

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 2194

By: Williamson of the Senate

and

Duncan of the House

6  
7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to marriage and family; amending 43  
11 O.S. 2001, Section 118, as last amended by Section  
12 25, Chapter 1, O.S.L. 2007 (43 O.S. Supp. 2007,  
13 Section 118), which relates to the child support  
14 guidelines; modifying guidelines; excluding certain  
15 expenses from base child support obligation;  
16 specifying circumstances in which a court may deviate  
17 from the guidelines; requiring specific findings of  
18 fact upon deviation; providing considerations for  
19 extreme economic hardship; defining terms; specifying  
20 the inclusion of certain compensation as gross  
21 income; specifying considerations for imputed income,  
22 self-employment income, fringe benefits, and social  
23 security benefits; specifying adjustments to gross  
24 income; specifying formula for computing child  
support obligation; providing for extraordinary  
educational expenses; providing for special expenses;  
providing guidelines for the adjustment of child  
support based on certain parenting times; providing  
for medical support order; specifying content of  
final order; providing standards for a court to apply  
when entering a medical support order; providing  
exception in certain circumstances; specifying  
guidelines for health insurance coverage; providing  
for health expenses not covered by insurance;  
requiring certain review for adjustment; providing  
for actual child care costs; requiring timely  
documentation of change in amount of costs; requiring  
certain standard of proof when requesting support in

1 excess of the highest amount on the child support  
2 guidelines schedule; specifying procedures; providing  
3 for modification of child support orders; prohibiting  
4 retroactive modification; providing for informal  
5 review for adjustment; specifying certain procedures  
6 for adjustment; providing for exchange of certain  
7 information; providing for modification through the  
8 Department of Human Services; providing for  
9 codification; and providing an effective date.

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

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

14 Section 118. A. ~~Except in those cases where parties~~  
15 ~~represented by counsel have agreed to a different disposition, there~~  
16 There shall be a rebuttable presumption in any judicial or  
17 administrative proceeding for the award of child support, that the  
18 amount of the award which would result from the application of the  
19 following guidelines is the correct amount of child support to be  
20 awarded.

21 B. The Schedule of Basic Child Support Obligations assumes that  
22 all families incur certain child-rearing expenses and includes in  
23 the basic child support obligation an average amount to cover these  
24 expenses for various levels of the parents' combined income and  
number of children. The bulk of these child-rearing expenses is  
comprised of housing, food, transportation, basic public educational

1 expenses, clothing, and entertainment. The base child support  
2 obligation does not include the child's health insurance premium,  
3 work or education-related child care costs, the child's uninsured  
4 medical expenses, special expenses, or extraordinary educational  
5 expenses.

6 C. 1. The district or administrative court may deviate from  
7 the amount of child support indicated by the child support  
8 guidelines if the ~~amount of support so indicated is unjust,~~  
9 ~~inequitable, unreasonable, or inappropriate under the circumstances,~~  
10 ~~or not~~ deviation is in the best interests of the child, and:

11 a. the amount of support so indicated is unjust or  
12 inappropriate under the circumstances,

13 b. the parties are represented by counsel and have agreed  
14 to a different disposition, or

15 c. one party is represented by counsel and the deviation  
16 benefits the unrepresented party.

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

21 a. the reasons the court deviated from the presumptive  
22 amount of child support that would have been paid  
23 pursuant to the guidelines,

24

1        b. the amount of child support that would have been  
2        required under the guidelines if the presumptive  
3        amount had not been rebutted, and

4        c. a finding by the court that states how, in its  
5        determination:

6            (1) the best interests of the child who is subject to  
7            the support award determination are served by  
8            deviation from the presumptive guideline amount,  
9            and

10          (2) application of the guidelines would be unjust or  
11          inappropriate in the particular case before the  
12          tribunal.

13        3. In instances of extreme economic hardship, deviation from  
14        the guidelines may be considered when the court finds the deviation  
15        is supported by the evidence and is not detrimental to the best  
16        interests of the child before the court. The court may consider  
17        extraordinary medical needs not covered by insurance or other  
18        special needs of a child whom the parent is obligated to support.  
19        In such cases, the court must consider all resources available for  
20        meeting such needs, including those available from public agencies  
21        and other responsible adults.

22        4. No deviation in the amount of the child support obligation  
23        shall be made which seriously impairs the ability of the obligee in  
24        the case under consideration to maintain minimally adequate housing,

1 food, and clothing for the children being supported by the order or  
2 to provide other basic necessities, as determined by the court.  
3 Nothing in this section shall be construed to invalidate a presumed  
4 child support amount where income is properly determined under  
5 Section 4 of this act.

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

16 ~~C. The court shall not take into account any stepchildren of~~  
17 ~~such parent in making the determination, but in making such~~  
18 ~~determination, the court may take into account the reasonable~~  
19 ~~support obligations of either parent as to only natural, legal, or~~  
20 ~~legally adopted minor children in the custody of the parent.~~

21 ~~D. For purposes of this section and in determining child~~  
22 ~~support, the noneustodial parent shall be designated the obligor and~~  
23 ~~the custodial parent shall be designated the obligee.~~

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



- ~~(e) trust income,~~
- ~~(f) annuities,~~
- ~~(g) social security benefits,~~
- ~~(h) workers' compensation benefits,~~
- ~~(i) unemployment insurance benefits,~~
- ~~(j) disability insurance benefits,~~
- ~~(k) gifts,~~
- ~~(l) prizes, and~~
- ~~(m) royalties.~~

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

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

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

~~(a) Temporary Assistance for Needy Families (TANF),~~

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

~~(c) Food Stamps, and~~

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

~~3. a. For income from self employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross~~

1 ~~income" is defined as gross receipts minus ordinary~~  
2 ~~and necessary expenses required for self employment or~~  
3 ~~business operations.~~

4 ~~b. Specifically excluded from ordinary and necessary~~  
5 ~~expenses for purposes of this paragraph are amounts~~  
6 ~~determined by the district or administrative court to~~  
7 ~~be inappropriate for determining gross income for~~  
8 ~~purposes of calculating child support.~~

9 ~~c. The district or administrative court shall carefully~~  
10 ~~review income and expenses from self employment or~~  
11 ~~operation of a business to determine an appropriate~~  
12 ~~level of gross income available to the parent to~~  
13 ~~satisfy a child support obligation.~~

14 ~~d. The district or administrative court shall deduct from~~  
15 ~~self employment gross income an amount equal to the~~  
16 ~~employer contribution for F.I.C.A. tax which an~~  
17 ~~employer would withhold from an employee's earnings on~~  
18 ~~an equivalent gross income amount. A determination of~~  
19 ~~business income for tax purposes shall not control for~~  
20 ~~purposes of determining a child support obligation.~~

21 ~~e. Expense reimbursements or in-kind payments received by~~  
22 ~~a parent in the course of employment, self employment,~~  
23 ~~or operation of a business shall be counted as income~~  
24 ~~if they are significant and reduce personal living~~

1 ~~expenses. Such payments may include but are not~~  
2 ~~limited to a company car, free housing, or reimbursed~~  
3 ~~meals,~~

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

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

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

11 ~~(3) the average of the gross monthly income for the~~  
12 ~~time actually employed during the previous three~~  
13 ~~(3) years, or~~

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

15 ~~b. If equitable, the district or administrative court may~~  
16 ~~instead impute as gross monthly income for either~~  
17 ~~parent the amount a person with comparable education,~~  
18 ~~training and experience could reasonably expect to~~  
19 ~~earn.~~

20 ~~c. If a parent is permanently physically or mentally~~  
21 ~~incapacitated, the child support obligation shall be~~  
22 ~~computed on the basis of actual monthly gross income,~~

23 ~~5. The amount of any preexisting district or administrative~~  
24 ~~court order for current child support for children not before the~~

1 ~~court or for support alimony arising in a prior case shall be~~  
2 ~~deducted from gross income to the extent payment is actually made~~  
3 ~~under the order;~~

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

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

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

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

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

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

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

17 ~~d. (1) The percentage of time a child spends with each~~  
18 ~~parent shall be calculated by determining the~~  
19 ~~number of nights the child is in the physical~~  
20 ~~custody of each parent and dividing that number~~  
21 ~~by three hundred sixty five (365).~~

22 ~~(2) Each parent's share of the adjusted combined~~  
23 ~~child support obligation shall then be multiplied~~  
24 ~~by the percentage of time the child spends with~~

~~the other parent to determine the base child support obligation owed to the other parent.~~

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

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

~~f. In no event shall the provisions of this paragraph be construed to authorize or allow the payment of child support by the custodial parent to the noncustodial parent.~~

~~11. a. The actual medical and dental insurance premium for the child shall be allocated between the parents in the same proportion as their adjusted gross income and shall be added to the base child support obligation.~~

1 ~~If the insurance policy covers a person other than the~~  
2 ~~child before the court, only that portion of the~~  
3 ~~premium attributed to the child before the court shall~~  
4 ~~be allocated and added to the base child support~~  
5 ~~obligation.~~

6 ~~b. If the obligor pays the medical insurance premium, the~~  
7 ~~obligor shall receive credit against the base child~~  
8 ~~support obligation for the obligee's allocated share~~  
9 ~~of the medical insurance premium.~~

10 ~~c. If the obligee pays the medical insurance premium, the~~  
11 ~~obligor shall pay the obligor's allocated share of the~~  
12 ~~medical insurance premium to the obligee as part of~~  
13 ~~the base child support obligation;~~

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

20 ~~b. In cases of joint custody, where the parents share~~  
21 ~~physical and legal custody of at least one of their~~  
22 ~~natural or legally adopted children, the child support~~  
23 ~~obligation for each parent shall be calculated by~~  
24 ~~applying the child support guidelines.~~

1 ~~c. In all cases the parent with the larger child support~~  
2 ~~obligation shall pay the difference between the two~~  
3 ~~amounts to the parent with the smaller child support~~  
4 ~~obligation;~~

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

8 ~~(1) be employed,~~

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

10 ~~(3) attend school or training to enhance employment~~  
11 ~~income.~~

12 ~~b. When the obligee is participating in the Department of~~  
13 ~~Human Services child care subsidy program as provided~~  
14 ~~under Section 230.50 of Title 56 of the Oklahoma~~  
15 ~~Statutes, the Child Care Eligibility/Rates Schedule~~  
16 ~~established by the Department shall be used to~~  
17 ~~determine the amount to be treated as actual child~~  
18 ~~care costs incurred. When applying the schedule to~~  
19 ~~determine the family share copayment amount, the~~  
20 ~~obligor's share of the base monthly obligation for~~  
21 ~~child support and the obligee's gross income shall be~~  
22 ~~considered as the obligee's monthly income. The~~  
23 ~~actual child care costs incurred shall be the family~~  
24 ~~share copayment amount indicated on the schedule which~~

1 shall be allocated and paid monthly in the same  
2 proportion as base child support. The Department of  
3 Human Services shall promulgate rules, as necessary,  
4 to implement the provisions of this subparagraph.

5 e. The actual child care costs incurred for the purposes  
6 authorized by this paragraph shall be allocated and  
7 paid monthly in the same proportion as base child  
8 support.

9 d. The district or administrative court shall require the  
10 obligee to provide the obligor with timely  
11 documentation of any change in the amount of the child  
12 care costs. Upon request by the obligor, whose  
13 requests shall not exceed one each month, or upon  
14 order of the court, the obligee shall provide the  
15 documentation of the amount of incurred child care  
16 costs which are related to employment, employment  
17 search or education or training as authorized by this  
18 paragraph.

19 e. If the court determines that it will not cause  
20 detriment to the child or will not cause undue  
21 hardship to either parent, in lieu of payment of child  
22 care expenses incurred during employment, employment  
23 search, or while the obligee is attending school or  
24

1                   ~~training, the obligor may provide care for the child~~  
2                   ~~during that time;~~

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

12           ~~15. Transportation expenses of a child between the homes of the~~  
13 ~~parents may be divided between the parents in proportion to their~~  
14 ~~adjusted gross income;~~

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

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

2 ~~Schedule shall not alone be a material change in~~  
3 ~~circumstances for child support orders in~~  
4 ~~existence on November 1, 1999.~~

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

6 ~~by either parent after the entry of a child~~  
7 ~~support order shall not alone be considered a~~  
8 ~~material change in circumstances.~~

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

10 ~~the date the motion to modify was filed, unless~~  
11 ~~the parties agree to the contrary or the court~~  
12 ~~makes a specific finding of fact that the~~  
13 ~~material change of circumstance did not occur~~  
14 ~~until a later date.~~

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

16 ~~retroactively regardless of whether support was~~  
17 ~~ordered in a temporary order, a decree of~~  
18 ~~divorce, an order establishing paternity,~~  
19 ~~modification of an order of support, or other~~  
20 ~~action to establish or to enforce support.~~

21 ~~(2) All final orders shall state whether past due~~

22 ~~support and interest has accrued pursuant to any~~  
23 ~~temporary order and the amount due, if any,~~  
24 ~~however, failure to state a past due amount shall~~

1                   ~~not bar collection of that amount after entry of~~  
2                   ~~the final support order.~~

3                   ~~c. The amount of a child support order shall not be~~  
4                   ~~construed to be an amount per child unless specified~~  
5                   ~~by the district or administrative court in the order.~~  
6                   ~~A child reaching the age of majority or otherwise~~  
7                   ~~ceasing to be entitled to support pursuant to the~~  
8                   ~~support order shall constitute a material change in~~  
9                   ~~circumstances, but shall not automatically serve to~~  
10                  ~~modify the order;~~

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

15                  ~~b. When an existing child support order does not contain~~  
16                  ~~a provision which requires an informal review and~~  
17                  ~~adjustment process, either parent may request the~~  
18                  ~~other parent to provide the information necessary for~~  
19                  ~~the informal review and adjustment process.~~

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

22                  ~~c. Requested information may include verification of~~  
23                  ~~income, proof and cost of children's medical~~  
24                  ~~insurance, and current and projected child care costs.~~

1 ~~If shared parenting time has been awarded by the~~  
2 ~~court, documentation of past and prospective overnight~~  
3 ~~visits shall be exchanged.~~

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

6 ~~e. (1) If the parents agree to a modification of a child~~  
7 ~~support order, their agreement shall be in~~  
8 ~~writing using standard modification forms and the~~  
9 ~~child support computation form provided for in~~  
10 ~~Section 120 of this title.~~

11 ~~(2) The standard modification forms and the standard~~  
12 ~~child support computation form shall be submitted~~  
13 ~~to the district or administrative court. The~~  
14 ~~court shall review the modification forms to~~  
15 ~~confirm that the child support obligation~~  
16 ~~complies with the child support guidelines and~~  
17 ~~that all necessary parties pursuant to Section~~  
18 ~~112 of this title have been notified. If the~~  
19 ~~court approves the modification forms, they shall~~  
20 ~~be filed with the court.~~

21 ~~f. If the district court refuses to consider the parents'~~  
22 ~~agreed modification order or the parents do not agree~~  
23 ~~to a modification of the child support order, a parent~~  
24 ~~may request a modification through the Department of~~

1 ~~Human Services Child Support Enforcement Division,~~  
2 ~~hereinafter referred to as the "Department", when the~~  
3 ~~child support services are being provided under the~~  
4 ~~state child support plan as provided in Section 237 of~~  
5 ~~Title 56 of the Oklahoma Statutes. If the parent does~~  
6 ~~not have an open case with the Department, the parent~~  
7 ~~shall make application for services and complete a~~  
8 ~~request for review;~~

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

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

17 ~~20. Child support orders issued for prior born children of the~~  
18 ~~payor may not be modified for the purpose of providing support for~~  
19 ~~later born children;~~

20 ~~21. The court, to the extent reasonably possible, shall make~~  
21 ~~provision in an order for prospective adjustment of support to~~  
22 ~~address any foreseen changes including, but not limited to, changes~~  
23 ~~in medical insurance, child care expenses, medical expenses, and~~  
24 ~~extraordinary costs;~~

1       ~~22. The social security numbers of both parents and the~~  
2 ~~children who are the subject of a paternity or child support order~~  
3 ~~shall be included in the support order summary form provided for in~~  
4 ~~Section 120 of this title; and~~

5       ~~23. A completed support order summary form shall be presented~~  
6 ~~to the judge with all paternity and child support orders, and no~~  
7 ~~such order shall be signed by the judge without presentation of the~~  
8 ~~form.~~

9       SECTION 2.       NEW LAW       A new section of law to be codified  
10 in the Oklahoma Statutes as Section 118A of Title 43, unless there  
11 is created a duplication in numbering, reads as follows:

12       As used in this act:

13       1. "Adjusted Gross Income" (AGI) means the net determination of  
14 a parent's income, calculated by modifying the parent's gross income  
15 as follows:

- 16           a. adding to the parent's gross income any social  
17           security benefit paid to the child on the parent's  
18           account,
- 19           b. deducting from gross income the amount of any support  
20           alimony arising in a prior case to the extent that  
21           payment is actually made,
- 22           c. deducting from gross income any credits as set forth  
23           for the individual parent's other children for whom  
24

1 the parent is legally responsible and is actually  
2 supporting, and

3 d. deducting the amount of reasonable expenses of the  
4 parties attributable to debt service for preexisting,  
5 jointly acquired debt of the parents;

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

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

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

20 5. "Days", for the purposes of calculating child support, means  
21 when the child spends the majority of a twenty-four-hour period  
22 under the care, control or direct supervision of one parent or  
23 caretaker and that the parent expends resources on the child during  
24 this period. The twenty-four-hour period need not be the same as a

1 twenty-four-hour calendar day. A day of parenting time may  
2 encompass either an overnight period or a daytime period, or a  
3 combination thereof. Keeping the child overnight, even if it were a  
4 majority of the calendar day, with no meaningful expenditures for  
5 the child's care would not be a day;

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

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

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

12 a. a person to whom a support debt or support obligation  
13 is owed,

14 b. the Department of Human Services or a public agency of  
15 another state that has the right to receive current or  
16 accrued support payments or that is providing support  
17 enforcement services, or

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

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

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

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

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

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

9 A. As used in this act:

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

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

- 15 a. salaries,
- 16 b. wages,
- 17 c. tips,
- 18 d. commissions,
- 19 e. bonuses, and
- 20 f. severance pay; and

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

- 23 a. dividends,
- 24 b. pensions,

- 1 c. rent,
- 2 d. interest income,
- 3 e. trust income,
- 4 f. support alimony,
- 5 g. annuities,
- 6 h. social security benefits,
- 7 i. workers' compensation benefits,
- 8 j. unemployment insurance benefits,
- 9 k. disability insurance benefits,
- 10 l. gifts,
- 11 m. prizes,
- 12 n. gambling winnings,
- 13 o. lottery winnings, and
- 14 p. royalties.

15 B. Income specifically excluded is:

16 1. Actual child support received for children not before the  
17 court;

18 2. Adoption Assistance subsidy paid by the Department of Human  
19 Services;

20 3. Benefits received from means-tested public assistance  
21 programs including, but not limited to:

- 22 a. Temporary Assistance for Needy Families (TANF),
- 23 b. Supplemental Security Income (SSI),
- 24 c. Food Stamps, and

1           d.    General Assistance and State Supplemental Payments for  
2                    Aged, Blind and the Disabled; and

3           4.    The child's income from any source, including, but not  
4 limited to, trust income and social security benefits drawn on the  
5 child's disability.

6           C.    1.   For purposes of computing gross income of the parents,  
7 gross income shall include for each parent:

8               a.   all actual monthly income described in this section,

9               b.   the average of the gross monthly income for the time  
10 actually employed during the previous three (3) years,

11               or

12               c.   the minimum wage paid for a forty-hour week, whichever  
13 is the most equitable.

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

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

19           D.    Imputed Income.

20           1.    Imputing gross income to a parent is appropriate in the  
21 following situations:

22               a.   if a parent has been determined by the court to be  
23 willfully or voluntarily underemployed or unemployed,

24               b.   when there is no reliable evidence of income, or

1 c. when the parent owns substantial non-income-producing  
2 assets, the court may impute income based upon a  
3 reasonable rate of return upon the assets.

4 2. The following factors may be considered by the court when  
5 making a determination of willful and voluntary underemployment or  
6 unemployment:

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

1 increasing the parent's level of support for that  
2 child in the future, and

3 f. any additional factors deemed relevant to the  
4 particular circumstances of the case.

5 E. Self-employment income.

6 1. A determination of business income for tax purposes shall  
7 not control for purposes of determining a child support obligation.

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

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

15 b. The court may include as income expenses for business  
16 travel, promotion or transportation, personal  
17 expenses, depreciation on equipment, or the cost of  
18 operation of home offices to the extent the court  
19 finds them excessive.

20 c. Amounts allowed by the Internal Revenue Service for  
21 accelerated depreciation or investment tax credits  
22 shall not be considered reasonable expenses.

23 4. The district or administrative court shall deduct from self-  
24 employment gross income an amount equal to the employer contribution

1 for F.I.C.A. tax which an employer would withhold from an employee's  
2 earnings on an equivalent gross income amount.

3 F. Fringe Benefits.

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

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

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

13 4. Fringe benefits do not include employee benefits that are  
14 typically added to the salary, wage, or other compensation that a  
15 parent may receive as a standard added benefit, such as employer  
16 contributions to portions of health insurance premiums or employer  
17 contributions to a retirement or pension plan.

18 G. Social Security Title II Benefits.

19 1. Social Security Title II benefits received by a child shall  
20 be included as income to the parent on whose account the child's  
21 benefit is drawn and applied against the support obligation ordered  
22 to be paid by that parent. The child's benefit is only considered  
23 when it springs from the parent's account. If the child's benefit  
24 is drawn from the child's own disability, the child's benefit is not

1 added to either parent's income and not deducted from either  
2 parent's obligation.

3 2. The child support obligation shall be computed separately  
4 for each child of the parties.

5 3. Child Support Greater Than Social Security Benefit. If  
6 after calculating the parent's gross income, including the parent's  
7 social security benefits, and after calculating the amount of the  
8 child support obligation using the child support computation form,  
9 the amount of the child support award due from the parent on whose  
10 account the child is receiving benefits is greater than the social  
11 security benefits paid on behalf of the child on that parent's  
12 account, then that parent shall be required to pay the amount  
13 exceeding the social security benefit as part of the child support  
14 award in the case.

15 4. Child Support Equal to or Less Than Social Security  
16 Benefits.

17 a. If after calculating the parent's gross income,  
18 including the parent's social security benefits paid  
19 for the child, and after calculating the amount of the  
20 child support obligation using the child support  
21 computation form, the amount of the child support  
22 award due from the parent on whose account the child  
23 is receiving benefits is less than or equal to the  
24 social security benefits paid to the caretaker on

1           behalf of the child on that parent's account, the  
2           child support obligation of that parent is met and no  
3           additional child support amount must be paid by that  
4           parent.

5           b.   Any social security benefit amounts as determined by  
6           the Social Security Administration (SSA) and sent to  
7           the caretaker by the SSA for the child's benefit which  
8           are greater than the support ordered by the court  
9           shall be retained by the caretaker for the child's  
10          benefit and shall not be used as a reason for  
11          decreasing the child support order or reducing  
12          arrearages.

13          c.   The court shall make a written finding in the support  
14          order regarding the use of the social security  
15          benefits in the calculation of the child support  
16          obligation.

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

20          b.   The court may determine if, under the circumstances of  
21          the case, it is appropriate to credit social security  
22          benefits paid to the custodial person prior to a  
23          modification of child support against a noncustodial  
24          parent's past due child support obligation.

1           c.    The noncustodial parent shall not receive credit for  
2                    any social security benefits paid directly to the  
3                    child.

4           d.    Any credit granted by the court pursuant to  
5                    subparagraph b of this paragraph shall be limited to  
6                    the time period during which the social security  
7                    benefit was paid, or the time period covered by a lump  
8                    sum for past social security benefits.

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

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

16           1.    Who is the biological, legal, or adopted child of the  
17                    parent;

18           2.    Who was born prior to the child in the case under  
19                    consideration;

20           3.    Whom the parent is actually supporting; and

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

23           B.    Children for whom support is being determined in the case  
24                    under consideration, stepchildren, and other minors in the home that

1 the parent has no legal obligation to support shall not be  
2 considered in the calculation of this credit.

3 C. To consider a parent's qualified other children for credit,  
4 a parent must present documentary evidence of the parent-child  
5 relationship to the court. Documentary evidence may include, but is  
6 not limited to, a birth certificate showing the child's name and the  
7 parent's name, or a court order establishing the parent-child  
8 relationship.

9 D. Calculation of Credit for Qualified Other Children.

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

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

24 b. "Documented Proof of Support" includes:

- 1 (1) physical evidence of monetary payments to the  
2 child's caretaker, such as canceled checks or  
3 money orders, and  
4 (2) evidence of payment of child support under  
5 another child support order, such as a payment  
6 history from a tribunal clerk or child support  
7 office or from the Department's Internet child  
8 support payment history.

9 c. The available credit against gross income for either  
10 parent's qualified "not-in-home" children is the  
11 actual documented court-ordered current monthly child  
12 support obligation of the qualified other children,  
13 averaged to a monthly amount of support paid over the  
14 most recent twelve-month period.

15 2. "In-Home" Children.

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

1 address and the parent's utility bills mailed to the  
2 same address, court orders reflecting the parent is  
3 the primary residential parent or that the parent  
4 shares the parenting time of the child fifty percent  
5 (50%) of the time.

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

15 c. The available credit against gross income for either  
16 parent's qualified "in-home" children is seventy-five  
17 percent (75%) of a hypothetical support order  
18 calculated according to these Guidelines, using the  
19 Credit Worksheet, the parent's gross income less any  
20 self-employment taxes paid, the total number of  
21 qualified other children living in the parent's home,  
22 and the Child Support Guideline Schedule.  
23  
24

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

4           A. All child support shall be computed as a percentage of the  
5 combined gross income of both parents. The Child Support Guideline  
6 Schedule as provided in Section 119 of Title 43 of the Oklahoma  
7 Statutes shall be used for such computation. The child support  
8 obligations of each parent shall be computed. The obligor's share  
9 shall be paid monthly to the obligee and shall be due on a specific  
10 date.

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

15           C. After the total combined child support is determined, the  
16 percentage share of each parent shall be allocated by computing the  
17 percentage contribution of each parent to the combined adjusted  
18 gross income and allocating that same percentage to the child  
19 support obligation to determine the base child support obligation of  
20 each parent.

21           D. 1. In cases of split physical custody, where each parent is  
22 awarded physical custody of at least one of their biological or  
23 legally adopted children, the child support obligation for each  
24

1 parent shall be calculated by application of the child support  
2 guidelines for each custodial arrangement.

3 2. The parent with the larger child support obligation shall  
4 pay the difference between the two amounts to the parent with the  
5 smaller child support obligation.

6 E. Child support shall be computed as set forth in subsections  
7 A through D of this section in every case, regardless of whether the  
8 custodial arrangement is designated as sole custody or joint  
9 custody.

10 F. In cases where each parent has physical custody of a child  
11 fifty percent (50%) of the time, the child support guidelines shall  
12 be computed with each parent as an obligor. The parent with the  
13 greater child support obligation shall pay the difference between  
14 the two amounts to the other parent.

15 G. The court, to the extent reasonably possible, shall make  
16 provision in an order for prospective adjustment of support to  
17 address any foreseen changes including, but not limited to, changes  
18 in medical insurance, child care expenses, medical expenses, and  
19 extraordinary costs.

20 H. Transportation expenses of a child between the homes of the  
21 parents may be divided between the parents in proportion to their  
22 adjusted gross income, so long as the payment of such expenses does  
23 not significantly reduce the ability of the custodial parent to  
24 provide for the basic needs of the child.

1 I. Extraordinary Educational Expenses.

2 1. Extraordinary educational expenses may be added to the  
3 presumptive child support as a deviation. Extraordinary educational  
4 expenses include, but are not limited to, tuition, room and board,  
5 books, fees, and other reasonable and necessary expenses associated  
6 with special needs education for a child with a disability under the  
7 Individuals with Disabilities Education Act that are appropriate to  
8 the parents' financial abilities.

9 2. In determining the amount of deviation for extraordinary  
10 educational expenses, scholarships, grants, stipends, and other  
11 cost-reducing programs received by or on behalf of the child shall  
12 be considered.

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

16 J. Special Expenses.

17 1. Special expenses incurred for child rearing which can be  
18 quantified may be added to the child support obligation as a  
19 deviation from the Current Monthly Child Support Obligation. Such  
20 expenses include, but are not limited to, camp, music or art  
21 lessons, travel, school-sponsored extracurricular activities, such  
22 as band, clubs, and athletics, and other activities intended to  
23 enhance the athletic, social or cultural development of a child, but  
24 that are not otherwise required to be used in calculating the child

1 support order as are health insurance premiums and work-related  
2 child care costs.

3 2. A portion of the base child support obligation (BCSO) is  
4 intended to cover average amounts of these special expenses incurred  
5 in the rearing of a child. When this category of expenses exceeds  
6 seven percent (7%) of the monthly BCSO, then the tribunal shall  
7 consider additional amounts of support as a deviation to cover the  
8 full amount of these special expenses.

9 K. The social security numbers of both parents and the children  
10 who are the subject of a paternity or child support order shall be  
11 included in the support order summary form provided for in Section  
12 120 of Title 43 of the Oklahoma Statutes.

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

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

21 A. Parenting Time.

22 1. Except as applied to fifty-fifty/equal parenting situations,  
23 the adjustment may be granted based upon a court order or agreement  
24 that the noncustodial parent is granted at least one hundred twenty-

1 one (121) days of parenting time per twelve-month period with the  
2 children in the case under consideration.

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

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

9 4. Average Parenting Time.

10 a. If there are multiple children for whom support is  
11 being calculated, and the noncustodial parent is  
12 spending a different amount of time with each child,  
13 then an annual average of parenting time with all of  
14 the children shall be calculated.

15 b. A parenting time average shall not include the  
16 parenting time of any child residing with each parent  
17 fifty percent (50%) of the time. The parenting time  
18 adjustment shall be calculated separately for any such  
19 fifty-fifty/equal children.

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

23 C. Parenting time adjustments are not mandatory, but  
24 presumptive. The presumption may be rebutted in a case where the

1 | circumstances indicate the adjustment is not in the best interest of  
2 | the child or that the increased parenting time by the noncustodial  
3 | parent does not result in greater expenditures which should result  
4 | in a reduction to the noncustodial parent's support obligation.

5 | D. Reduction in Child Support Obligation for Additional  
6 | Parenting Time.

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

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

17 | 3. To determine each parent's adjusted child support  
18 | obligation, the adjusted combined child support obligation shall be  
19 | divided between the parents in proportion to their respective  
20 | adjusted gross incomes.

21 | 4. a. The percentage of time a child spends with each parent  
22 | shall be calculated by determining the number of days  
23 | the child is in the physical custody of each parent  
24 |

1 and dividing that number by three hundred sixty-five  
2 (365).

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

8 c. The respective adjusted base child support obligations  
9 for each parent are then offset, with the parent owing  
10 more base child support paying the difference between  
11 the two amounts to the other parent. The base child  
12 support obligation of the parent owing the lesser  
13 amount is then set at zero dollars (\$0.00).

14 5. The parent owing the greater amount of base child support  
15 shall pay the difference between the two amounts as a child support  
16 order.

17 6. Failure to exercise the right to visitation upon which the  
18 parenting time adjustment is based is a material change of  
19 circumstances.

20 7. If the court finds that the obligor has failed to exercise  
21 the number of days necessary to receive the parenting time  
22 adjustment for a twelve-month period preceding a motion to modify  
23 the child support order, the obligor shall not receive the parenting  
24 time adjustment for the next twelve (12) months following the

1 effective date of the modification. After a twelve-month period  
2 during which the obligor did not receive the parenting time  
3 adjustment, the obligor can petition the court to modify the child  
4 support order. The obligor may be granted a prospective parenting  
5 time adjustment upon a showing that the obligor has actually  
6 exercised the threshold amount of visitation in the preceding twelve  
7 (12) months. No retroactive modification or credit from the child  
8 support guidelines amount shall be granted based on this section.

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

12 A. The court shall enter a medical support order in any case in  
13 which an ongoing child support order is entered or modified.  
14 Medical support, for the purpose of this section, is defined as  
15 health insurance, cash medical support, or a combination of both.

16 1. Health insurance includes:

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

1        2. Cash medical support means:

2            a. an amount ordered to be paid toward the cost of health  
3            coverage provided by a public entity or by a person  
4            other than the parents through employment or  
5            otherwise, or

6            b. fixed periodic payments for ongoing medical costs.

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

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

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

22            2. Require the parent ordered to provide health care coverage  
23 for the child as provided under this section to produce evidence to  
24 the court's satisfaction that the parent has applied for or secured

1 health insurance or has otherwise taken necessary action to provide  
2 for health care coverage for the child, as ordered by the court.

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

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

10 a. deduct from the total insurance premium the cost of  
11 coverage for the parent and any other adults in the  
12 household,

13 b. divide the remainder by the number of dependent  
14 children being covered, and

15 c. multiply the amount per child by the number of  
16 children in the child support case under  
17 consideration;

18 2. Health insurance must be accessible:

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

24

1           b.    If a parent has available health coverage which  
2                includes an option that would be accessible to the  
3                child, but the parent has not currently enrolled in  
4                that option, the court may require the parent to  
5                change existing coverage to an option that is  
6                accessible to the child; and

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

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

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

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

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

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

15           4. Cash Medical Support.

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

23           b. The cash medical support order shall not exceed the  
24 obligor's pro rata share of the actual monthly medical

1 expenses for the child, or five percent (5%) of the  
2 obligor's gross monthly income, whichever is less.

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

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

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

19 (2) The court may also consider:

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

22 (b) the current state of the child's health, and  
23  
24

1 (c) any medical conditions of the child that  
2 would result in an increased monthly medical  
3 cost.

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

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

9 2. The obligor:

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

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

14 H. 1. The actual health insurance premium for the child shall  
15 be allocated between the parents in the same proportion as their  
16 adjusted gross income and shall be added to the base child support  
17 obligation.

18 2. If the obligor pays the health insurance premium, the  
19 obligor shall receive credit against the base child support  
20 obligation for the obligee's allocated share of the health insurance  
21 premium.

22 3. If the obligee pays the health insurance premium, the  
23 obligor shall pay the obligor's allocated share of the health  
24

1 insurance premium to the obligee as part of in addition to the base  
2 child support obligation.

3 4. The parent providing the health insurance coverage shall  
4 furnish to the other parent and to the Child Support Enforcement  
5 Division of the Department of Human Services, if services are being  
6 provided pursuant to Title IV, Part D of the Social Security Act, 42  
7 U.S.C., Section 601 et seq., with timely written documentation of  
8 any change in the amount of the health insurance cost premium,  
9 carrier, or benefits within thirty (30) days of the date of the  
10 change. Upon receiving timely notification of the change of cost,  
11 the other parent is responsible for his or her percentage share of  
12 the changed cost of the health insurance. If the court finds that  
13 the obligor has underpaid child support due to changes in the cost  
14 of health insurance, the amount of underpayment may established by  
15 the court and enforced in the same manner as any other delinquent  
16 child support debt. If the court finds that the obligor has  
17 overpaid due to changes in health insurance coverage cost, the  
18 overpayment shall be satisfied:

- 19 a. by offset against any past due child support owed to  
20 the obligee, or  
21 b. by adjustment to the future child support amount over  
22 a thirty-six-month period.

23 I. Reasonable and necessary medical, dental, orthodontic,  
24 optometric, psychological, or any other physical or mental health

1 expenses of the child incurred by either parent and not reimbursed  
2 by insurance or included in a cash medical support order pursuant to  
3 paragraph 4 of subsection F of this section may be allocated in the  
4 same proportion as the parents' adjusted gross income as separate  
5 items that are not added to the base child support obligation. If  
6 reimbursement is required, the parent who incurs the expense shall  
7 provide the other parent with proof of the expense within forty-five  
8 (45) days of receiving the Explanation of Benefits from the  
9 insurance provider or other proof of the expense if the expense is  
10 not covered by insurance. The parent responsible for reimbursement  
11 shall pay his or her portion of the expense within forty-five (45)  
12 days of receipt of documentation of the expense.

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

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

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

1 A. The district or administrative court shall determine the  
2 "actual" child care expenses reasonably necessary to enable either  
3 or both parents to:

- 4 1. Be employed;
- 5 2. Seek employment; or
- 6 3. Attend school or training to enhance employment income.

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

21 C. The actual child care costs incurred for the purposes  
22 authorized by this section shall be allocated and added to the base  
23 child support order, and shall be part of the final child support  
24 order.

1 D. The district or administrative court shall require the  
2 obligee to provide the obligor with timely documentation of any  
3 change in the amount of the child care costs. Upon request by the  
4 obligor, whose requests shall not exceed one each month, or upon  
5 order of the court, the obligee shall provide the documentation of  
6 the amount of incurred child care costs which are related to  
7 employment, employment search or education or training as authorized  
8 by this section.

9 E. If the court determines that it will not cause detriment to  
10 the child or will not cause undue hardship to either parent, in lieu  
11 of payment of child care expenses incurred during employment,  
12 employment search, or while the obligee is attending school or  
13 training, the obligor may provide care for the child during that  
14 time.

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

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

24

1 B. Application of Statutory Threshold to Child Support

2 Determination.

3 1. If the child support order calculated under these rules  
4 exceeds the amount specified above for the number of children for  
5 whom support is being calculated, then the amount of the child  
6 support order shall be limited to the amount specified above for the  
7 number of children for whom support is being calculated, absent the  
8 rebuttal provided for in subsection A of this section.

9 2. If the obligee proves the need for support in excess of the  
10 amount provided for in paragraph 1 of this subsection, the court  
11 shall add an appropriate amount to the child support obligation of  
12 the obligor as a deviation.

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

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

19 A. 1. Child support orders may be modified upon a material  
20 change in circumstances which includes, but is not limited to, an  
21 increase or decrease in income, changes in actual child care  
22 expenses, changes in medical or dental insurance, or when one of the  
23 children in the child support order reaches the age of majority or  
24

1 otherwise ceases to be entitled to support pursuant to the support  
2 order.

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

6 3. An order of modification shall be effective upon the date  
7 the motion to modify was filed, unless the parties agree to the  
8 contrary or the court makes a specific finding of fact that the  
9 material change of circumstance did not occur until a later date.

10 B. 1. A child support order shall not be modified  
11 retroactively regardless of whether support was ordered in a  
12 temporary order, a decree of divorce, an order establishing  
13 paternity, modification of an order of support, or other action to  
14 establish or to enforce support.

15 2. All final orders shall state whether past due support and  
16 interest has accrued pursuant to any temporary order and the amount  
17 due, if any; however, failure to state a past due amount shall not  
18 bar collection of that amount after entry of the final support  
19 order.

20 C. The amount of a child support order shall not be construed  
21 to be an amount per child unless specified by the district or  
22 administrative court in the order. A child reaching the age of  
23 majority or otherwise ceasing to be entitled to support pursuant to  
24 the support order shall constitute a material change in

1 | circumstances, but shall not automatically serve to modify the  
2 | order.

3 |       D. 1. When a child support order is entered or modified, the  
4 | parents may agree or the district or administrative court may  
5 | require a periodic exchange of information for an informal review  
6 | and adjustment process.

7 |       2. When an existing child support order does not contain a  
8 | provision which requires an informal review and adjustment process,  
9 | either parent may request the other parent to provide the  
10 | information necessary for the informal review and adjustment  
11 | process. Information shall be provided to the requesting parent  
12 | within forty-five (45) days of the request.

13 |       3. Requested information may include verification of income,  
14 | proof and cost of children's medical insurance, and current and  
15 | projected child care costs. If shared parenting time has been  
16 | awarded by the court, documentation of past and prospective  
17 | overnight visits shall be exchanged.

18 |       4. Exchange of requested information may occur once a year or  
19 | less often, by regular mail.

20 |       5. a. If the parents agree to a modification of a child  
21 |           support order, their agreement shall be in writing  
22 |           using standard modification forms and the child  
23 |           support computation form provided for in Section 120  
24 |           of Title 43 of the Oklahoma Statutes.

1           b.    The standard modification forms and the standard child  
2                support computation form shall be submitted to the  
3                district or administrative court.  The court shall  
4                review the modification forms to confirm that the  
5                child support obligation complies with the child  
6                support guidelines and that all necessary parties  
7                pursuant to Section 112 of Title 43 of the Oklahoma  
8                Statutes have been notified.  If the court approves  
9                the modification forms, they shall be filed with the  
10              court.

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

21           SECTION 11.  This act shall become effective November 1, 2008.

22  
23           51-2-10944           SAB           04/07/08  
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