child support indicated by the child support guidelines,
3 the court shall make specific findings of fact supporting such
4 action. The findings of fact shall include:

5 a. the reasons the court deviated from the presumptive
6 amount of child support that would have been paid
7 pursuant to the guidelines,

8 b. the amount of child support that would have been
9 required under the guidelines if the presumptive
10 amount had not been rebutted, and

11 c. a finding by the court that states how, in its
12 determination:

13 (1) the best interests of the child who is subject to
14 the support award determination are served by
15 deviation from the presumptive guideline amount,
16 and

17 (2) application of the guidelines would be unjust or
18 inappropriate in the particular case before the
19 tribunal.

20 3. In instances of extreme economic hardship, deviation from
21 the guidelines may be considered when the court finds the deviation
22 is supported by the evidence and is not detrimental to the best
23 interests of the child before the court. The court may consider
24 extraordinary medical needs not covered by insurance or other

1 special needs of a child whom the parent is obligated to support.
2 In such cases, the court must consider all resources available for
3 meeting such needs, including those available from public agencies
4 and other responsible adults.

5 4. No deviation in the amount of the child support obligation
6 shall be made which seriously impairs the ability of the obligee in
7 the case under consideration to maintain minimally adequate housing,
8 food, and clothing for the children being supported by the order or
9 to provide other basic necessities, as determined by the court.

10 Nothing in this section shall be construed to invalidate a presumed
11 child support amount where income is properly determined under
12 Section 4 of this act.

13 5. In cases where the child is in the legal custody of the
14 Department of Human Services, the child protection or foster care
15 agency of another state or territory, or any other child-caring
16 entity, public or private, the court may consider a deviation from
17 the presumptive child support order if the deviation will assist in
18 accomplishing a permanency plan or foster care plan for the child
19 that has a goal of returning the child to the parent, and the
20 parent's need to establish an adequate household or to otherwise
21 adequately prepare herself or himself for the return of the child
22 clearly justifies a deviation for this purpose.

23 ~~C. The court shall not take into account any stepchildren of~~
24 ~~such parent in making the determination, but in making such~~

1 ~~determination, the court may take into account the reasonable~~
2 ~~support obligations of either parent as to only natural, legal, or~~
3 ~~legally adopted minor children in the custody of the parent.~~

4 ~~D. For purposes of this section and in determining child~~
5 ~~support, the noncustodial parent shall be designated the obligor and~~
6 ~~the custodial parent shall be designated the obligee.~~

7 ~~E. The child support guidelines are as follows:~~

8 ~~1. All child support shall be computed as a percentage of the~~
9 ~~combined gross income of both parents. The Child Support Guideline~~
10 ~~Schedule as provided in Section 119 of this title shall be used for~~
11 ~~such computation. The child support obligations of each parent~~
12 ~~shall be computed. The obligor's share shall be paid monthly to the~~
13 ~~obligee and shall be due on a specific date;~~

14 ~~2. a. (1) "Gross income", subject to paragraph 3 of this~~
15 ~~subsection, includes earned and passive income~~
16 ~~from any source, except as excluded in this~~
17 ~~section.~~

18 ~~(2) "Earned income" is defined as income received~~
19 ~~from labor, or the sale of goods or services and~~
20 ~~includes, but is not limited to, income from:~~

- 21 ~~(a) salaries,~~
22 ~~(b) wages,~~
23 ~~(c) commissions,~~
24 ~~(d) bonuses, and~~

1 ~~(e) severance pay.~~

2 ~~(3) "Passive income" is defined as all other income~~
3 ~~and includes, but is not limited to, income from:~~

4 ~~(a) dividends,~~

5 ~~(b) pensions,~~

6 ~~(c) rent,~~

7 ~~(d) interest income,~~

8 ~~(e) trust income,~~

9 ~~(f) annuities,~~

10 ~~(g) social security benefits,~~

11 ~~(h) workers' compensation benefits,~~

12 ~~(i) unemployment insurance benefits,~~

13 ~~(j) disability insurance benefits,~~

14 ~~(k) gifts,~~

15 ~~(l) prizes, and~~

16 ~~(m) royalties.~~

17 ~~b. Specifically excluded from gross income are:~~

18 ~~(1) actual child support received for children not~~
19 ~~before the court, and~~

20 ~~(2) benefits received from means tested public~~
21 ~~assistance programs including, but not limited~~
22 ~~to:~~

23 ~~(a) Temporary Assistance for Needy Families~~

24 ~~(TANF),~~

1 ~~(b) Supplemental Security Income (SSI),~~

2 ~~(c) Food Stamps, and~~

3 ~~(d) General Assistance and State Supplemental~~
4 ~~Payments for Aged, Blind and the Disabled;~~

5 ~~3. a. For income from self-employment, rent, royalties,~~
6 ~~proprietorship of a business, or joint ownership of a~~
7 ~~partnership or closely held corporation, "gross~~
8 ~~income" is defined as gross receipts minus ordinary~~
9 ~~and necessary expenses required for self-employment or~~
10 ~~business operations.~~

11 ~~b. Specifically excluded from ordinary and necessary~~
12 ~~expenses for purposes of this paragraph are amounts~~
13 ~~determined by the district or administrative court to~~
14 ~~be inappropriate for determining gross income for~~
15 ~~purposes of calculating child support.~~

16 ~~c. The district or administrative court shall carefully~~
17 ~~review income and expenses from self-employment or~~
18 ~~operation of a business to determine an appropriate~~
19 ~~level of gross income available to the parent to~~
20 ~~satisfy a child support obligation.~~

21 ~~d. The district or administrative court shall deduct from~~
22 ~~self-employment gross income an amount equal to the~~
23 ~~employer contribution for F.I.C.A. tax which an~~
24 ~~employer would withhold from an employee's earnings on~~

1 ~~an equivalent gross income amount. A determination of~~
2 ~~business income for tax purposes shall not control for~~
3 ~~purposes of determining a child support obligation.~~

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

11 ~~4. a. For purposes of computing gross income of the parents,~~
12 ~~the district or administrative court shall include for~~
13 ~~each parent, whichever is most equitable, either:~~

14 ~~(1) all earned and passive monthly income,~~

15 ~~(2) all passive income, and earned income equivalent~~
16 ~~to a forty hour work week plus such overtime and~~
17 ~~supplemental income as the court deems equitable,~~

18 ~~(3) the average of the gross monthly income for the~~
19 ~~time actually employed during the previous three~~
20 ~~(3) years, or~~

21 ~~(4) the minimum wage paid for a forty hour work week.~~

22 ~~b. If equitable, the district or administrative court may~~
23 ~~instead impute as gross monthly income for either~~
24 ~~parent the amount a person with comparable education,~~

1 ~~training and experience could reasonably expect to~~
2 ~~earn.~~

3 ~~c. If a parent is permanently physically or mentally~~
4 ~~incapacitated, the child support obligation shall be~~
5 ~~computed on the basis of actual monthly gross income;~~

6 ~~5. The amount of any preexisting district or administrative~~
7 ~~court order for current child support for children not before the~~
8 ~~court or for support alimony arising in a prior case shall be~~
9 ~~deducted from gross income to the extent payment is actually made~~
10 ~~under the order;~~

11 ~~6. The amount of reasonable expenses of the parties~~
12 ~~attributable to debt service for preexisting, jointly acquired debt~~
13 ~~of the parents may be deducted from gross income to the extent~~
14 ~~payment of the debt is actually made. In any case where deduction~~
15 ~~for debt service is made, the district or administrative court may~~
16 ~~provide for prospective upward adjustments of support made possible~~
17 ~~by the reasonably anticipated reduction or elimination of any debt~~
18 ~~service;~~

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

21 ~~8. In cases in which one parent has sole custody, the adjusted~~
22 ~~monthly gross income of both parents shall be added together and the~~
23 ~~Child Support Guideline Schedule consulted for the total combined~~
24 ~~base monthly obligation for child support;~~

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

7 ~~10. a. In cases where shared parenting time has been ordered~~
8 ~~by a district court or agreed to by the parents, the~~
9 ~~base monthly obligation shall be adjusted. "Shared~~
10 ~~parenting time" means that each parent has physical~~
11 ~~custody of the child or children overnight for more~~
12 ~~than one hundred twenty (120) nights each year.~~

13 ~~b. An adjustment for shared parenting time shall be made~~
14 ~~to the base monthly child support obligation by the~~
15 ~~following formula: The total combined base monthly~~
16 ~~child support obligation shall be multiplied by one~~
17 ~~and one half (1 1/2). The result shall be designated~~
18 ~~the adjusted combined child support obligation.~~

19 ~~c. To determine each parent's adjusted child support~~
20 ~~obligation, the adjusted combined child support~~
21 ~~obligation shall be divided between the parents in~~
22 ~~proportion to their respective adjusted gross incomes.~~

23 ~~d. (1) The percentage of time a child spends with each~~
24 ~~parent shall be calculated by determining the~~

1 ~~number of nights the child is in the physical~~
2 ~~custody of each parent and dividing that number~~
3 ~~by three hundred sixty five (365).~~

4 ~~(2) Each parent's share of the adjusted combined~~
5 ~~child support obligation shall then be multiplied~~
6 ~~by the percentage of time the child spends with~~
7 ~~the other parent to determine the base child~~
8 ~~support obligation owed to the other parent.~~

9 ~~(3) The respective adjusted base child support~~
10 ~~obligations for each parent are then offset, with~~
11 ~~the parent owing more base child support paying~~
12 ~~the difference between the two amounts to the~~
13 ~~other parent. The base child support obligation~~
14 ~~of the parent owing the lesser amount is then set~~
15 ~~at zero dollars.~~

16 ~~e. The parent owing the greater amount of base child~~
17 ~~support shall pay the difference between the two~~
18 ~~amounts as a child support order. In no case shall~~
19 ~~the amount of child support ordered to be paid exceed~~
20 ~~the amount of child support which would otherwise be~~
21 ~~ordered to be paid if the parents did not participate~~
22 ~~in shared parenting time.~~

23 ~~f. In no event shall the provisions of this paragraph be~~
24 ~~construed to authorize or allow the payment of child~~

1 ~~support by the custodial parent to the noncustodial~~
2 ~~parent;~~

3 ~~11. a. The actual medical and dental insurance premium for~~
4 ~~the child shall be allocated between the parents in~~
5 ~~the same proportion as their adjusted gross income and~~
6 ~~shall be added to the base child support obligation.~~
7 ~~If the insurance policy covers a person other than the~~
8 ~~child before the court, only that portion of the~~
9 ~~premium attributed to the child before the court shall~~
10 ~~be allocated and added to the base child support~~
11 ~~obligation.~~

12 ~~b. If the obligor pays the medical insurance premium, the~~
13 ~~obligor shall receive credit against the base child~~
14 ~~support obligation for the obligee's allocated share~~
15 ~~of the medical insurance premium.~~

16 ~~c. If the obligee pays the medical insurance premium, the~~
17 ~~obligor shall pay the obligor's allocated share of the~~
18 ~~medical insurance premium to the obligee as part of~~
19 ~~the base child support obligation;~~

20 ~~12. a. In cases of split custody, where each parent is~~
21 ~~awarded custody of at least one of their natural or~~
22 ~~legally adopted children, the child support obligation~~
23 ~~for each parent shall be calculated by application of~~

24

1 ~~the child support guidelines for each custodial~~
2 ~~arrangement.~~

3 ~~b. In cases of joint custody, where the parents share~~
4 ~~physical and legal custody of at least one of their~~
5 ~~natural or legally adopted children, the child support~~
6 ~~obligation for each parent shall be calculated by~~
7 ~~applying the child support guidelines.~~

8 ~~c. In all cases the parent with the larger child support~~
9 ~~obligation shall pay the difference between the two~~
10 ~~amounts to the parent with the smaller child support~~
11 ~~obligation,~~

12 ~~13. a. The district or administrative court shall determine~~
13 ~~the "actual" child care expenses reasonably necessary~~
14 ~~to enable either or both parents to:~~

15 ~~(1) be employed,~~

16 ~~(2) seek employment, or~~

17 ~~(3) attend school or training to enhance employment~~
18 ~~income.~~

19 ~~b. When the obligee is participating in the Department of~~
20 ~~Human Services child care subsidy program as provided~~
21 ~~under Section 230.50 of Title 56 of the Oklahoma~~
22 ~~Statutes, the Child Care Eligibility/Rates Schedule~~
23 ~~established by the Department shall be used to~~
24 ~~determine the amount to be treated as actual child~~

1 ~~care costs incurred. When applying the schedule to~~
2 ~~determine the family share copayment amount, the~~
3 ~~obligor's share of the base monthly obligation for~~
4 ~~child support and the obligee's gross income shall be~~
5 ~~considered as the obligee's monthly income. The~~
6 ~~actual child care costs incurred shall be the family~~
7 ~~share copayment amount indicated on the schedule which~~
8 ~~shall be allocated and paid monthly in the same~~
9 ~~proportion as base child support. The Department of~~
10 ~~Human Services shall promulgate rules, as necessary,~~
11 ~~to implement the provisions of this subparagraph.~~

12 ~~e. The actual child care costs incurred for the purposes~~
13 ~~authorized by this paragraph shall be allocated and~~
14 ~~paid monthly in the same proportion as base child~~
15 ~~support.~~

16 ~~d. The district or administrative court shall require the~~
17 ~~obligee to provide the obligor with timely~~
18 ~~documentation of any change in the amount of the child~~
19 ~~care costs. Upon request by the obligor, whose~~
20 ~~requests shall not exceed one each month, or upon~~
21 ~~order of the court, the obligee shall provide the~~
22 ~~documentation of the amount of incurred child care~~
23 ~~costs which are related to employment, employment~~

1 ~~search or education or training as authorized by this~~
2 ~~paragraph.~~

3 ~~e. If the court determines that it will not cause~~
4 ~~detriment to the child or will not cause undue~~
5 ~~hardship to either parent, in lieu of payment of child~~
6 ~~care expenses incurred during employment, employment~~
7 ~~search, or while the obligee is attending school or~~
8 ~~training, the obligor may provide care for the child~~
9 ~~during that time;~~

10 ~~14. Reasonable and necessary medical, dental, orthodontic,~~
11 ~~optometric, psychological, or any other physical or mental health~~
12 ~~expenses of the child incurred by either parent and not reimbursed~~
13 ~~by insurance may be allocated in the same proportion as the parents'~~
14 ~~adjusted gross income as separate items that are not added to the~~
15 ~~base child support obligation. If reimbursement is required, the~~
16 ~~parent who incurs the expense shall be reimbursed by the other~~
17 ~~parent within thirty (30) days of receipt of documentation of the~~
18 ~~expense;~~

19 ~~15. Transportation expenses of a child between the homes of the~~
20 ~~parents may be divided between the parents in proportion to their~~
21 ~~adjusted gross income;~~

22 ~~16. a. (1) Child support orders may be modified upon a~~
23 ~~material change in circumstances which includes,~~
24 ~~but is not limited to, an increase or decrease in~~

1 ~~income, changes in actual child care expenses,~~
2 ~~changes in medical or dental insurance, or when~~
3 ~~one of the children in the child support order~~
4 ~~reaches the age of majority or otherwise ceases to~~
5 ~~be entitled to support pursuant to the support~~
6 ~~order.~~

7 ~~(2) Modification of the Child Support Guideline~~

8 ~~Schedule shall not alone be a material change in~~
9 ~~circumstances for child support orders in~~
10 ~~existence on November 1, 1999.~~

11 ~~(3) Providing support for children born to or adopted~~

12 ~~by either parent after the entry of a child~~
13 ~~support order shall not alone be considered a~~
14 ~~material change in circumstances.~~

15 ~~(4) An order of modification shall be effective upon~~

16 ~~the date the motion to modify was filed, unless~~
17 ~~the parties agree to the contrary or the court~~
18 ~~makes a specific finding of fact that the~~
19 ~~material change of circumstance did not occur~~
20 ~~until a later date.~~

21 ~~b. (1) A child support order shall not be modified~~

22 ~~retroactively regardless of whether support was~~
23 ~~ordered in a temporary order, a decree of~~
24 ~~divorce, an order establishing paternity,~~

1 ~~modification of an order of support, or other~~
2 ~~action to establish or to enforce support.~~

3 ~~(2) All final orders shall state whether past due~~
4 ~~support and interest has accrued pursuant to any~~
5 ~~temporary order and the amount due, if any,~~
6 ~~however, failure to state a past due amount shall~~
7 ~~not bar collection of that amount after entry of~~
8 ~~the final support order.~~

9 ~~c. The amount of a child support order shall not be~~
10 ~~construed to be an amount per child unless specified~~
11 ~~by the district or administrative court in the order.~~
12 ~~A child reaching the age of majority or otherwise~~
13 ~~ceasing to be entitled to support pursuant to the~~
14 ~~support order shall constitute a material change in~~
15 ~~circumstances, but shall not automatically serve to~~
16 ~~modify the order;~~

17 ~~17. a. When a child support order is entered or modified, the~~
18 ~~parents may agree or the district or administrative~~
19 ~~court may require a periodic exchange of information~~
20 ~~for an informal review and adjustment process.~~

21 ~~b. When an existing child support order does not contain~~
22 ~~a provision which requires an informal review and~~
23 ~~adjustment process, either parent may request the~~
24 ~~other parent to provide the information necessary for~~

1 ~~the informal review and adjustment process.~~

2 ~~Information shall be provided to the requesting parent~~
3 ~~within forty five (45) days of the request.~~

4 ~~e. Requested information may include verification of~~
5 ~~income, proof and cost of children's medical~~
6 ~~insurance, and current and projected child care costs.~~
7 ~~If shared parenting time has been awarded by the~~
8 ~~court, documentation of past and prospective overnight~~
9 ~~visits shall be exchanged.~~

10 ~~d. Exchange of requested information may occur once a~~
11 ~~year or less often, by regular mail.~~

12 ~~e. (1) If the parents agree to a modification of a child~~
13 ~~support order, their agreement shall be in~~
14 ~~writing using standard modification forms and the~~
15 ~~child support computation form provided for in~~
16 ~~Section 120 of this title.~~

17 ~~(2) The standard modification forms and the standard~~
18 ~~child support computation form shall be submitted~~
19 ~~to the district or administrative court. The~~
20 ~~court shall review the modification forms to~~
21 ~~confirm that the child support obligation~~
22 ~~complies with the child support guidelines and~~
23 ~~that all necessary parties pursuant to Section~~
24 ~~112 of this title have been notified. If the~~

1 ~~court approves the modification forms, they shall~~
2 ~~be filed with the court.~~

3 ~~f. If the district court refuses to consider the parents'~~
4 ~~agreed modification order or the parents do not agree~~
5 ~~to a modification of the child support order, a parent~~
6 ~~may request a modification through the Department of~~
7 ~~Human Services Child Support Enforcement Division,~~
8 ~~hereinafter referred to as the "Department", when the~~
9 ~~child support services are being provided under the~~
10 ~~state child support plan as provided in Section 237 of~~
11 ~~Title 56 of the Oklahoma Statutes. If the parent does~~
12 ~~not have an open case with the Department, the parent~~
13 ~~shall make application for services and complete a~~
14 ~~request for review;~~

15 ~~18. Child support orders may include such provisions as the~~
16 ~~district or administrative court deems appropriate to assure that~~
17 ~~the child support payments to the custodial parent are used for the~~
18 ~~support of the child;~~

19 ~~19. The district or administrative court shall require and~~
20 ~~enforce a complete disclosure of assets by both parents on a~~
21 ~~financial affidavit form prescribed by the Administrative Office of~~
22 ~~the Courts;~~

- a. adding to the parent's gross income any social security benefit paid to the child on the parent's account,
- b. deducting from gross income the amount of any support alimony arising in a prior case to the extent that payment is actually made,
- c. deducting from gross income any credits as set forth for the individual parent's other children for whom the parent is legally responsible and is actually supporting, and
- d. deducting the amount of reasonable expenses of the parties attributable to debt service for preexisting, jointly acquired debt of the parents;

2. "Base child support obligation" (BCSO) means the amount of support displayed on the Schedule of Basic Child Support Obligations which corresponds to the combined AGI of both parents and the number of children for whom support is being determined. This amount is rebuttably presumed to be the appropriate amount of basic child support to be provided by both parents in the case immediately under consideration, prior to consideration of any adjustments for medical and child care costs, and any other additional expenses;

3. "Current monthly child support obligation" means the BCSO and the proportional share of any medical insurance and child care costs;

1 4. "Custodial person" means a parent or third-party caretaker
2 who has physical custody of a child more than one hundred eighty-two
3 (182) days per year;

4 5. "Days", for the purposes of calculating child support, means
5 when the child spends the majority of a twenty-four-hour period
6 under the care, control or direct supervision of one parent or
7 caretaker and that the parent expends resources on the child during
8 this period. The twenty-four-hour period need not be the same as a
9 twenty-four-hour calendar day. A day of parenting time may
10 encompass either an overnight period or a daytime period, or a
11 combination thereof. Keeping the child overnight, even if it were a
12 majority of the calendar day, with no meaningful expenditures for
13 the child's care would not be a day;

14 6. "Noncustodial parent" means a parent who has physical
15 custody of a child one hundred eighty-two (182) days per year or
16 less;

17 7. "Obligor" means the person who is required to make payments
18 under an order for support;

19 8. "Obligee" or "person entitled" means:

20 a. a person to whom a support debt or support obligation
21 is owed,

22 b. the Department of Human Services or a public agency of
23 another state that has the right to receive current or
24

1 accrued support payments or that is providing support
2 enforcement services, or

3 c. a person designated in a support order or as otherwise
4 specified by the court;

5 9. "Other contributions" means recurring monthly medical
6 expenses and visitation transportation costs that are not included
7 in the current monthly child support obligation;

8 10. "Parent" means an individual who has established a parent-
9 child relationship pursuant to the Uniform Parentage Act;

10 11. "Parenting time adjustment" means an adjustment to the base
11 child-support amount based upon parenting time; and

12 12. "Payor" means any person or entity paying monies, income,
13 or earnings to an obligor. In the case of a self-employed person,
14 the payor and obligor may be the same person.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 118B of Title 43, unless there
17 is created a duplication in numbering, reads as follows:

18 A. As used in this act:

19 1. "Gross income" includes earned and passive income from any
20 source, except as excluded in this section;

21 2. "Earned income" is defined as income received from labor, or
22 the sale of goods or services and includes, but is not limited to,
23 income from:

24 a. salaries,

- 1 b. wages,
- 2 c. tips,
- 3 d. commissions,
- 4 e. bonuses, and
- 5 f. severance pay; and

6 3. "Passive income" is defined as all other income and
7 includes, but is not limited to, income from:

- 8 a. dividends,
- 9 b. pensions,
- 10 c. rent,
- 11 d. interest income,
- 12 e. trust income,
- 13 f. support alimony,
- 14 g. annuities,
- 15 h. social security benefits,
- 16 i. workers' compensation benefits,
- 17 j. unemployment insurance benefits,
- 18 k. disability insurance benefits,
- 19 l. gifts,
- 20 m. prizes,
- 21 n. gambling winnings,
- 22 o. lottery winnings, and
- 23 p. royalties.

24 B. Income specifically excluded is:

- 1 1. Actual child support received for children not before the
2 court;
- 3 2. Adoption Assistance subsidy paid by the Department of Human
4 Services;
- 5 3. Benefits received from means-tested public assistance
6 programs including, but not limited to:
- 7 a. Temporary Assistance for Needy Families (TANF),
8 b. Supplemental Security Income (SSI),
9 c. Food Stamps, and
10 d. General Assistance and State Supplemental Payments for
11 Aged, Blind and the Disabled; and
- 12 4. Payments from the military as follows:
- 13 (a) family separation pay,
14 (b) hostile fire/imminent danger pay, otherwise known as
15 combat pay,
16 (c) hardship duty-location pay,
17 (d) basic allowance for subsistence, and
18 (e) basic allowance for housing;
- 19 5. The child's income from any source, including, but not
20 limited to, trust income and social security benefits drawn on the
21 child's disability.
- 22 C. 1. For purposes of computing gross income of the parents,
23 gross income shall include for each parent:
- 24 a. all actual monthly income described in this section,

- 1 b. the average of the gross monthly income for the time
2 actually employed during the previous three (3) years,
3 or
4 c. the minimum wage paid for a forty-hour week, whichever
5 is the most equitable.

6 2. If a parent is permanently physically or mentally
7 incapacitated, the child support obligation shall be computed on the
8 basis of actual monthly gross income.

9 3. If equitable, gross monthly income for either parent may be
10 imputed as set forth in subsection D of this section.

11 D. Imputed Income.

12 1. Imputing gross income to a parent is appropriate in the
13 following situations:

- 14 a. if a parent has been determined by the court to be
15 willfully or voluntarily underemployed or unemployed,
16 b. when there is no reliable evidence of income, or
17 c. when the parent owns substantial non-income-producing
18 assets, the court may impute income based upon a
19 reasonable rate of return upon the assets.

20 2. The following factors may be considered by the court when
21 making a determination of willful and voluntary underemployment or
22 unemployment:

- 23 a. the parent's past and present employment,
24 b. the parent's education, training, and ability to work,

- 1 c. a parent's lifestyle, including ownership of valuable
2 assets and resources, that appears inappropriate or
3 unreasonable for the income claimed by the parent,
4 d. the parent's role as caretaker of a handicapped or
5 seriously ill child of that parent, or any other
6 handicapped or seriously ill relative for whom that
7 parent has assumed the role of caretaker which
8 eliminates or substantially reduces the parent's
9 ability to work outside the home, and the need of that
10 parent to continue in that role in the future,
11 e. whether unemployment or underemployment for the
12 purpose of pursuing additional training or education
13 is reasonable in light of the parent's obligation to
14 support his or her children and, to this end, whether
15 the training or education will ultimately benefit the
16 child in the case immediately under consideration by
17 increasing the parent's level of support for that
18 child in the future, and
19 f. any additional factors deemed relevant to the
20 particular circumstances of the case.

21 E. Self-employment income.

- 22 1. A determination of business income for tax purposes shall
23 not control for purposes of determining a child support obligation.
24

1 2. Income from self-employment includes income from, but not
2 limited to, business operations, work as an independent contractor
3 or consultant, sales of goods or services, and rental properties,
4 less ordinary and reasonable expenses necessary to produce such
5 income.

6 3. a. The court may exclude ordinary and reasonable expenses
7 of self-employment necessary to produce income.

8 b. The court may include as income expenses for business
9 travel, promotion or transportation, personal
10 expenses, depreciation on equipment, or the cost of
11 operation of home offices to the extent the court
12 finds them excessive.

13 c. Amounts allowed by the Internal Revenue Service for
14 accelerated depreciation or investment tax credits
15 shall not be considered reasonable expenses.

16 4. The district or administrative court shall deduct from self-
17 employment gross income an amount equal to the employer contribution
18 for F.I.C.A. tax which an employer would withhold from an employee's
19 earnings on an equivalent gross income amount.

20 F. Fringe Benefits.

21 1. Fringe benefits for inclusion as income or "in-kind"
22 remuneration received by a parent in the course of employment, or
23 operation of a trade or business, shall be counted as income if they
24 significantly reduce personal living expenses.

1 2. Such fringe benefits might include, but are not limited to,
2 company car, housing, or room and board.

3 3. Basic Allowance for Housing, Basic Allowance for
4 Subsistence, and Variable Housing Allowances for service members are
5 considered income for the purposes of determining child support.

6 4. Fringe benefits do not include employee benefits that are
7 typically added to the salary, wage, or other compensation that a
8 parent may receive as a standard added benefit, such as employer
9 contributions to portions of health insurance premiums or employer
10 contributions to a retirement or pension plan.

11 G. Social Security Title II Benefits.

12 1. Social Security Title II benefits received by a child shall
13 be included as income to the parent on whose account the child's
14 benefit is drawn and applied against the support obligation ordered
15 to be paid by that parent. The child's benefit is only considered
16 when it springs from the parent's account. If the child's benefit
17 is drawn from the child's own disability, the child's benefit is not
18 added to either parent's income and not deducted from either
19 parent's obligation.

20 2. The child support obligation shall be computed separately
21 for each child of the parties.

22 3. Child Support Greater Than Social Security Benefit. If
23 after calculating the parent's gross income, including the parent's
24 social security benefits, and after calculating the amount of the

1 child support obligation using the child support computation form,
2 the amount of the child support award due from the parent on whose
3 account the child is receiving benefits is greater than the social
4 security benefits paid on behalf of the child on that parent's
5 account, then that parent shall be required to pay the amount
6 exceeding the social security benefit as part of the child support
7 award in the case.

8 4. Child Support Equal to or Less Than Social Security
9 Benefits.

10 a. If after calculating the parent's gross income,
11 including the parent's social security benefits paid
12 for the child, and after calculating the amount of the
13 child support obligation using the child support
14 computation form, the amount of the child support
15 award due from the parent on whose account the child
16 is receiving benefits is less than or equal to the
17 social security benefits paid to the caretaker on
18 behalf of the child on that parent's account, the
19 child support obligation of that parent is met and no
20 additional child support amount must be paid by that
21 parent.

22 b. Any social security benefit amounts as determined by
23 the Social Security Administration (SSA) and sent to
24 the caretaker by the SSA for the child's benefit which

1 are greater than the support ordered by the court
2 shall be retained by the caretaker for the child's
3 benefit and shall not be used as a reason for
4 decreasing the child support order or reducing
5 arrearages.

6 c. The court shall make a written finding in the support
7 order regarding the use of the social security
8 benefits in the calculation of the child support
9 obligation.

10 5. a. Calculation of child support as provided in the
11 preceding subsection shall be effective no earlier
12 than the date on which the motion to modify was filed.

13 b. The court may determine if, under the circumstances of
14 the case, it is appropriate to credit social security
15 benefits paid to the custodial person prior to a
16 modification of child support against a noncustodial
17 parent's past due child support obligation.

18 c. The noncustodial parent shall not receive credit for
19 any social security benefits paid directly to the
20 child.

21 d. Any credit granted by the court pursuant to
22 subparagraph b of this paragraph shall be limited to
23 the time period during which the social security
24

1 benefit was paid, or the time period covered by a lump
2 sum for past social security benefits.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 118C of Title 43, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Credits for other children of either parent who are
7 qualified under this section may be considered by the court for the
8 purpose of reducing the parent's gross income. Adjustments are
9 available for a child:

10 1. Who is the biological, legal, or adopted child of the
11 parent;

12 2. Who was born prior to the child in the case under
13 consideration;

14 3. Whom the parent is actually supporting; and

15 4. Who is not before the court to set, modify, or enforce
16 support in the case immediately under consideration.

17 B. Children for whom support is being determined in the case
18 under consideration, stepchildren, and other minors in the home that
19 the parent has no legal obligation to support shall not be
20 considered in the calculation of this credit.

21 C. To consider a parent's qualified other children for credit,
22 a parent must present documentary evidence of the parent-child
23 relationship to the court. Documentary evidence may include, but is
24 not limited to, a birth certificate showing the child's name and the

1 parent's name, or a court order establishing the parent-child
2 relationship.

3 D. Calculation of Credit for Qualified Other Children.

4 1. "Not-In-Home" Children.

5 a. To receive a credit against gross income for child
6 support provided pursuant to a court order for
7 qualified other children whose primary residence is
8 not in the home of the parent seeking credit, that is,
9 the child resides with this parent less than fifty
10 percent (50%) of the time, the parent shall establish
11 the existence of a support order and provide
12 documented proof of support paid for the other child
13 consistently over a reasonable and extended period of
14 time prior to the initiation of the proceeding that is
15 immediately under consideration by the tribunal, but
16 in any event, such time period shall not be less than
17 twelve (12) months.

18 b. "Documented Proof of Support" includes:

19 (1) physical evidence of monetary payments to the
20 child's caretaker, such as canceled checks or
21 money orders, and

22 (2) evidence of payment of child support under
23 another child support order, such as a payment
24 history from a tribunal clerk or child support

1 office or from the Department's Internet child
2 support payment history.

3 c. The available credit against gross income for either
4 parent's qualified "not-in-home" children is the
5 actual documented court-ordered current monthly child
6 support obligation of the qualified other children,
7 averaged to a monthly amount of support paid over the
8 most recent twelve-month period.

9 2. "In-Home" Children.

10 a. To receive a credit against gross income for qualified
11 other children whose primary residence is with the
12 parent seeking credit, but who are not part of the
13 case being determined, the parent must establish a
14 legal duty of support and that the child resides with
15 the parent fifty percent (50%) or more of the time.
16 Documents that may be used to establish that the
17 parent and child share the same residence include the
18 child's school or medical records showing the child's
19 address and the parent's utility bills mailed to the
20 same address, court orders reflecting the parent is
21 the primary residential parent or that the parent
22 shares the parenting time of the child fifty percent
23 (50%) of the time.

1 b. The credit for other qualified children shall be
2 computed as a hypothetical child support order
3 calculated using the credit worksheet, the parent's
4 gross income, the total number of qualified other
5 children living in the parent's home, and the Child
6 Support Guideline Schedule. The credit worksheet
7 shall be prepared by the Department of Human Services
8 and shall be published by the Administrative Office of
9 the Courts.

10 c. The available credit against gross income for either
11 parent's qualified "in-home" children is seventy-five
12 percent (75%) of a hypothetical support order
13 calculated according to these Guidelines, using the
14 Credit Worksheet, the parent's gross income less any
15 self-employment taxes paid, the total number of
16 qualified other children living in the parent's home,
17 and the Child Support Guideline Schedule.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 118D of Title 43, unless there
20 is created a duplication in numbering, reads as follows:

21 A. All child support shall be computed as a percentage of the
22 combined gross income of both parents. The Child Support Guideline
23 Schedule as provided in Section 119 of Title 43 of the Oklahoma
24 Statutes shall be used for such computation. The child support

1 obligations of each parent shall be computed. The obligor's share
2 shall be paid monthly to the obligee and shall be due on a specific
3 date.

4 B. In cases in which one parent has sole physical custody, the
5 adjusted monthly gross income of both parents shall be added
6 together and the Child Support Guideline Schedule consulted for the
7 total combined base monthly obligation for child support.

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

14 D. 1. In cases of split physical custody, where each parent is
15 awarded physical custody of at least one of their biological or
16 legally adopted children, the child support obligation for each
17 parent shall be calculated by application of the child support
18 guidelines for each custodial arrangement.

19 2. The parent with the larger child support obligation shall
20 pay the difference between the two amounts to the parent with the
21 smaller child support obligation.

22 E. Child support shall be computed as set forth in subsections
23 A through D of this section in every case, regardless of whether the
24

1 | custodial arrangement is designated as sole custody or joint
2 | custody.

3 | F. In cases where each parent has physical custody of a child
4 | fifty percent (50%) of the time, the child support guidelines shall
5 | be computed with each parent as an obligor. The parent with the
6 | greater child support obligation shall pay the difference between
7 | the two amounts to the other parent.

8 | G. The court, to the extent reasonably possible, shall make
9 | provision in an order for prospective adjustment of support to
10 | address any foreseen changes including, but not limited to, changes
11 | in medical insurance, child care expenses, medical expenses, and
12 | extraordinary costs.

13 | H. Transportation expenses of a child between the homes of the
14 | parents may be divided between the parents in proportion to their
15 | adjusted gross income, so long as the payment of such expenses does
16 | not significantly reduce the ability of the custodial parent to
17 | provide for the basic needs of the child.

18 | I. Extraordinary Educational Expenses.

19 | 1. Extraordinary educational expenses may be added to the
20 | presumptive child support as a deviation. Extraordinary educational
21 | expenses include, but are not limited to, tuition, room and board,
22 | books, fees, and other reasonable and necessary expenses associated
23 | with special needs education for a child with a disability under the
24 |

1 Individuals with Disabilities Education Act that are appropriate to
2 the parents' financial abilities.

3 2. In determining the amount of deviation for extraordinary
4 educational expenses, scholarships, grants, stipends, and other
5 cost-reducing programs received by or on behalf of the child shall
6 be considered.

7 3. If a deviation is allowed for extraordinary educational
8 expenses, a monthly average of these expenses shall be based on
9 evidence of prior or anticipated expenses.

10 J. Special Expenses.

11 1. Special expenses incurred for child rearing which can be
12 quantified may be added to the child support obligation as a
13 deviation from the Current Monthly Child Support Obligation. Such
14 expenses include, but are not limited to, camp, music or art
15 lessons, travel, school-sponsored extracurricular activities, such
16 as band, clubs, and athletics, and other activities intended to
17 enhance the athletic, social or cultural development of a child, but
18 that are not otherwise required to be used in calculating the child
19 support order as are health insurance premiums and work-related
20 child care costs.

21 2. A portion of the base child support obligation (BCSO) is
22 intended to cover average amounts of these special expenses incurred
23 in the rearing of a child. When this category of expenses exceeds
24 seven percent (7%) of the monthly BCSO, then the tribunal shall

1 consider additional amounts of support as a deviation to cover the
2 full amount of these special expenses.

3 K. The social security numbers of both parents and the children
4 who are the subject of a paternity or child support order shall be
5 included in the support order summary form provided for in Section
6 120 of Title 43 of the Oklahoma Statutes.

7 L. A completed support order summary form shall be presented to
8 the judge with all paternity and child support orders where the
9 Department of Human Services is not a necessary party pursuant to
10 Section 112 of Title 43 of the Oklahoma Statutes. No such order
11 shall be signed by the judge without presentation of the form.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 118E of Title 43, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Parenting Time.

16 1. Except as applied to fifty-fifty/equal parenting situations,
17 the adjustment may be granted based upon a court order or agreement
18 that the noncustodial parent is granted at least one hundred twenty-
19 one (121) days of parenting time per twelve-month period with the
20 children in the case under consideration.

21 2. In fifty-fifty/equal parenting situations, the adjustment is
22 based upon each parent exercising one hundred eighty-two and one-
23 half (182.5) days of parenting time.

24

1 3. No more than one (1) day of credit for parenting time can be
2 taken in any twenty-four-hour period, i.e., only one parent can take
3 credit for parenting time in one twenty-four-hour period.

4 4. Average Parenting Time.

5 a. If there are multiple children for whom support is
6 being calculated, and the noncustodial parent is
7 spending a different amount of time with each child,
8 then an annual average of parenting time with all of
9 the children shall be calculated.

10 b. A parenting time average shall not include the
11 parenting time of any child residing with each parent
12 fifty percent (50%) of the time. The parenting time
13 adjustment shall be calculated separately for any such
14 fifty-fifty/equal children.

15 B. In cases of split physical custody, both parents are
16 eligible for a parenting time adjustment for a child for whom the
17 parent is the noncustodial parent.

18 C. Parenting time adjustments are not mandatory, but
19 presumptive. The presumption may be rebutted in a case where the
20 circumstances indicate the adjustment is not in the best interest of
21 the child or that the increased parenting time by the noncustodial
22 parent does not result in greater expenditures which should result
23 in a reduction to the noncustodial parent's support obligation.
24

1 D. Reduction in Child Support Obligation for Additional
2 Parenting Time.

3 1. If the noncustodial parent is granted one hundred twenty-one
4 (121) or more days of parenting time per twelve-month period with a
5 child, or an average of one hundred twenty-one (121) days with all
6 applicable children, a reduction to the noncustodial parent's child
7 support obligation may be made as set forth in this section.

8 2. A parenting time adjustment shall be made to the base
9 monthly child support obligation by the following formula: The total
10 combined base monthly child support obligation shall be multiplied
11 by one and one-half (1 1/2). The result shall be designated the
12 adjusted combined child support obligation.

13 3. To determine each parent's adjusted child support
14 obligation, the adjusted combined child support obligation shall be
15 divided between the parents in proportion to their respective
16 adjusted gross incomes.

17 4. a. The percentage of time a child spends with each parent
18 shall be calculated by determining the number of days
19 the child is in the physical custody of each parent
20 and dividing that number by three hundred sixty-five
21 (365).

22 b. Each parent's share of the adjusted combined child
23 support obligation shall then be multiplied by the
24 percentage of time the child spends with the other

1 parent to determine the base child support obligation
2 owed to the other parent.

3 c. The respective adjusted base child support obligations
4 for each parent are then offset, with the parent owing
5 more base child support paying the difference between
6 the two amounts to the other parent. The base child
7 support obligation of the parent owing the lesser
8 amount is then set at Zero Dollars (\$0.00).

9 5. The parent owing the greater amount of base child support
10 shall pay the difference between the two amounts as a child support
11 order.

12 6. Failure to exercise the right to visitation upon which the
13 parenting time adjustment is based is a material change of
14 circumstances.

15 7. If the court finds that the obligor has failed to exercise
16 the number of days necessary to receive the parenting time
17 adjustment for a twelve-month period preceding a motion to modify
18 the child support order, the obligor shall not receive the parenting
19 time adjustment for the next twelve (12) months following the
20 effective date of the modification. After a twelve-month period
21 during which the obligor did not receive the parenting time
22 adjustment, the obligor can petition the court to modify the child
23 support order. The obligor may be granted a prospective parenting
24 time adjustment upon a showing that the obligor has actually

1 exercised the threshold amount of visitation in the preceding twelve
2 (12) months. No retroactive modification or credit from the child
3 support guidelines amount shall be granted based on this section.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 118F of Title 43, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The court shall enter a medical support order in any case in
8 which an ongoing child support order is entered or modified.

9 Medical support, for the purpose of this section, is defined as
10 health insurance, cash medical support, or a combination of both.

11 1. Health insurance includes:

- 12 a. fee for service,
- 13 b. health maintenance organization,
- 14 c. preferred provider organization, and
- 15 d. other types of coverage, including but not limited to,
16 Indian Health Services or Defense Enrollment
17 Eligibility Reporting System (DEERS), which is
18 available to either parent under which medical
19 services could be provided to the dependent children.

20 2. Cash medical support means:

- 21 a. an amount ordered to be paid toward the cost of health
22 coverage provided by a public entity or by a person
23 other than the parents through employment or
24 otherwise, or

1 b. fixed periodic payments for ongoing medical costs.

2 B. In entering a temporary order, the court shall order that
3 any health insurance coverage in effect for the child continue in
4 effect pending the entering of a final order, unless the court finds
5 that the existing health insurance coverage is not reasonable in
6 cost or is not accessible as defined in subsection D of this
7 section. If there is no health insurance coverage in effect for the
8 child or if the insurance in effect is not available at a reasonable
9 cost or is not accessible, the court shall order health care
10 coverage for the child as provided in this subsection, unless the
11 court makes a written finding that good cause exists not to enter a
12 temporary medical support order.

13 C. On entering a final order the court shall:

14 1. Make specific findings with respect to the manner in which
15 health care coverage is to be provided for the child, in accordance
16 with the priorities identified in subsection F of this section; and

17 2. Require the parent ordered to provide health care coverage
18 for the child as provided under this section to produce evidence to
19 the court's satisfaction that the parent has applied for or secured
20 health insurance or has otherwise taken necessary action to provide
21 for health care coverage for the child, as ordered by the court.

22 D. When the court enters a medical support order, the following
23 standards shall be applied:

1 1. Health insurance must be reasonable in cost, which means
2 that the actual premium cost paid by the insured does not exceed
3 five percent (5%) of the gross income of the responsible parent, as
4 defined in Section 3 of this act. To calculate the actual premium
5 cost of the health insurance, the court shall:

6 a. deduct from the total insurance premium the cost of
7 coverage for the parent and any other adults in the
8 household,

9 b. divide the remainder by the number of dependent
10 children being covered, and

11 c. multiply the amount per child by the number of
12 children in the child support case under
13 consideration;

14 2. Health insurance must be accessible:

15 a. Health insurance is considered accessible when there
16 are available providers appropriate to meet the
17 children's primary individual health care needs no
18 more than sixty (60) miles one way from the primary
19 residence of the children.

20 b. If a parent has available health coverage which
21 includes an option that would be accessible to the
22 child, but the parent has not currently enrolled in
23 that option, the court may require the parent to
24

1 change existing coverage to an option that is
2 accessible to the child; and

3 3. The court may exceed these standards by agreement of the
4 parties or for good cause.

5 E. The court shall consider the cost and quality of health
6 insurance coverage available to the parties and shall give priority
7 to health insurance coverage available through the employment of one
8 of the parties if the coverage meets the standards in subsection D
9 of this section. If both parents have coverage available, the court
10 shall give priority to the custodial person's preference.

11 F. In determining the manner in which health care coverage for
12 the child is to be ordered, the court shall enter an order in
13 accordance with the following priorities and subsection D of this
14 section, unless a party shows good cause why a particular order
15 would not be in the best interest of the child:

16 1. If health insurance is available for the child through a
17 parent's employment or membership in a union, trade association, or
18 other organization, the court shall order that parent to enroll the
19 child in the parent's health insurance;

20 2. If health insurance is not available for the child under
21 paragraph 1 of this subsection but is available to a parent from
22 another source, the court may order that parent to provide health
23 insurance for the child;

1 3. If the court finds that neither parent has access to private
2 health insurance at a reasonable cost, the court shall order the
3 parent awarded the exclusive right to designate the child's primary
4 residence or, to the extent permitted by law, the other parent to
5 apply immediately on behalf of the child for participation in a
6 government medical assistance program or health plan. If the child
7 participates in a government medical assistance program or health
8 plan, the court shall order cash medical support under paragraph 4
9 of this subsection, in accordance with rules promulgated by the
10 Oklahoma Health Care Authority and the Department of Human Services;

11 4. Cash Medical Support.

12 a. If health insurance coverage is not available for the
13 child under paragraph 1 or 2 of this subsection, the
14 court shall determine the amount to be treated as the
15 actual monthly medical costs for the child and order
16 the obligor to pay, in addition to the obligor's
17 current child support obligation, an amount as cash
18 medical support for the child.

19 b. The cash medical support order shall not exceed the
20 obligor's pro rata share of the actual monthly medical
21 expenses for the child, or five percent (5%) of the
22 obligor's gross monthly income, whichever is less.

23 c. (1) In determining the actual monthly medical costs
24 for the child, the court shall determine:

1 (a) for children who are participating in a
2 government medical assistance program or
3 health plan, an amount consistent with rules
4 promulgated by the Oklahoma Health Care
5 Authority determining the rates established
6 for the cost of providing medical care
7 through a government medical assistance
8 program or health plan, or

9 (b) for children who are not participating in a
10 government medical assistance program or
11 health plan, an amount consistent with rules
12 promulgated by the Department of Human
13 Services determining the average monthly
14 cost of health care for uninsured children.

15 (2) The court may also consider:

16 (a) proof of past medical expenses incurred by
17 either parent for the child,

18 (b) the current state of the child's health, and

19 (c) any medical conditions of the child that
20 would result in an increased monthly medical
21 cost.

22 G. An order requiring the payment of cash medical support under
23 paragraph 4 of subsection F of this section must allow the obligor
24 to discontinue payment of the cash medical support if:

1 1. Health insurance for the child becomes available to the
2 obligor at a reasonable cost; and

3 2. The obligor:

4 a. enrolls the child in the insurance plan, and

5 b. provides the obligee and, in a Title IV-D case, the
6 Title IV-D agency, the information required under
7 paragraph 2 of subsection C of this section.

8 H. 1. The actual health insurance premium for the child shall
9 be allocated between the parents in the same proportion as their
10 adjusted gross income and shall be added to the base child support
11 obligation.

12 2. If the obligor pays the health insurance premium, the
13 obligor shall receive credit against the base child support
14 obligation for the obligee's allocated share of the health insurance
15 premium.

16 3. If the obligee pays the health insurance premium, the
17 obligor shall pay the obligor's allocated share of the health
18 insurance premium to the obligee as part of in addition to the base
19 child support obligation.

20 4. The parent providing the health insurance coverage shall
21 furnish to the other parent and to the Child Support Enforcement
22 Division of the Department of Human Services, if services are being
23 provided pursuant to Title IV, Part D of the Social Security Act, 42
24 U.S.C., Section 601 et seq., with timely written documentation of

1 any change in the amount of the health insurance cost premium,
2 carrier, or benefits within thirty (30) days of the date of the
3 change. Upon receiving timely notification of the change of cost,
4 the other parent is responsible for his or her percentage share of
5 the changed cost of the health insurance. If the court finds that
6 the obligor has underpaid child support due to changes in the cost
7 of health insurance, the amount of underpayment may be established
8 by the court and enforced in the same manner as any other delinquent
9 child support debt. If the court finds that the obligor has
10 overpaid due to changes in health insurance coverage cost, the
11 overpayment shall be satisfied:

12 a. by offset against any past due child support owed to
13 the obligee, or

14 b. by adjustment to the future child support amount over
15 a thirty-six-month period.

16 I. Reasonable and necessary medical, dental, orthodontic,
17 optometric, psychological, or any other physical or mental health
18 expenses of the child incurred by either parent and not reimbursed
19 by insurance or included in a cash medical support order pursuant to
20 paragraph 4 of subsection F of this section may be allocated in the
21 same proportion as the parents' adjusted gross income as separate
22 items that are not added to the base child support obligation. If
23 reimbursement is required, the parent who incurs the expense shall
24 provide the other parent with proof of the expense within forty-five

1 (45) days of receiving the Explanation of Benefits from the
2 insurance provider or other proof of the expense if the expense is
3 not covered by insurance. The parent responsible for reimbursement
4 shall pay his or her portion of the expense within forty-five (45)
5 days of receipt of documentation of the expense.

6 J. In addition to any other sanctions provided by the court, a
7 parent incurring uninsured dependent health expenses or increased
8 insurance premiums may be denied the right to receive credit or
9 reimbursement for the expense or increased premium if that parent
10 fails to comply with subsections H and I of this section.

11 K. The parent desiring an adjustment to the ongoing child
12 support order pursuant to a change in the amount of dependent health
13 insurance premium shall initiate a review of the order in accordance
14 with Section 10 of this act.

15 SECTION 8. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 118G of Title 43, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The district or administrative court shall determine the
19 "actual" child care expenses reasonably necessary to enable either
20 or both parents to:

- 21 1. Be employed;
- 22 2. Seek employment; or
- 23 3. Attend school or training to enhance employment income.

24

1 B. When the obligee is participating in the Department of Human
2 Services child care subsidy program as provided under Section 230.50
3 of Title 56 of the Oklahoma Statutes, the Child Care
4 Eligibility/Rates Schedule established by the Department shall be
5 used to determine the amount to be treated as actual child care
6 costs incurred. When applying the schedule to determine the family
7 share co-payment amount, the obligor's share of the base monthly
8 obligation for child support and the obligee's gross income shall be
9 considered as the obligee's monthly income. The actual child care
10 costs incurred shall be the family share co-payment amount indicated
11 on the schedule which shall be allocated and paid monthly in the
12 same proportion as base child support. The Department of Human
13 Services shall promulgate rules, as necessary, to implement the
14 provisions of this section.

15 C. The actual child care costs incurred for the purposes
16 authorized by this section shall be allocated and added to the base
17 child support order, and shall be part of the final child support
18 order.

19 D. The district or administrative court shall require the
20 obligee to provide the obligor with timely documentation of any
21 change in the amount of the child care costs. Upon request by the
22 obligor, whose requests shall not exceed one each month, or upon
23 order of the court, the obligee shall provide the documentation of
24 the amount of incurred child care costs which are related to

1 employment, employment search or education or training as authorized
2 by this section.

3 E. If the court determines that it will not cause detriment to
4 the child or will not cause undue hardship to either parent, in lieu
5 of payment of child care expenses incurred during employment,
6 employment search, or while the obligee is attending school or
7 training, the obligor may provide care for the child during that
8 time.

9 SECTION 9. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 118H of Title 43, unless there
11 is created a duplication in numbering, reads as follows:

12 A. When the current monthly child support obligation exceeds
13 the highest amount shown on the Child Support Guidelines Schedule in
14 Section 119 of Title 43 of the Oklahoma Statutes, an obligee seeking
15 support in excess of the schedule amount must prove by a
16 preponderance of the evidence that more than this amount is
17 reasonably necessary to provide for the needs of the child.

18 B. Application of Statutory Threshold to Child Support
19 Determination.

20 1. If the child support order calculated under these rules
21 exceeds the amount specified above for the number of children for
22 whom support is being calculated, then the amount of the child
23 support order shall be limited to the amount specified above for the
24

1 number of children for whom support is being calculated, absent the
2 rebuttal provided for in subsection A of this section.

3 2. If the obligee proves the need for support in excess of the
4 amount provided for in paragraph 1 of this subsection, the court
5 shall add an appropriate amount to the child support obligation of
6 the obligor as a deviation.

7 3. The court may require that sums paid pursuant to this
8 section be placed in an educational or other trust fund for the
9 benefit of the child.

10 SECTION 10. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 118I of Title 43, unless there
12 is created a duplication in numbering, reads as follows:

13 A. 1. Child support orders may be modified upon a material
14 change in circumstances which includes, but is not limited to, an
15 increase or decrease in income, changes in actual child care
16 expenses, changes in medical or dental insurance, or when one of the
17 children in the child support order reaches the age of majority or
18 otherwise ceases to be entitled to support pursuant to the support
19 order.

20 2. Modification of the Child Support Guideline Schedule shall
21 not alone be a material change in circumstances for child support
22 orders in existence on November 1, 2008.

23 3. An order of modification shall be effective upon the date
24 the motion to modify was filed, unless the parties agree to the

1 contrary or the court makes a specific finding of fact that the
2 material change of circumstance did not occur until a later date.

3 B. 1. A child support order shall not be modified
4 retroactively regardless of whether support was ordered in a
5 temporary order, a decree of divorce, an order establishing
6 paternity, modification of an order of support, or other action to
7 establish or to enforce support.

8 2. All final orders shall state whether past due support and
9 interest has accrued pursuant to any temporary order and the amount
10 due, if any; however, failure to state a past due amount shall not
11 bar collection of that amount after entry of the final support
12 order.

13 C. The amount of a child support order shall not be construed
14 to be an amount per child unless specified by the district or
15 administrative court in the order. A child reaching the age of
16 majority or otherwise ceasing to be entitled to support pursuant to
17 the support order shall constitute a material change in
18 circumstances, but shall not automatically serve to modify the
19 order.

20 D. 1. When a child support order is entered or modified, the
21 parents may agree or the district or administrative court may
22 require a periodic exchange of information for an informal review
23 and adjustment process.

24

1 2. When an existing child support order does not contain a
2 provision which requires an informal review and adjustment process,
3 either parent may request the other parent to provide the
4 information necessary for the informal review and adjustment
5 process. Information shall be provided to the requesting parent
6 within forty-five (45) days of the request.

7 3. Requested information may include verification of income,
8 proof and cost of children's medical insurance, and current and
9 projected child care costs. If shared parenting time has been
10 awarded by the court, documentation of past and prospective
11 overnight visits shall be exchanged.

12 4. Exchange of requested information may occur once a year or
13 less often, by regular mail.

14 5. a. If the parents agree to a modification of a child
15 support order, their agreement shall be in writing
16 using standard modification forms and the child
17 support computation form provided for in Section 120
18 of Title 43 of the Oklahoma Statutes.

19 b. The standard modification forms and the standard child
20 support computation form shall be submitted to the
21 district or administrative court. The court shall
22 review the modification forms to confirm that the
23 child support obligation complies with the child
24 support guidelines and that all necessary parties

1 pursuant to Section 112 of Title 43 of the Oklahoma
2 Statutes have been notified. If the court approves
3 the modification forms, they shall be filed with the
4 court.

5 6. If the district court does not approve the parents' agreed
6 modification order or the parents do not agree to a modification of
7 the child support order, a parent may request a modification through
8 the Department of Human Services Child Support Enforcement Division,
9 hereinafter referred to as the "Department", when the child support
10 services are being provided under the state child support plan as
11 provided in Section 237 of Title 56 of the Oklahoma Statutes. If
12 the parent does not have an open case with the Department, the
13 parent shall make application for services and complete a request
14 for review.

15 SECTION 11. AMENDATORY 43 O.S. 2001, Section 134, is
16 amended to read as follows:

17 Section 134. A. In any divorce decree which provides for
18 periodic alimony payments, the court shall plainly state, at the
19 time of entering the original decree, the dollar amount of all or a
20 portion of each payment which is designated as support and the
21 dollar amount of all or a portion of the payment which is a payment
22 pertaining to a division of property. The court shall specify in
23 the decree that the payments pertaining to a division of property
24 shall continue until completed. Payments pertaining to a division

1 of property are irrevocable and not subject to subsequent
2 modification by the court making the award. An order for the
3 payment of money pursuant to a divorce decree, whether designated as
4 support or designated as pertaining to a division of property shall
5 not be a lien against the real property of the person ordered to
6 make such payments unless the court order specifically provides for
7 a lien on real property. An arrearage in payments of support
8 reduced to a judgment may be a lien against the real property of the
9 person ordered to make such payments.

10 B. The court shall also provide in the divorce decree that upon
11 the death or remarriage of the recipient, the payments for support,
12 if not already accrued, shall terminate. The court shall order the
13 judgment for the payment of support to be terminated, and the lien
14 released upon the presentation of proper proof of death of the
15 recipient unless a proper claim is made for any amount of past-due
16 support payments by an executor, administrator, or heir within
17 ninety (90) days from the date of death of the recipient. Upon
18 proper application the court shall order payment of support
19 terminated and the lien discharged after remarriage of the
20 recipient, unless the recipient can make a proper showing that some
21 amount of support is still needed and that circumstances have not
22 rendered payment of the same inequitable, provided the recipient
23 commences an action for such determination, within ninety (90) days
24 of the date of such remarriage.

1 C. The voluntary cohabitation of a former spouse with a member
2 of the opposite sex shall be a ground to modify provisions of a
3 final judgment or order for alimony as support. If voluntary
4 cohabitation is alleged in a motion to modify the payment of
5 support, the court shall have jurisdiction to reduce or terminate
6 future support payments upon proof of substantial change of
7 circumstances of either party to the divorce relating to need for
8 support or ability to support. As used in this subsection, the term
9 cohabitation means the dwelling together continuously and habitually
10 of a man and a woman who are in a private conjugal relationship not
11 solemnized as a marriage according to law, or not necessarily
12 meeting all the standards of a common-law marriage. The petitioner
13 shall make application for modification and shall follow
14 notification procedures used in other divorce decree modification
15 actions. The court that entered the divorce decree shall have
16 jurisdiction over the modification application.

17 D. Except as otherwise provided in subsection C of this
18 section, the provisions of any divorce decree pertaining to the
19 payment of alimony as support may be modified upon proof of changed
20 circumstances relating to the need for support or ability to support
21 which are substantial and continuing so as to make the terms of the
22 decree unreasonable to either party. Modification by the court of
23 any divorce decree pertaining to the payment of alimony as support,
24 pursuant to the provisions of this subsection, may extend to the

1 terms of the payments and to the total amount awarded; provided
2 however, such modification shall only have prospective application.

3 E. Pursuant to the federal Uniformed Services Former ~~Spouse's~~
4 Spouses' Protection Act (PL 97-252), the, 10 U.S.C., Section 1408, a
5 court may treat disposable retired or retainer pay payable to a
6 military member either as property solely of the member or as
7 property of the member and the spouse of the member. If a state
8 court determines that the disposable retired or retainer pay of a
9 military member is marital property, the court shall award an amount
10 consistent with the rank, pay grade, and time of service of the
11 member at the time of separation.

12 F. The provisions of subsection D of this section shall have
13 retrospective and prospective application with regards to
14 modifications for the purpose of obtaining support or payments
15 pertaining to a division of property on divorce decrees which become
16 final after June 26, 1981. There shall be a two-year statute of
17 limitations, beginning on the date of the final divorce decree, for
18 a party to apply for division of disposable retired or retainer pay.

19 ~~F.~~ G. The provisions of subsections C and D of this section
20 shall have retrospective and prospective application with regards to
21 modifications of the provisions of a final judgment or order for
22 alimony as support, or of a divorce decree pertaining to the payment
23 of alimony as support, regardless of the date that the order,
24 judgment, or decree was entered.

1 SECTION 12. AMENDATORY 21 O.S. 2001, Section 566, as
2 last amended by Section 1, Chapter 140, O.S.L. 2007 (21 O.S. Supp.
3 2007, Section 566), is amended to read as follows:

4 Section 566. A. Unless otherwise provided for by law,
5 punishment for direct or indirect contempt shall be by the
6 imposition of a fine in a sum not exceeding Five Hundred Dollars
7 (\$500.00) or by imprisonment in the county jail not exceeding six
8 (6) months, or by both, at the discretion of the court.

9 B. ~~1. In the case of indirect contempt for the failure to~~
10 ~~comply with an order for child support, child support arrears, other~~
11 ~~support, visitation, or other court orders regarding minor children~~
12 ~~the Supreme Court shall promulgate guidelines for determination of~~
13 ~~the sentence and purge fee. If the court fails to follow said~~
14 ~~guidelines, the court shall make a specific finding stating the~~
15 ~~reasons why the imposition of the guidelines would result in~~
16 ~~inequity. The factors that shall be used in determining the~~
17 ~~sentence and purge fee are:~~

18 a. ~~the proportion of the child support, child support~~
19 ~~arrearage payments, or other support that was unpaid~~
20 ~~in relation to the amount of support that was ordered~~
21 ~~paid,~~

22 b. ~~the proportion of the child support, child support~~
23 ~~arrearage payments, or other support that could have~~
24

- 1 ~~been paid by the party found in contempt in relation~~
2 ~~to the amount of support that was ordered paid,~~
3 ~~e. the present capacity of the party found in contempt to~~
4 ~~pay any arrearages,~~
5 ~~d. any willful actions taken by the party found in~~
6 ~~contempt to reduce factor e,~~
7 ~~e. the past history of compliance or noncompliance with~~
8 ~~the support or visitation order, and~~
9 ~~f. willful acts to avoid the jurisdiction of the court.~~

10 ~~2. When a court of competent jurisdiction makes an order~~
11 ~~compelling a parent to furnish monetary support, necessary food,~~
12 ~~clothing, shelter, medical attention, medical insurance or other~~
13 ~~remedial care for the minor child of the parent:~~

14 ~~a. proof that:~~

15 ~~(1) the order was made, filed, and served on the~~
16 ~~parent, or~~

17 ~~(2) the parent had actual knowledge of the existence~~
18 ~~of the order, or~~

19 ~~(3) the order was granted by default after prior due~~
20 ~~process notice to the parent, or~~

21 ~~(4) the parent was present in court at the time the~~
22 ~~order was pronounced, and~~

23 ~~b. proof of noncompliance with the order,~~
24

1 ~~shall be prima facie evidence of an indirect civil contempt of~~
2 ~~court.~~

3 C. Any court in this state has the power to enforce an order
4 for current child support, past due child support and child support
5 arrearage payments, other support, visitation, or other court orders
6 regarding minor children and to punish an individual for failure to
7 comply therewith, as set forth in subsection A of this section.

8 Venue for an action under this section is proper, at the option of
9 the ~~obligee~~ petitioner:

10 1. In the county in this state in which the support order was
11 entered, docketed or registered;

12 2. In the county in this state in which the obligee resides; or

13 3. In the county in this state in which the obligor resides or
14 receives income.

15 Orders for current child support, past due child support and
16 child support arrearage payments are enforceable until paid in full.
17 The remedies provided by this section are available regardless of
18 the age of the child.

19 SECTION 13. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 566.1 of Title 21, unless there
21 is created a duplication in numbering, reads as follows:

22 A. When a court of competent jurisdiction has entered an order
23 compelling a parent to furnish child support, necessary food,
24

1 clothing, shelter, medical support, payment of child care expenses,
2 or other remedial care for the minor child of the parent:

3 1. Proof that:

4 a. the order was made, filed, and served on the parent,

5 b. the parent had actual knowledge of the existence of
6 the order,

7 c. the order was granted by default after prior due
8 process notice to the parent, or

9 d. the parent was present in court at the time the order
10 was pronounced; and

11 2. Proof of noncompliance with the order,

12 shall be prima facie evidence of an indirect civil contempt of
13 court.

14 B. 1. In the case of indirect contempt for the failure to
15 comply with an order for child support, child support arrears, or
16 other support, punishment shall be, at the discretion of the court:

17 a. incarceration in the county jail not exceeding six (6)
18 months, or

19 b. incarceration in the county jail on weekends or at
20 other times that allow the obligor to be employed,
21 seek employment or engage in other activities ordered
22 by the court.

23 2. Punishment may also include imposition of a fine in a sum
24 not exceeding Five Hundred Dollars (\$500.00).

1 C. 1. During proceedings for indirect contempt of court, the
2 court may order the obligor to complete an alternative program and
3 comply with a payment plan for child support and arrears. If the
4 obligor fails to complete the alternative program and comply with
5 the payment plan, the court shall proceed with the indirect contempt
6 and shall impose punishment pursuant to subsection B of this
7 section.

8 2. An alternative program may include:

9 a. a problem-solving court program for obligors when
10 child support services under the state child support
11 plan as provided in Section 237 of Title 56 of the
12 Oklahoma Statutes are being provided for the benefit
13 of the child. A problem-solving court program is an
14 immediate and highly structured judicial intervention
15 process for the obligor and requires completion of a
16 participation agreement by the obligor and monitoring
17 by the court. A problem-solving court program differs
18 in practice and design from the traditional
19 adversarial contempt prosecution and trial systems.
20 The problem-solving court program uses a team approach
21 administered by the judge in cooperation with a child
22 support state's attorney and a child support court
23 liaison who focuses on removing the obstacles causing
24 the nonpayment of the obligor. The obligors in this

1 program shall be required to sign an agreement to
2 participate in this program as a condition of the
3 Department of Human Services agreement to stay
4 contempt proceedings or in lieu of incarceration after
5 a finding of guilt. The court liaisons assess the
6 needs of the obligor, develop a community referral
7 network, make referrals, monitor the compliance of the
8 obligor in the program, and provide status reports to
9 the court, and

10 b. participation in programs such as counseling,
11 treatment, educational training, social skills
12 training or employment training to which the obligor
13 reports daily or on a regular basis at specified times
14 for a specified length of time.

15 D. In the case of indirect contempt for the failure to comply
16 with an order for child support, child support arrears, or other
17 support, the Supreme Court shall promulgate guidelines for
18 determination of the sentence and purge fee. If the court fails to
19 follow the guidelines, the court shall make a specific finding
20 stating the reasons why the imposition of the guidelines would
21 result in inequity. The factors that shall be used in determining
22 the sentence and purge fee are:

1 1. The proportion of the child support, child support arrearage
2 payments, or other support that was unpaid in relation to the amount
3 of support that was ordered paid;

4 2. The proportion of the child support, child support arrearage
5 payments, or other support that could have been paid by the party
6 found in contempt in relation to the amount of support that was
7 ordered paid;

8 3. The present capacity of the party found in contempt to pay
9 any arrearages;

10 4. Any willful actions taken by the party found in contempt to
11 reduce the capacity of that party to pay any arrearages;

12 5. The past history of compliance or noncompliance with the
13 support order; and

14 6. Willful acts to avoid the jurisdiction of the court.

15 SECTION 14. AMENDATORY 21 O.S. 2001, Section 852, as
16 amended by Section 1, Chapter 219, O.S.L. 2006 (21 O.S. Supp. 2007,
17 Section 852), is amended to read as follows:

18 Section 852. A. Unless otherwise provided for by law, any
19 parent, guardian, or person having custody or control of a child as
20 defined in Section 7001-1.3 of Title 10 of the Oklahoma Statutes who
21 willfully omits, without lawful excuse, to furnish necessary food,
22 clothing, shelter, monetary child support, medical attendance,
23 payment of court-ordered day care or payment of court-ordered
24 medical insurance costs for such child which is imposed by law, upon

1 conviction, is guilty of a misdemeanor; provided, any person
2 obligated to make child support payments who willfully and without
3 lawful excuse becomes delinquent in said child support payments
4 after September 1, 1993, and such delinquent child support accrues
5 without payment by the obligor for a period of one (1) year, or
6 exceeds Five Thousand Dollars (\$5,000.00) shall, upon conviction
7 thereof, be guilty of a felony which is punishable in the same
8 manner as any subsequent conviction pursuant to the provisions of
9 this section. Any subsequent conviction pursuant to this section
10 shall be a felony, punishable by imprisonment for not more than four
11 (4) years in the ~~State Penitentiary~~ custody of the Department of
12 Corrections or by the imposition of a fine of not more than Five
13 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.
14 As used in this section, the duty to furnish medical attendance
15 shall mean that the parent or person having custody or control of a
16 child must furnish medical treatment in such manner and on such
17 occasions as an ordinarily prudent person, solicitous for the
18 welfare of a child, would provide; such parent or person having
19 custody or control of a child is not criminally liable for failure
20 to furnish medical attendance for every minor or trivial complaint
21 with which the child may be afflicted.

22 B. Any person who leaves the state to avoid providing necessary
23 food, clothing, shelter, court-ordered monetary child support, or
24 medical attendance for such child, upon conviction, shall be guilty

1 of a felony punishable by imprisonment for not more than four (4)
2 years in the ~~State Penitentiary~~ custody of the Department of
3 Corrections or by the imposition of a fine of not more than Five
4 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

5 C. Nothing in this section shall be construed to mean a child
6 is endangered for the sole reason the parent, guardian or person
7 having custody or control of a child, in good faith, selects and
8 depends upon spiritual means alone through prayer, in accordance
9 with the tenets and practice of a recognized church or religious
10 denomination, for the treatment or cure of disease or remedial care
11 of such child; provided, that medical care shall be provided where
12 permanent physical damage could result to such child; and that the
13 laws, rules, and regulations relating to communicable diseases and
14 sanitary matters are not violated.

15 D. Nothing contained in this section shall prevent a court from
16 immediately assuming custody of a child and ordering whatever action
17 may be necessary, including medical treatment, to protect the
18 ~~child's~~ health or welfare of the child.

19 E. Psychiatric and psychological testing and counseling are
20 exempt from the provisions of this section.

21 F. If any parent of a child in cases in which the Department of
22 Human Services is providing services pursuant to Section 237 of
23 Title 56 of the Oklahoma Statutes is determined by the Department to
24 be willfully violating the provisions of this section, the

1 Department may refer the case to the proper district attorney for
2 prosecution. The Department shall provide assistance to the
3 district attorneys in such prosecutions. Any child support or
4 arrears payments made pursuant to this section shall be made payable
5 to the Department and paid through the Centralized Support Registry
6 pursuant to Section 413 of Title 43 of the Oklahoma Statutes.

7 G. Except for a third or subsequent conviction, all felony
8 convictions herein shall be administered under the provisions of the
9 Community Sentencing Act.

10 ~~G.~~ H. It is the duty of any parent having legal custody of a
11 child who is an alcohol-dependent person or a drug-dependent person,
12 as such terms are defined by Section 3-403 of Title 43A of the
13 Oklahoma Statutes, to provide for the treatment, as such term is
14 defined by Section 3-403 of Title 43A of the Oklahoma Statutes, of
15 such child. Any parent having legal custody of a child who is an
16 alcohol-dependent person or a drug-dependent person who without
17 having made a reasonable effort fails or willfully omits to provide
18 for the treatment of such child shall be guilty of a misdemeanor.
19 For the purpose of this subsection, the duty to provide for such
20 treatment shall mean that the parent having legal custody of a child
21 must provide for the treatment in such manner and on such occasions
22 as an ordinarily prudent person, solicitous for the welfare of a
23 child, would provide.

24

1 ~~H.~~ I. Venue is proper in prosecutions for violations of this
2 section in:

- 3 1. Any county where the child resides;
- 4 2. The county in which the court-ordered support was entered or
5 registered pursuant to the provisions of the Uniform Interstate
6 Family Support Act; or
- 7 3. The county in which the defendant resides.

8 SECTION 15. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 140 of Title 43, unless there is
10 created a duplication in numbering, reads as follows:

11 A. In cases in which child support services under the state
12 child support plan as provided in Section 237 of Title 56 of the
13 Oklahoma Statutes are being provided for the benefit of the child,
14 the administrative or district court may order the obligor to
15 participate in the problem-solving court program of the Department
16 of Human Services. The problem-solving court program is an
17 immediate and highly structured judicial intervention process for
18 the obligor and requires completion of a participation agreement by
19 the obligor and monitoring by the court. A problem-solving court
20 program differs in practice and design from the traditional
21 adversarial prosecution and trial systems. The problem-solving
22 court program uses a team approach administered by the judge in
23 cooperation with a child support state's attorney and a child
24 support court liaison who focuses on removing the obstacles causing

1 the nonpayment of the obligor. The obligors in this program shall
2 be required to sign an agreement to participate in this program.
3 The court liaisons assess the needs of the obligor, develop a
4 community referral network, make referrals, monitor the compliance
5 of the obligor in the program, and provide status reports to the
6 court.

7 B. Participation in the problem-solving court program shall not
8 act as a stay of federally mandated automated enforcement remedies.
9 The child support obligation of the obligor shall not be suspended
10 or abated during participation in the program.

11 SECTION 16. AMENDATORY 56 O.S. 2001, Section 233, is
12 amended to read as follows:

13 Section 233. A. ~~The Department of Human Services shall have~~
14 ~~authority to investigate and ascertain the reasons why parents of~~
15 ~~children for whom the Department is making payments in its program~~
16 ~~for Aid to Families with Dependent Children are not providing for~~
17 ~~the maintenance and support of their children.~~

18 B. ~~1.~~ If any parent of a child is determined by the Department
19 of Human Services to be willfully violating the provisions of
20 Section 852 of Title 21 of the Oklahoma Statutes ~~by not providing~~
21 ~~for the maintenance and support of the child and the amount of the~~
22 ~~child support delinquency accrues for more than one (1) year or~~
23 ~~exceeds Five Thousand Dollars (\$5,000.00), the Department shall~~
24 ~~notify~~ may refer the case to the proper district attorney ~~of the~~

1 ~~names of pertinent witnesses and information gained from the~~
2 ~~investigation for prosecution.~~

3 ~~2. Complaints necessary to institute prosecutions against such~~
4 ~~parents may be made by the Department's investigators.~~

5 ~~B. The Department shall provide legal assistance to the~~
6 ~~district attorneys in such prosecutions.~~

7 ~~C. A parent of a child for whom the Department is making~~
8 ~~payments in its program for Aid to Families with Dependent Children~~
9 ~~who willfully fails or refuses to accept employment when employment~~
10 ~~is available shall be deemed to have failed to provide for the child~~
11 ~~and upon conviction thereof shall be punished as provided by~~
12 ~~subsection E of this section or pursuant to Section 852 of Title 21~~
13 ~~of the Oklahoma Statutes.~~

14 ~~D. A parent omitting to provide for the maintenance and support~~
15 ~~of a child shall be afforded an opportunity to report to the~~
16 ~~Department for training or assistance in finding employment without~~
17 ~~referral for prosecution on the condition that the parent provide~~
18 ~~for such maintenance and support.~~

19 ~~E. If a parent is convicted pursuant to subsection A of this~~
20 ~~section it shall be mandatory that the punishment of the parent~~
21 ~~shall include imprisonment in the county jail for not more than~~
22 ~~ninety (90) days; provided, that the parent may be released on~~
23 ~~probation, subject to supervision of the Department, on condition~~
24 ~~that the parent register with the Oklahoma Employment Security~~

1 ~~Commission and obtain or accept employment or training that will~~
2 ~~enable the parent to provide for the support and maintenance of the~~
3 ~~parent's child or children.~~

4 ~~F. These provisions shall not apply to an only parent, caring~~
5 ~~for the child or children in the home, when day care services are~~
6 ~~not available or when it is unreasonable to place the child or~~
7 ~~children in day care services.~~

8 SECTION 17. AMENDATORY 56 O.S. 2001, Section 240.10, is
9 amended to read as follows:

10 Section 240.10 A. ~~Anyone who is ordered to pay support for a~~
11 ~~child in an administrative or court action, hereinafter referred to~~
12 ~~as "obligor", is required by law to obtain and maintain gainful~~
13 ~~employment sufficient to meet the support obligation.~~

14 ~~B. The Department, when support rights have been assigned to it~~
15 ~~or proper application made by an individual not receiving Aid to~~
16 ~~Families with Dependent Children, When child support services are~~
17 ~~being provided for the benefit of the child under the state child~~
18 ~~support plan as provided in Section 237 of this title, the~~
19 ~~Department may initiate an administrative or district court action~~
20 ~~to obtain an order to require an unemployed or underemployed obligor~~
21 ~~to participate in counseling, treatment, educational training,~~
22 ~~social skills training, employment training or job-finding or job-~~
23 ~~training programs, or the problem-solving court program under~~
24 ~~Section 14 of this act. "Underemployed" is defined as being~~

1 employed less than full-time or in an occupation which pays less
2 than employment which someone ~~of obligor's~~ with the skills and
3 education of the obligor could be reasonably expected to earn, so
4 that the obligor cannot meet his support obligation. The Department
5 shall give notice of this requirement to the obligor who is not
6 complying with a district or administrative court ~~or administrative~~
7 order for support and ~~who~~ whom the Department has reason to believe
8 is unemployed or underemployed. ~~Said~~ The notice shall be served by
9 the Department upon the obligor ~~in the same manner prescribed for~~
10 ~~service of summons in a civil action~~ as provided in Section 2005 of
11 Title 12 of the Oklahoma Statutes, or if there is an address of
12 record on file with the central case registry pursuant to Section
13 112A of Title 43 of the Oklahoma Statutes, the notice may be served
14 by regular mail at the address of record.

15 B. The notice shall state:

16 1. The name of the child for whom support is ordered and the
17 custodian of the child;

18 2. That the obligor is not complying with the district or
19 administrative court ~~or administrative~~ order for support and is
20 delinquent in a certain amount;

21 3. That it appears that the obligor is unemployed or
22 underemployed so that ~~he~~ the obligor cannot meet ~~his~~ the support
23 obligation;

24

1 4. That the obligor shall appear ~~for a conference in his county~~
2 ~~of residence~~ on a date certain for a hearing to show cause why he
3 the obligor should not be ordered to participate in counseling,
4 treatment, educational training, social skills training, employment
5 training or job-finding or job-training programs or the problem-
6 solving court program, and to accept available employment; and

7 5. That if it is determined that the obligor is unemployed or
8 underemployed or if the obligor fails to appear, an order will be
9 entered which will require the obligor to participate in counseling,
10 treatment, educational training, social skills training, employment
11 training or job-finding and job-training programs or the problem-
12 solving court program and to accept available employment ~~and that~~
13 ~~such order may be docketed with the district court in the county of~~
14 ~~residence of the obligor and shall be enforced as any other order of~~
15 ~~the district court by indirect civil contempt proceedings.~~

16 C. 1. At the ~~conference hearing,~~ or if the obligor fails to
17 appear for the hearing, the ~~Department~~ court shall ~~determine~~ enter
18 an order determining if the obligor is unemployed ~~or is,~~
19 underemployed or in need of services as described in subsection C of
20 this section.

21 2. ~~If it is determined that the obligor is unemployed or~~
22 ~~underemployed,~~ ~~the Department shall enter an order setting~~ the court
23 finds the obligor is in need of services as described in this
24 subsection, the order shall set forth the Department's findings of

1 the court and ~~requiring~~ require that the obligor ~~shall~~ participate
2 in counseling, treatment, educational training, social skills
3 training, employment training or job-finding or ~~job training~~
4 programs or the problem-solving court program, and accept available
5 employment. The order shall state when the obligor shall report and
6 to what location. The

7 3. An administrative order may be docketed with the district
8 court ~~in the obligor's county of residence~~ and shall be enforced in
9 the same manner as any other order of the district court ~~by,~~
10 including indirect civil contempt proceedings. A copy of the order
11 will be mailed by the Department to the ~~obligor's~~ last-known address
12 of the obligor.

13 D. ~~If the obligor fails to appear for the conference, the~~
14 ~~Department shall enter an administrative order requiring that the~~
15 ~~obligor report to the Department to participate in job-finding or~~
16 ~~job training programs and accept available employment. The order~~
17 ~~shall state when and where the obligor is to report to participate~~
18 ~~in said programs. The order may be docketed with the district court~~
19 ~~in the county of residence of the obligor and shall be enforced as~~
20 ~~any other order of the district court by indirect civil contempt~~
21 ~~proceedings. A copy of the order will be mailed by the Department~~
22 ~~to the obligor's last known address.~~

23 E. The obligor may show good cause why an administrative order
24 should not be entered requiring ~~him~~ the obligor to participate in

1 counseling, treatment, educational training, social skills training,
2 employment training or job-finding or job training programs or the
3 problem-solving court program and accept available employment.

4 "Good cause" is defined as establishing by expert medical opinion
5 that the person is mentally or physically unable to work or such
6 other grounds as the Department determines by regulation constitutes
7 good cause.

8 ~~F. If the obligor feels aggrieved by the findings and order of~~
9 ~~the Department, the obligor may appeal the decision of the~~
10 ~~Department by filing a petition in error in the district court of~~
11 ~~the county of residence of the obligor within thirty (30) days of~~
12 ~~the date the obligor is notified of the order, pursuant to the~~
13 ~~provisions of Sections 318 through 323 of Title 75 of the Oklahoma~~
14 ~~Statutes.~~

15 SECTION 18. AMENDATORY 30 O.S. 2001, Section 2-108, is
16 amended to read as follows:

17 Section 2-108. A. If any minor, having a parent or parents
18 living, has property, the income of which is sufficient for his
19 maintenance and education in a manner more expensive than such
20 parent or parents can reasonably afford, regard being had to all of
21 the circumstances of the case, the expenses of the education and
22 maintenance of such minor may be defrayed out of the income of the
23 property of the minor in whole or in part, as judged reasonable and
24 as directed by the court. The charges ~~therefore~~ therefor may be

1 allowed accordingly in the settlement of the accounts of the
2 guardian of the minor.

3 B. Except as provided in subsection A of this section:

4 1. Any order appointing a guardian of the minor who has a
5 living parent ~~living~~ or other person legally responsible for the
6 support of the child shall:

7 a. provide for the payment of child support by ~~the~~ each
8 parent or other responsible party pursuant to the
9 Oklahoma child support guidelines as set forth in
10 Sections 118 and 119 of Title 43 of the Oklahoma
11 Statutes. Each parent, including parents who reside
12 together, shall be individually ordered to pay the
13 percentage of the total monthly child support
14 obligation attributable to that parent, and

15 b. contain an immediate income assignment provision
16 pursuant to Section 115 of Title 43 of the Oklahoma
17 Statutes-;

18 2. ~~The provisions of this subsection shall not apply to parents~~
19 ~~whose rights and responsibilities have been terminated to the child~~
20 ~~unless the termination order requires payment of child support.~~

21 court may defer the issue of establishment or enforcement of child
22 support to the appropriate administrative or district court when
23 child support services are being provided pursuant to the state

24

1 child support plan as provided in Section 237 of Title 56 of the
2 Oklahoma Statutes; and

3 3. Any guardianship or conservatorship for a minor created on
4 or after December 1, 2000, shall comply with the provisions of this
5 subsection. Guardianships or conservatorships for a minor in
6 existence prior to December 1, 2000, shall comply with the
7 provisions of this subsection as ordered by the court.

8 C. In any guardianship in which provision is made for the
9 custody or support of a minor child or enforcement of an existing
10 custody or support order or before hearing the matter or signing any
11 orders, the court shall inquire whether public assistance money or
12 medical support has been provided through the Department of Human
13 Services, hereafter referred to as the Department, for the benefit
14 of each child, or whether the Department is providing child support
15 services pursuant to the state child support plan as provided in
16 Section 237 of Title 56 of the Oklahoma Statutes. If public
17 assistance money, medical support, or child support services have
18 been provided for the benefit of the child, the Department shall be
19 a necessary party for the adjudication of the debt due to the state,
20 as defined in Section 238 of Title 56 of the Oklahoma Statutes, and
21 for the adjudication of paternity, child support, and medical
22 insurance coverage for the minor children in accordance with federal
23 regulations. When a guardianship action is filed, the petitioner
24 shall give the Department notice of the action according to Section

1 2004 of Title 12 of the Oklahoma Statutes. The Department shall not
2 be required to intervene in the action to have standing to appear
3 and participate in the action. When the Department is a necessary
4 party to the action, any orders concerning paternity, child support,
5 medical support, or the debt due to the state shall be approved and
6 signed by the Department.

7 SECTION 19. REPEALER 56 O.S. 2001, Section 233.1, is
8 hereby repealed.

9 SECTION 20. This act shall become effective November 1, 2008."
10 Passed the House of Representatives the 15th day of April, 2008.

11
12
13 _____
14 Presiding Officer of the House of
Representatives

15 Passed the Senate the ____ day of _____, 2008.

16
17
18 _____
19 Presiding Officer of the Senate