

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 2194

6 By: Williamson of the Senate

7 and

8 Duncan of the House

9 CONFERENCE 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; modifying what
15 constitutes gross income; excluding certain expenses
16 from base child support obligation; specifying
17 circumstances in which a court may deviate from the
18 guidelines; requiring specific findings of fact upon
19 deviation; providing considerations for extreme
20 economic hardship; defining terms; specifying the
21 inclusion of certain compensation as gross income;
22 specifying considerations for imputed income, self-
23 employment income, fringe benefits, and social
24 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 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 DHS to
promulgate rules; requiring timely documentation of

1 change in amount of costs; requiring certain standard
2 of proof when requesting support in excess of the
3 highest amount on the child support guidelines
4 schedule; specifying procedures; providing for
5 modification of child support orders; prohibiting
6 retroactive modification; providing for informal
7 review for adjustment; specifying certain procedures
8 for adjustment; providing for exchange of certain
9 information; amending 43 O.S. 2001, Section 134,
10 which relates to alimony payments; providing for
11 award of certain retirement or retainer pay;
12 establishing statute of limitations; amending 21 O.S.
13 2001, Section 566, as last amended by Section 1,
14 Chapter 140, O.S.L. 2007 (21 O.S. Supp. 2007, Section
15 566), which relates to contempt; deleting certain
16 guidelines related to indirect contempt for failure
17 to comply with child support order; requiring certain
18 proof for specified orders; providing guidelines for
19 indirect contempt of certain orders; allowing certain
20 fine; providing for certain alternative programs;
21 requiring Supreme Court to promulgate certain
22 guidelines; amending 21 O.S. 2001, Section 852, as
23 amended by Section 1, Chapter 219, O.S.L. 2006 (21
24 O.S. Supp. 2007, Section 852), which relates to
omission to provide for a child; authorizing DHS to
refer certain cases to a district attorney; providing
for payment of certain child support payments to DHS;
authorizing court to order participation in certain
programs; amending 56 O.S. 2001, Section 233, which
relates to investigation of child support
delinquencies; modifying procedures for referral of
certain cases; amending 56 O.S. 2001, Section 240.10,
which relates to employment of obligor; authorizing
court to order obligor to participate in certain
training; requiring certain notice; amending 30 O.S.
2001, Section 2-108, which relates to education and
maintenance expenses for minors; modifying and adding
requirements; repealing 56 O.S. 2001, Section 233.1,
which relates to referrals for prosecution; providing
for codification; and providing effective dates.

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

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

4 Section 118. A. ~~Except in those cases where parties~~
5 ~~represented by counsel have agreed to a different disposition, there~~
6 There shall be a rebuttable presumption in any judicial or
7 administrative proceeding for the award of child support, that the
8 amount of the award which would result from the application of the
9 following guidelines is the correct amount of child support to be
10 awarded.

11 B. ~~The district or administrative court may deviate from the~~
12 ~~amount of child support indicated by the child support guidelines if~~
13 ~~the amount of support so indicated is unjust, inequitable,~~
14 ~~unreasonable, or inappropriate under the circumstances, or not in~~
15 ~~the best interests of the child. If the district or administrative~~
16 ~~court deviates from the amount of child support indicated by the~~
17 ~~child support guidelines, the court shall make specific findings of~~
18 ~~fact supporting such action~~ Schedule of Basic Child Support
19 Obligations assumes that all families incur certain child-rearing
20 expenses and includes in the basic child support obligation an
21 average amount to cover these expenses for various levels of the
22 parents' combined income and number of children, comprised of
23 housing, food, transportation, basic public educational expenses,
24 clothing, and entertainment.

1 ~~C. The court shall not take into account any stepchildren of~~
2 ~~such parent in making the determination, but in making such~~
3 ~~determination, the court may take into account the reasonable~~
4 ~~support obligations of either parent as to only natural, legal, or~~
5 ~~legally adopted minor children in the custody of the parent.~~

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

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

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

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

20 ~~(2) "Earned income" is defined as income received~~
21 ~~from labor, or the sale of goods or services and~~
22 ~~includes, but is not limited to, income from:~~
23 ~~(a) salaries,~~
24 ~~(b) wages,~~

1 ~~(c) commissions,~~

2 ~~(d) bonuses, and~~

3 ~~(e) severance pay.~~

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

6 ~~(a) dividends,~~

7 ~~(b) pensions,~~

8 ~~(c) rent,~~

9 ~~(d) interest income,~~

10 ~~(e) trust income,~~

11 ~~(f) annuities,~~

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

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

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

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

16 ~~(k) gifts,~~

17 ~~(l) prizes, and~~

18 ~~(m) royalties.~~

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

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

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

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

2 ~~(TANF),~~

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

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

5 ~~(d) General Assistance and State Supplemental~~

6 ~~Payments for Aged, Blind and the Disabled;~~

7 3. ~~a. For income from self-employment, rent, royalties,~~

8 ~~proprietorship of a business, or joint ownership of a~~

9 ~~partnership or closely held corporation, "gross~~

10 ~~income" is defined as gross receipts minus ordinary~~

11 ~~and necessary expenses required for self-employment or~~

12 ~~business operations.~~

13 ~~b. Specifically excluded from ordinary and necessary~~

14 ~~expenses for purposes of this paragraph are amounts~~

15 ~~determined by the district or administrative court to~~

16 ~~be inappropriate for determining gross income for~~

17 ~~purposes of calculating child support.~~

18 ~~c. The district or administrative court shall carefully~~

19 ~~review income and expenses from self-employment or~~

20 ~~operation of a business to determine an appropriate~~

21 ~~level of gross income available to the parent to~~

22 ~~satisfy a child support obligation.~~

23 ~~d. The district or administrative court shall deduct from~~

24 ~~self-employment gross income an amount equal to the~~

1 ~~employer contribution for F.I.C.A. tax which an~~
2 ~~employer would withhold from an employee's earnings on~~
3 ~~an equivalent gross income amount. A determination of~~
4 ~~business income for tax purposes shall not control for~~
5 ~~purposes of determining a child support obligation.~~

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

13 ~~4. a. For purposes of computing gross income of the parents,~~
14 ~~the district or administrative court shall include for~~
15 ~~each parent, whichever is most equitable, either:~~
16 ~~(1) all earned and passive monthly income,~~
17 ~~(2) all passive income, and earned income equivalent~~
18 ~~to a forty hour work week plus such overtime and~~
19 ~~supplemental income as the court deems equitable,~~
20 ~~(3) the average of the gross monthly income for the~~
21 ~~time actually employed during the previous three~~
22 ~~(3) years, or~~
23 ~~(4) the minimum wage paid for a forty hour work week.~~
24

1 ~~b. If equitable, the district or administrative court may~~
2 ~~instead impute as gross monthly income for either~~
3 ~~parent the amount a person with comparable education,~~
4 ~~training and experience could reasonably expect to~~
5 ~~earn.~~

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

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

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

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

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

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

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

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

23 ~~c. To determine each parent's adjusted child support~~
24 ~~obligation, the adjusted combined child support~~

1 ~~obligation shall be divided between the parents in~~
2 ~~proportion to their respective adjusted gross incomes.~~

3 ~~d. (1) The percentage of time a child spends with each~~
4 ~~parent shall be calculated by determining the~~
5 ~~number of nights the child is in the physical~~
6 ~~custody of each parent and dividing that number~~
7 ~~by three hundred sixty five (365).~~

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

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

20 ~~e. The parent owing the greater amount of base child~~
21 ~~support shall pay the difference between the two~~
22 ~~amounts as a child support order. In no case shall~~
23 ~~the amount of child support ordered to be paid exceed~~
24 ~~the amount of child support which would otherwise be~~

1 ~~ordered to be paid if the parents did not participate~~
2 ~~in shared parenting time.~~

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

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

16 ~~b. If the obligor pays the medical insurance premium, the~~
17 ~~obligor shall receive credit against the base child~~
18 ~~support obligation for the obligee's allocated share~~
19 ~~of the medical insurance premium.~~

20 ~~c. If the obligee pays the medical insurance premium, the~~
21 ~~obligor shall pay the obligor's allocated share of the~~
22 ~~medical insurance premium to the obligee as part of~~
23 ~~the base child support obligation;~~

1 ~~12. a. In cases of split custody, where each parent is~~
2 ~~awarded custody of at least one of their natural or~~
3 ~~legally adopted children, the child support obligation~~
4 ~~for each parent shall be calculated by application of~~
5 ~~the child support guidelines for each custodial~~
6 ~~arrangement.~~

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

12 ~~c. In all cases the parent with the larger child support~~
13 ~~obligation shall pay the difference between the two~~
14 ~~amounts to the parent with the smaller child support~~
15 ~~obligation;~~

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

19 ~~(1) be employed,~~

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

21 ~~(3) attend school or training to enhance employment~~
22 ~~income.~~

23 ~~b. When the obligee is participating in the Department of~~
24 ~~Human Services child care subsidy program as provided~~

~~under Section 230.50 of Title 56 of the Oklahoma Statutes, the Child Care Eligibility/Rates Schedule established by the Department shall be used to determine the amount to be treated as actual child care costs incurred. When applying the schedule to determine the family share copayment amount, the obligor's share of the base monthly obligation for child support and the obligee's gross income shall be considered as the obligee's monthly income. The actual child care costs incurred shall be the family share copayment amount indicated on the schedule which shall be allocated and paid monthly in the same proportion as base child support. The Department of Human Services shall promulgate rules, as necessary, to implement the provisions of this subparagraph.~~

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

~~d. The district or administrative court shall require the obligee to provide the obligor with timely documentation of any change in the amount of the child care costs. Upon request by the obligor, whose requests shall not exceed one each month, or upon~~

1 ~~order of the court, the obligee shall provide the~~
2 ~~documentation of the amount of incurred child care~~
3 ~~costs which are related to employment, employment~~
4 ~~search or education or training as authorized by this~~
5 ~~paragraph.~~

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

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

22 ~~15. Transportation expenses of a child between the homes of the~~
23 ~~parents may be divided between the parents in proportion to their~~
24 ~~adjusted gross income;~~

1 ~~16. a. (1) Child support orders may be modified upon a~~
2 ~~material change in circumstances which includes,~~
3 ~~but is not limited to, an increase or decrease in~~
4 ~~income, changes in actual child care expenses,~~
5 ~~changes in medical or dental insurance, or when~~
6 ~~one of the children in the child support order~~
7 ~~reaches the age of majority or otherwise ceases to~~
8 ~~be entitled to support pursuant to the support~~
9 ~~order.~~

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

11 ~~Schedule shall not alone be a material change in~~
12 ~~circumstances for child support orders in~~
13 ~~existence on November 1, 1999.~~

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

15 ~~by either parent after the entry of a child~~
16 ~~support order shall not alone be considered a~~
17 ~~material change in circumstances.~~

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

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

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

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

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

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

1 ~~b. When an existing child support order does not contain~~
2 ~~a provision which requires an informal review and~~
3 ~~adjustment process, either parent may request the~~
4 ~~other parent to provide the information necessary for~~
5 ~~the informal review and adjustment process.~~
6 ~~Information shall be provided to the requesting parent~~
7 ~~within forty five (45) days of the request.~~
8 ~~e. Requested information may include verification of~~
9 ~~income, proof and cost of children's medical~~
10 ~~insurance, and current and projected child care costs.~~
11 ~~If shared parenting time has been awarded by the~~
12 ~~court, documentation of past and prospective overnight~~
13 ~~visits shall be exchanged.~~
14 ~~d. Exchange of requested information may occur once a~~
15 ~~year or less often, by regular mail.~~
16 ~~e. (1) If the parents agree to a modification of a child~~
17 ~~support order, their agreement shall be in~~
18 ~~writing using standard modification forms and the~~
19 ~~child support computation form provided for in~~
20 ~~Section 120 of this title.~~
21 ~~(2) The standard modification forms and the standard~~
22 ~~child support computation form shall be submitted~~
23 ~~to the district or administrative court. The~~
24 ~~court shall review the modification forms to~~

1 ~~confirm that the child support obligation~~
2 ~~complies with the child support guidelines and~~
3 ~~that all necessary parties pursuant to Section~~
4 ~~112 of this title have been notified. If the~~
5 ~~court approves the modification forms, they shall~~
6 ~~be filed with the court.~~

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

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

23 ~~19. The district or administrative court shall require and~~
24 ~~enforce a complete disclosure of assets by both parents on a~~

1 ~~financial affidavit form prescribed by the Administrative Office of~~
2 ~~the Courts;~~

3 ~~20. Child support orders issued for prior born children of the~~
4 ~~payor may not be modified for the purpose of providing support for~~
5 ~~later born children;~~

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

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

15 ~~23. A completed support order summary form shall be presented~~
16 ~~to the judge with all paternity and child support orders, and no~~
17 ~~such order shall be signed by the judge without presentation of the~~
18 ~~form.~~

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

22 As used in this act:
23
24

1 1. "Adjusted Gross Income" (AGI) means the net determination of
2 the income of a parent, calculated by modifying the gross income of
3 the parent as follows:

4 a. adding to the gross income of the parent any social
5 security benefit paid to the child on the account of
6 the parent,

7 b. deducting from gross income the amount of any support
8 alimony arising in a prior case to the extent that
9 payment is actually made,

10 c. deducting from gross income any deductions as set
11 forth for other children for whom the parent is
12 legally responsible and is actually supporting,
13 pursuant to Section 4 of this act, and

14 d. deducting the amount of reasonable expenses of the
15 parties attributable to debt service for preexisting,
16 jointly acquired debt of the parents;

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

1 3. "Current Monthly Child Support Obligation" means the base
2 child support obligation and the proportional share of any medical
3 insurance and annualized child care costs;

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

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

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

12 7. "Obligee" or "person entitled" means:

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

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

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

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

24

1 9. "Overnight" means the child is in the physical custody and
2 control of a parent for an overnight period of at least twelve (12)
3 hours, and that parent has made a reasonable expenditure of
4 resources for the care of the child;

5 10. "Parent" means an individual who has a parent-child
6 relationship under the Uniform Parentage Act;

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

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

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

15 A. As used in this act:

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

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

21 a. salaries,

22 b. wages,

23 c. tips

24 d. commissions,

- 1 e. bonuses,
- 2 f. severance pay, and
- 3 g. military pay, including hostile fire or imminent
- 4 danger pay, combat pay, family separation pay, or
- 5 hardship duty location 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 being received from someone other than
- 14 the other parent in this case,
- 15 g. annuities,
- 16 h. social security benefits,
- 17 i. workers' compensation benefits,
- 18 j. unemployment insurance benefits,
- 19 k. disability insurance benefits,
- 20 l. gifts,
- 21 m. prizes,
- 22 n. gambling winnings,
- 23 o. lottery winnings, and
- 24 p. royalties.

1 B. Income specifically excluded is:

2 1. Actual child support received for children not before the
3 court;

4 2. Adoption Assistance subsidy paid by the Department of Human
5 Services;

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

8 a. Temporary Assistance for Needy Families (TANF),

9 b. Supplemental Security Income (SSI),

10 c. Food Stamps, and

11 d. General Assistance and State Supplemental Payments for
12 Aged, Blind and the Disabled;

13 4. The income of the child from any source, including, but not
14 limited to, trust income and social security benefits drawn on the
15 disability of the child; and

16 5. Payments received by the parent for the care of foster
17 children.

18 C. 1. For purposes of computing gross income of the parents,
19 gross income shall include for each parent whichever is the most
20 equitable of:

21 a. all actual monthly income described in this section,
22 plus such overtime and supplemental income as the
23 court deems equitable,
24

- b. the average of the gross monthly income for the time actually employed during the previous three (3) years,
- c. the minimum wage paid for a forty-hour week, or
- d. gross monthly income imputed as set forth in subsection D of this section.

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

D. Imputed income.

1. Instead of using the actual or average income of a parent, the court may impute gross income to a parent under the provisions of this section if equitable.

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

- a. whether a parent has been determined by the court to be willfully or voluntarily underemployed or unemployed, including whether unemployment or underemployment for the purpose of pursuing additional training or education is reasonable in light of the obligation of the parent to support his or her children and, to this end, whether the training or education will ultimately benefit the child in the case immediately under consideration by increasing the

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

- 3 b. when there is no reliable evidence of income,
- 4 c. the past and present employment of the parent,
- 5 d. the education, training, and ability to work of the
6 parent,
- 7 e. the lifestyle of the parent, including ownership of
8 valuable assets and resources, whether in the name of
9 the parent or the current spouse of the parent, that
10 appears inappropriate or unreasonable for the income
11 claimed by the parent,
- 12 f. the role of the parent as caretaker of a handicapped
13 or 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 ability of the
17 parent to work outside the home, and the need of that
18 parent to continue in that role in the future, or
- 19 g. any additional factors deemed relevant to the
20 particular circumstances of the case.

21 E. Self-employment income.

22 1. Income from self-employment includes income from, but not
23 limited to, business operations, work as an independent contractor
24 or consultant, sales of goods or services, and rental properties,

1 less ordinary and reasonable expenses necessary to produce such
2 income.

3 2. A determination of business income for tax purposes shall
4 not control for purposes of determining a child support obligation.
5 Amounts allowed by the Internal Revenue Service for accelerated
6 depreciation or investment tax credits shall not be considered
7 reasonable expenses.

8 3. The district or administrative court shall deduct from self-
9 employment gross income an amount equal to the employer contribution
10 for F.I.C.A. tax which an employer would withhold from an employee's
11 earnings on an equivalent gross income amount.

12 F. Fringe benefits.

13 1. Fringe benefits for inclusion as income or in-kind
14 remuneration received by a parent in the course of employment, or
15 operation of a trade or business, shall be counted as income if they
16 significantly reduce personal living expenses.

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

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

22 4. Fringe benefits do not include employee benefits that are
23 typically added to the salary, wage, or other compensation that a
24 parent may receive as a standard added benefit, such as employer

1 contributions to portions of health insurance premiums or employer
2 contributions to a retirement or pension plan.

3 G. Social Security Title II benefits.

4 1. Social Security Title II benefits received by a child shall
5 be included as income to the parent on whose account the benefit of
6 the child is drawn and applied against the support obligation
7 ordered to be paid by that parent. If the benefit of the child is
8 drawn from the disability of the child, the benefit of the child is
9 not added to the income of either parent and not deducted from the
10 obligation of either parent.

11 2. Child support greater than social security benefit.

12 If the child support award due after calculating the child
13 support guidelines is greater than the social security benefit
14 received on behalf of the child, the obligor shall be required to
15 pay the amount exceeding the social security benefit as part of the
16 child support award in the case.

17 3. Child support equal to or less than social security
18 benefits.

19 a. If the child support award due after calculating the
20 child support guidelines is less than or equal to the
21 social security benefit received on behalf of the
22 child, the child support obligation of that parent is
23 met and no additional child support amount must be
24 paid by that parent.

1 b. Any social security benefit amounts which are greater
2 than the support ordered by the court shall be
3 retained by the caretaker for the benefit of the child
4 and shall not be used as a reason for decreasing the
5 child support order or reducing arrearages.

6 c. The child support computation form shall include a
7 notation regarding the use of social security benefits
8 as offset.

9 4. a. Calculation of child support as provided in subsection
10 F of this section shall be effective no earlier than
11 the date on which the motion to modify was filed.

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

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

20 d. Any credit granted by the court pursuant to
21 subparagraph b of this paragraph shall be limited to
22 the time period during which the social security
23 benefit was paid, or the time period covered by a lump
24 sum for past social security benefits.

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

4 A. Deductions for other children of either parent who are
5 qualified under this section may be considered by the court for the
6 purpose of reducing the gross income of the parent. Adjustments are
7 available for a child:

8 1. Who is the biological, legal, or adopted child of the
9 parent;

10 2. Who was born prior to the child in the case under
11 consideration;

12 3. Whom the parent is actually supporting; and

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

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

19 C. If the court finds a parent has a parent-child relationship
20 with a child not before the court, the court may grant a deduction
21 for that child as set forth in subsection D of this section.

22 D. Calculation of deduction for qualified other children.

23 1. Out-of-home children.
24

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

12 b. Documented proof of support includes:

13 (1) physical evidence of monetary payments to the
14 caretaker of the child, such as canceled checks
15 or money orders, and

16 (2) evidence of payment of child support under
17 another child support order, such as a payment
18 history from a tribunal clerk or child support
19 office or from the Internet child support payment
20 history of the Department of Human Services.

21 c. The available deduction against gross income for
22 either parent's qualified children not in the home of
23 the parent is the actual documented court-ordered
24 current monthly child support obligation of the

1 qualified other children, averaged to a monthly amount
2 of support paid over the most recent twelve-month
3 period.

4 2. In-home children.

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

20 b. The deduction for other qualified children shall be
21 computed as a hypothetical child support order
22 calculated using the deduction worksheet, the gross
23 income of the parents, the total number of qualified
24 other children living in the home of the parent, and

1 the Child Support Guideline Schedule. The deduction
2 worksheet shall be prepared by the Department of Human
3 Services and shall be published by the Administrative
4 Office of the Courts.

5 c. The available deduction against gross income for the
6 qualified in-home children of either parent is
7 seventy-five percent (75%) of a hypothetical support
8 order calculated according to these Guidelines, using
9 the Deduction Worksheet, the gross income of the
10 parent less any self-employment taxes paid, the total
11 number of qualified other children living in the home
12 of the parents, and the Child Support Guideline
13 Schedule.

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

17 A. All child support shall be computed as a percentage of the
18 combined gross income of both parents. The Child Support Guideline
19 Schedule as provided in Section 119 of Title 43 of the Oklahoma
20 Statutes shall be used for such computation. The child support
21 obligation of each parent shall be computed. The share of the
22 obligor shall be paid monthly to the obligee and shall be due on a
23 specific date.

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

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

11 D. 1. In cases of split physical custody, where each parent is
12 awarded physical custody of at least one of the children for whom
13 the parents are responsible, the child support obligation for each
14 parent shall be calculated by application of the child support
15 guidelines for each custodial arrangement.

16 2. The parent with the larger child support obligation shall
17 pay the difference between the two amounts to the parent with the
18 smaller child support obligation.

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

23 F. The court, to the extent reasonably possible, shall make
24 provision in an order for prospective adjustment of support to

1 address any foreseen changes including, but not limited to, changes
2 in medical insurance, child care expenses, medical expenses,
3 extraordinary costs, and the satisfaction of jointly acquired debt
4 of the parents used as a deduction from the gross income of a
5 parent.

6 G. Transportation expenses of a child between the homes of the
7 parents may be divided between the parents in proportion to their
8 adjusted gross income, so long as the payment of such expenses does
9 not significantly reduce the ability of the custodial parent to
10 provide for the basic needs of the child.

11 H. The social security numbers of both parents and the children
12 who are the subject of a paternity or child support order shall be
13 included in the support order summary form provided for in Section
14 120 of Title 43 of the Oklahoma Statutes.

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

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

23 A. Parenting time adjustment.
24

1 1. The adjustment may be granted based upon a court order or
2 agreement that the noncustodial parent is granted at least one
3 hundred twenty-one (121) overnights of parenting time per twelve-
4 month period with the children in the case under consideration.

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

10 B. In cases of split physical custody, either parent may be
11 eligible for a parenting time adjustment.

12 C. Parenting time adjustments are not mandatory, but
13 presumptive. The presumption may be rebutted in a case where the
14 circumstances indicate the adjustment is not in the best interest of
15 the child or that the increased parenting time by the noncustodial
16 parent does not result in greater expenditures which would justify a
17 reduction in the support obligation.

18 D. Reduction in child support obligation for additional
19 parenting time.

20 1. If the parent receiving the parenting time adjustment is
21 granted one hundred twenty-one (121) or more overnights of parenting
22 time per twelve-month period with a child, or an average of one
23 hundred twenty-one (121) overnights with all applicable children, a
24

1 reduction to the child support obligation of the parent may be made
2 as set forth in this section.

3 2. A parenting time adjustment shall be made to the base
4 monthly child support obligation by the following formula: The total
5 combined base monthly child support obligation shall be multiplied
6 by a factor determined by the number of overnights granted to the
7 noncustodial parent. The result shall be designated the adjusted
8 combined child support obligation. In a case where the noncustodial
9 parent is granted:

10 a. one hundred twenty-one (121) overnights to one hundred
11 thirty-one (131) overnights, the factor shall be two
12 (2),

13 b. one hundred thirty-two (132) overnights to one hundred
14 forty-three (143) overnights, the factor shall be one
15 and three-quarters (1.75), or

16 c. one hundred forty-four (144) or more overnights, the
17 factor shall be one and one-half (1.5).

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

22 4. a. The percentage of time a child spends with each parent
23 shall be calculated by determining the number of
24

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

3 b. The share of the adjusted combined child support
4 obligation for each parent shall then be multiplied by
5 the 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. In no event shall the provisions of this paragraph be
17 construed to authorize or allow the payment of child support by a
18 parent having more than two hundred five (205) overnights.

19 E. 1. Failure to exercise or exercising more than the number
20 of overnights upon which the parenting time adjustment is based, is
21 a material change of circumstances.

22 2. If the court finds that the obligor has failed to exercise a
23 significant number of the overnights provided in the court order
24 necessary to receive the parenting time adjustment, in a proceeding

1 to modify the child support order, the court may establish the
2 amount that the obligor has underpaid due to the application of the
3 parenting time adjustment as a child support judgment that may be
4 enforced in the same manner as any other child support judgment.

5 3. The court may rule that the obligor will not receive the
6 parenting time adjustment for the next twelve-month period. After a
7 twelve-month period during which the obligor did not receive the
8 parenting time adjustment, the obligor may petition the court to
9 modify the child support order. The obligor may be granted a
10 prospective parenting time adjustment upon a showing that the
11 obligor has actually exercised the threshold number of overnights in
12 the preceding twelve months. No retroactive modification or credit
13 from the child support guidelines amount shall be granted based on
14 this section.

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

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

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

22 1. "Health insurance" includes:

23 a. fee for service,

24 b. health maintenance organization,

- c. preferred provider organization, and
- d. other types of coverage, including, but not limited to, Indian Health Services or Defense Eligibility Enrollment Reporting System (DEERS), which is available to either parent under which medical services could be provided to the dependent children.

2. "Cash medical support" means:

- a. an amount ordered to be paid toward the cost of health coverage provided by a public entity or by a person other than the parents through employment or otherwise, or
- b. fixed periodic payments for ongoing medical costs.

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

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

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

4 2. Require the parent ordered to provide health care coverage
5 for the child as provided under this section to produce evidence to
6 the court's satisfaction that the parent has applied for or secured
7 health insurance or has otherwise taken necessary action to provide
8 for health care coverage for the child, as ordered by the court.

9 D. When the court enters a medical support order, the medical
10 support order must be reasonable in cost and accessible.

11 1. "Reasonable in cost" means that the actual premium cost paid
12 by the insured does not exceed five percent (5%) of the gross income
13 of the responsible parent. To calculate the actual premium cost of
14 the health insurance, the court shall:

- 15 a. deduct from the total insurance premium the cost of
16 coverage for the parent and any other adults in the
17 household,
- 18 b. divide the remainder by the number of dependent
19 children being covered, and
- 20 c. multiply the amount per child by the number of
21 children in the child support case under
22 consideration.

23 2. "Accessible health insurance" means that:
24

1 a. there are available providers appropriate to meet the
2 primary individual health care needs of the children
3 no more than sixty (60) miles one way from the primary
4 residence of the children.

5 b. If a parent has available health coverage which
6 includes an option that would be accessible to the
7 child, but the parent has not currently enrolled in
8 that option, the court may require the parent to
9 change existing coverage to an option that is
10 accessible to the child.

11 3. If the parties agree or the court finds good cause exists,
12 the court may order medical coverage in excess of the five percent
13 (5%) cost standard or the sixty-mile distance standard.

14 E. The court shall consider the cost and quality of health
15 insurance coverage available to the parties and shall give priority
16 to health insurance coverage available through the employment of one
17 of the parties if the coverage meets the standards in subsection D
18 of this section. If both parents have coverage available, the court
19 shall give priority to the preference of the custodial person.

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

1 1. If health insurance is available for the child through the
2 employment of a parent or membership in a union, trade association,
3 or other organization, the court shall order that parent to enroll
4 the child in the health insurance of the parent;

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

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

20 4. Cash medical support.

21 a. If health insurance coverage is not available for the
22 child under paragraph 1 or 2 of this subsection, the
23 court shall determine the amount to be treated as the
24 actual monthly medical costs for the child and order

1 the obligor to pay, in addition to the obligors
2 current child support obligation, an amount as cash
3 medical support for the child.

4 b. The cash medical support order shall not exceed the
5 pro rata share of the actual monthly medical expenses
6 paid for the child, or five percent (5%) of the gross
7 monthly income of the obligor, whichever is less.

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

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

18 (b) for children who are not participating in a
19 government medical assistance program or
20 health plan, an amount consistent with rules
21 promulgated by the Department of Human
22 Services determining the average monthly
23 cost of health care for uninsured children.

24 (2) The court may also consider:

- 1 (a) proof of past medical expenses incurred by
- 2 either parent for the child,
- 3 (b) the current state of the health of the
- 4 child, and
- 5 (c) any medical conditions of the child that
- 6 would result in an increased monthly medical
- 7 cost.

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

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

13 2. The obligor:

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

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

18 H. 1. The actual health insurance premium for the child shall
19 be allocated between the parents in the same proportion as their
20 adjusted gross income and shall be added to the base child support
21 obligation.

22 2. If the obligor pays the health insurance premium, the
23 obligor shall receive credit against the base child support

24

1 obligation for the allocated share of the health insurance premium
2 for which the obligee is responsible.

3 3. If the obligee pays the health insurance premium, the
4 obligor shall pay the allocated share of the health insurance
5 premium to the obligee in addition to the base child support
6 obligation.

7 4. The parent providing the health insurance coverage shall
8 furnish to the other parent and to the Child Support Enforcement
9 Division of the Department of Human Services, if services are being
10 provided pursuant to Title IV, Part D of the Social Security Act, 42
11 U.S.C. Section 601 et seq., with timely written documentation of any
12 change in the amount of the health insurance cost premium, carrier,
13 or benefits within thirty (30) days of the date of the change. Upon
14 receiving timely notification of the change of cost, the other
15 parent is responsible for his or her percentage share of the changed
16 cost of the health insurance.

17 5. If the court finds that the obligor has underpaid child
18 support due to changes in the cost of health insurance, the amount
19 of underpayment may established by the court and enforced in the
20 same manner as any other delinquent child support judgment. If the
21 court finds that the obligor has overpaid due to changes in health
22 insurance coverage cost, the overpayment shall be satisfied:

23 a. by offset against any past-due child support owed to
24 the obligee, or

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

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

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

22 K. The parent desiring an adjustment to the ongoing child
23 support order due to a change in the amount of dependent health
24

1 insurance premium shall initiate a review of the order in accordance
2 with Section 10 of this act.

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

6 A. The district or administrative court shall determine the
7 actual annualized child care expenses reasonably necessary to enable
8 either or both parents to:

- 9 1. Be employed;
- 10 2. Seek employment; or
- 11 3. Attend school or training to enhance employment income.

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

24

1 support. The Department of Human Services shall promulgate rules,
2 as necessary, to implement the provisions of this section.

3 C. The actual annualized child care costs incurred for the
4 purposes authorized by this section shall be allocated and added to
5 the base child support order, and shall be part of the final child
6 support order.

7 D. The district or administrative court shall require the
8 parent incurring child care expenses to notify the obligor within
9 forty-five (45) days of any change in the amount of the child care
10 costs that would affect the annualized child care amount as
11 determined in the order.

12 E. A parent may be allowed to provide child care incurred
13 during employment, employment search, or while the other parent is
14 attending school or training if the court determines it would lead
15 to a significant reduction in the actual annualized child care cost.

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

19 A. No deviation in the amount of the child support obligation
20 shall be made which seriously impairs the ability of the obligee in
21 the case under consideration to maintain minimally adequate housing,
22 food, and clothing for the children being supported by the order or
23 to provide other basic necessities, as determined by the court.

24

1 B. 1. The district or administrative court may deviate from
2 the amount of child support indicated by the child support
3 guidelines if the deviation is in the best interests of the child,
4 and:

- 5 2. a. the amount of support so indicated is unjust or
6 inappropriate under the circumstances,
- 7 b. the parties are represented by counsel and have agreed
8 to a different disposition, or
- 9 c. one party is represented by counsel and the deviation
10 benefits the unrepresented party.

11 C. If the district or administrative court deviates from the
12 amount of child support indicated by the child support guidelines,
13 the court shall make specific findings of fact supporting such
14 action. The findings of fact shall include:

15 1. The reasons the court deviated from the presumptive amount
16 of child support that would have been paid pursuant to the
17 guidelines,

18 2. The amount of child support that would have been required
19 under the guidelines if the presumptive amount had not been
20 rebutted, and

21 3. A finding by the court that states how, in its
22 determination:
23
24

1 a. the best interests of the child who is subject to the
2 support award determination are served by deviation
3 from the presumptive guideline amount, and

4 b. application of the guidelines would be unjust or
5 inappropriate in the particular case before the
6 tribunal.

7 D. In instances of extreme economic hardship, deviation from
8 the guidelines may be considered when the court finds the deviation
9 is supported by the evidence and is not detrimental to the best
10 interests of the child before the court.

11 E. If a parent is residing with a child with extraordinary
12 medical needs not covered by insurance or other special needs, the
13 court must consider all resources available for meeting such needs,
14 including those available from public agencies and other responsible
15 adults.

16 F. In cases where the child is in the legal custody of the
17 Department of Human Services, the child protection or foster care
18 agency of another state or territory, or any other child-caring
19 entity, public or private, the court may consider a deviation from
20 the presumptive child support order if the deviation will assist in
21 accomplishing a permanency plan or foster care plan for the child
22 that has a goal of returning the child to the parent, and the
23 parents need to establish an adequate household or to otherwise
24

1 adequately prepare herself or himself for the return of the child
2 clearly justifies a deviation for this purpose.

3 G. Extraordinary educational expenses.

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

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

15 H. Special expenses.

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

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

3 2. Some factors the court may consider in determining whether
4 to deviate for such extraordinary expenses include: a history of
5 expenditure for such activities, the financial ability of the
6 parents to provide such activities, and that the child has exhibited
7 an extraordinary aptitude for the activity.

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

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

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

23

24

1 2. Modification of the Child Support Guideline Schedule shall
2 not alone be a material change in circumstances for child support
3 orders.

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

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

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

18 C. The amount of a child support order shall not be construed
19 to be an amount per child unless specified by the district or
20 administrative court in the order. A child reaching the age of
21 majority or otherwise ceasing to be entitled to support pursuant to
22 the support order shall constitute a material change in
23 circumstances, but shall not automatically serve to modify the
24 order. When the last child of the parents ceases to be entitled to

1 support, the child support obligation is automatically terminated as
2 to prospective child support only.

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 medical insurance of the children, 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 SECTION 11. AMENDATORY 43 O.S. 2001, Section 134, is
12 amended to read as follows:

13 Section 134. A. In any divorce decree which provides for
14 periodic alimony payments, the court shall plainly state, at the
15 time of entering the original decree, the dollar amount of all or a
16 portion of each payment which is designated as support and the
17 dollar amount of all or a portion of the payment which is a payment
18 pertaining to a division of property. The court shall specify in
19 the decree that the payments pertaining to a division of property
20 shall continue until completed. Payments pertaining to a division
21 of property are irrevocable and not subject to subsequent
22 modification by the court making the award. An order for the
23 payment of money pursuant to a divorce decree, whether designated as
24 support or designated as pertaining to a division of property shall

1 not be a lien against the real property of the person ordered to
2 make such payments unless the court order specifically provides for
3 a lien on real property. An arrearage in payments of support
4 reduced to a judgment may be a lien against the real property of the
5 person ordered to make such payments.

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

21 C. The voluntary cohabitation of a former spouse with a member
22 of the opposite sex shall be a ground to modify provisions of a
23 final judgment or order for alimony as support. If voluntary
24 cohabitation is alleged in a motion to modify the payment of

1 support, the court shall have jurisdiction to reduce or terminate
2 future support payments upon proof of substantial change of
3 circumstances of either party to the divorce relating to need for
4 support or ability to support. As used in this subsection, the term
5 cohabitation means the dwelling together continuously and habitually
6 of a man and a woman who are in a private conjugal relationship not
7 solemnized as a marriage according to law, or not necessarily
8 meeting all the standards of a common-law marriage. The petitioner
9 shall make application for modification and shall follow
10 notification procedures used in other divorce decree modification
11 actions. The court that entered the divorce decree shall have
12 jurisdiction over the modification application.

13 D. Except as otherwise provided in subsection C of this
14 section, the provisions of any divorce decree pertaining to the
15 payment of alimony as support may be modified upon proof of changed
16 circumstances relating to the need for support or ability to support
17 which are substantial and continuing so as to make the terms of the
18 decree unreasonable to either party. Modification by the court of
19 any divorce decree pertaining to the payment of alimony as support,
20 pursuant to the provisions of this subsection, may extend to the
21 terms of the payments and to the total amount awarded; provided
22 however, such modification shall only have prospective application.

23 E. Pursuant to the federal Uniformed Services Former ~~Spouse's~~
24 Spouses' Protection Act (PL 97-252), the, 10 U.S.C., Section 1408, a

1 court may treat disposable retired or retainer pay payable to a
2 military member either as property solely of the member or as
3 property of the member and the spouse of the member. If a state
4 court determines that the disposable retired or retainer pay of a
5 military member is marital property, the court shall award an amount
6 consistent with the rank, pay grade, and time of service of the
7 member at the time of separation.

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

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

21 SECTION 12. AMENDATORY 21 O.S. 2001, Section 566, as
22 last amended by Section 1, Chapter 140, O.S.L. 2007 (21 O.S. Supp.
23 2007, Section 566), is amended to read as follows:
24

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

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

15 a. ~~the proportion of the child support, child support~~
16 ~~arrearage payments, or other support that was unpaid~~
17 ~~in relation to the amount of support that was ordered~~
18 ~~paid,~~

19 b. ~~the proportion of the child support, child support~~
20 ~~arrearage payments, or other support that could have~~
21 ~~been paid by the party found in contempt in relation~~
22 ~~to the amount of support that was ordered paid,~~

23 c. ~~the present capacity of the party found in contempt to~~
24 ~~pay any arrearages,~~

- 1 d. ~~any willful actions taken by the party found in~~
2 ~~contempt to reduce factor c,~~
3 e. ~~the past history of compliance or noncompliance with~~
4 ~~the support or visitation order, and~~
5 f. ~~willful acts to avoid the jurisdiction of the court.~~

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

10 a. ~~proof that:~~

- 11 ~~(1) the order was made, filed, and served on the~~
12 ~~parent, or~~
13 ~~(2) the parent had actual knowledge of the existence~~
14 ~~of the order, or~~
15 ~~(3) the order was granted by default after prior due~~
16 ~~process notice to the parent, or~~
17 ~~(4) the parent was present in court at the time the~~
18 ~~order was pronounced, and~~

19 b. ~~proof of noncompliance with the order,~~
20 ~~shall be prima facie evidence of an indirect civil contempt of~~
21 ~~court.~~

22 c. Any court in this state has the power to enforce an order
23 for current child support, past~~_~~due child support and child support
24 arrearage payments, other support, visitation, or other court orders

1 regarding minor children and to punish an individual for failure to
2 comply therewith, as set forth in subsection A of this section.

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

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

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

8 3. In the county in this state in which the obligor resides or
9 receives income.

10 Orders for current child support, past_due child support and
11 child support arrearage payments are enforceable until paid in full.
12 The remedies provided by this section are available regardless of
13 the age of the child.

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

17 A. When a court of competent jurisdiction has entered an order
18 compelling a parent to furnish child support, necessary food,
19 clothing, shelter, medical support, payment of child care expenses,
20 or other remedial care for the minor child of the parent:

21 1. Proof that:

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

23 b. the parent had actual knowledge of the existence of
24 the order,

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

3 d. the parent was present in court at the time the order
4 was pronounced; and

5 2. Proof of noncompliance with the order,
6 shall be prima facie evidence of an indirect civil contempt of
7 court.

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

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

13 b. incarceration in the county jail on weekends or at
14 other times that allow the obligor to be employed,
15 seek employment or engage in other activities ordered
16 by the court.

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

19 C. 1. During proceedings for indirect contempt of court, the
20 court may order the obligor to complete an alternative program and
21 comply with a payment plan for child support and arrears. If the
22 obligor fails to complete the alternative program and comply with
23 the payment plan, the court shall proceed with the indirect contempt
24

1 and shall impose punishment pursuant to subsection B of this
2 section.

3 2. An alternative program may include:

4 a. a problem-solving court program for obligors when
5 child support services under the state child support
6 plan as provided in Section 237 of Title 56 of the
7 Oklahoma Statutes are being provided for the benefit
8 of the child. A problem-solving court program is an
9 immediate and highly structured judicial intervention
10 process for the obligor and requires completion of a
11 participation agreement by the obligor and monitoring
12 by the court. A problem-solving court program differs
13 in practice and design from the traditional
14 adversarial contempt prosecution and trial systems.
15 The problem-solving court program uses a team approach
16 administered by the judge in cooperation with a child
17 support state's attorney and a child support court
18 liaison who focuses on removing the obstacles causing
19 the nonpayment of the obligor. The obligors in this
20 program shall be required to sign an agreement to
21 participate in this program as a condition of the
22 Department of Human Services agreement to stay
23 contempt proceedings or in lieu of incarceration after
24 a finding of guilt. The court liaisons assess the

1 needs of the obligor, develop a community referral
2 network, make referrals, monitor the compliance of the
3 obligor in the program, and provide status reports to
4 the court, and

5 b. participation in programs such as counseling,
6 treatment, educational training, social skills
7 training or employment training to which the obligor
8 reports daily or on a regular basis at specified times
9 for a specified length of time.

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

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

21 2. The proportion of the child support, child support arrearage
22 payments, or other support that could have been paid by the party
23 found in contempt in relation to the amount of support that was
24 ordered paid;

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

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

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

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

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

11 Section 852. A. Unless otherwise provided for by law, any
12 parent, guardian, or person having custody or control of a child as
13 defined in Section 7001-1.3 of Title 10 of the Oklahoma Statutes who
14 willfully omits, without lawful excuse, to furnish necessary food,
15 clothing, shelter, monetary child support, medical attendance,
16 payment of court-ordered day care or payment of court-ordered
17 medical insurance costs for such child which is imposed by law, upon
18 conviction, is guilty of a misdemeanor; provided, any person
19 obligated to make child support payments who willfully and without
20 lawful excuse becomes delinquent in said child support payments
21 after September 1, 1993, and such delinquent child support accrues
22 without payment by the obligor for a period of one (1) year, or
23 exceeds Five Thousand Dollars (\$5,000.00) shall, upon conviction
24 thereof, be guilty of a felony which is punishable in the same

1 manner as any subsequent conviction pursuant to the provisions of
2 this section. Any subsequent conviction pursuant to this section
3 shall be a felony, punishable by imprisonment for not more than four
4 (4) years in the ~~State Penitentiary~~ custody of the Department of
5 Corrections or by the imposition of a fine of not more than Five
6 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.
7 As used in this section, the duty to furnish medical attendance
8 shall mean that the parent or person having custody or control of a
9 child must furnish medical treatment in such manner and on such
10 occasions as an ordinarily prudent person, solicitous for the
11 welfare of a child, would provide; such parent or person having
12 custody or control of a child is not criminally liable for failure
13 to furnish medical attendance for every minor or trivial complaint
14 with which the child may be afflicted.

15 B. Any person who leaves the state to avoid providing necessary
16 food, clothing, shelter, court-ordered monetary child support, or
17 medical attendance for such child, upon conviction, shall be guilty
18 of a felony punishable by imprisonment for not more than four (4)
19 years in the ~~State Penitentiary~~ custody of the Department of
20 Corrections or by the imposition of a fine of not more than Five
21 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

22 C. Nothing in this section shall be construed to mean a child
23 is endangered for the sole reason the parent, guardian or person
24 having custody or control of a child, in good faith, selects and

1 depends upon spiritual means alone through prayer, in accordance
2 with the tenets and practice of a recognized church or religious
3 denomination, for the treatment or cure of disease or remedial care
4 of such child; provided, that medical care shall be provided where
5 permanent physical damage could result to such child; and that the
6 laws, rules, and regulations relating to communicable diseases and
7 sanitary matters are not violated.

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

12 E. Psychiatric and psychological testing and counseling are
13 exempt from the provisions of this section.

14 F. If any parent of a child in cases in which the Department of
15 Human Services is providing services pursuant to Section 237 of
16 Title 56 of the Oklahoma Statutes is determined by the Department to
17 be willfully violating the provisions of this section, the
18 Department may refer the case to the proper district attorney for
19 prosecution. The Department shall provide assistance to the
20 district attorneys in such prosecutions. Any child support or
21 arrears payments made pursuant to this section shall be made payable
22 to the Department and paid through the Centralized Support Registry
23 pursuant to Section 413 of Title 43 of the Oklahoma Statutes.

24

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

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

18 ~~H.~~ I. Venue is proper in prosecutions for violations of this
19 section in:

- 20 1. Any county where the child resides;
- 21 2. The county in which the court-ordered support was entered or
22 registered pursuant to the provisions of the Uniform Interstate
23 Family Support Act; or
- 24 3. The county in which the defendant resides.

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

4 A. In cases in which child support services under the state
5 child support plan as provided in Section 237 of Title 56 of the
6 Oklahoma Statutes are being provided for the benefit of the child,
7 the administrative or district court may order the obligor to
8 participate in the problem-solving court program of the Department
9 of Human Services. The problem-solving court program is an
10 immediate and highly structured judicial intervention process for
11 the obligor and requires completion of a participation agreement by
12 the obligor and monitoring by the court. A problem-solving court
13 program differs in practice and design from the traditional
14 adversarial prosecution and trial systems. The problem-solving
15 court program uses a team approach administered by the judge in
16 cooperation with a child support state's attorney and a child
17 support court liaison who focuses on removing the obstacles causing
18 the nonpayment of the obligor. The obligors in this program shall
19 be required to sign an agreement to participate in this program.
20 The court liaisons assess the needs of the obligor, develop a
21 community referral network, make referrals, monitor the compliance
22 of the obligor in the program, and provide status reports to the
23 court.

24

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

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

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

12 B.—1. If any parent of a child is determined by the Department
13 of Human Services to be willfully violating the provisions of
14 Section 852 of Title 21 of the Oklahoma Statutes ~~by not providing~~
15 ~~for the maintenance and support of the child and the amount of the~~
16 ~~child support delinquency accrues for more than one (1) year or~~
17 ~~exceeds Five Thousand Dollars (\$5,000.00), the Department shall~~
18 ~~notify~~ may refer the case to the proper district attorney of the
19 ~~names of pertinent witnesses and information gained from the~~
20 ~~investigation for prosecution.~~

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

23 B. The Department shall provide legal assistance to the
24 district attorneys in such prosecutions.

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

8 ~~D. A parent omitting to provide for the maintenance and support~~
9 ~~of a child shall be afforded an opportunity to report to the~~
10 ~~Department for training or assistance in finding employment without~~
11 ~~referral for prosecution on the condition that the parent provide~~
12 ~~for such maintenance and support.~~

13 ~~E. If a parent is convicted pursuant to subsection A of this~~
14 ~~section it shall be mandatory that the punishment of the parent~~
15 ~~shall include imprisonment in the county jail for not more than~~
16 ~~ninety (90) days; provided, that the parent may be released on~~
17 ~~probation, subject to supervision of the Department, on condition~~
18 ~~that the parent register with the Oklahoma Employment Security~~
19 ~~Commission and obtain or accept employment or training that will~~
20 ~~enable the parent to provide for the support and maintenance of the~~
21 ~~parent's child or children.~~

22 ~~F. These provisions shall not apply to an only parent, caring~~
23 ~~for the child or children in the home, when day care services are~~
24

1 ~~not available or when it is unreasonable to place the child or~~
2 ~~children in day care services.~~

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

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

9 ~~B. The Department, when support rights have been assigned to it~~
10 ~~or proper application made by an individual not receiving Aid to~~
11 ~~Families with Dependent Children, When child support services are~~
12 ~~being provided for the benefit of the child under the state child~~
13 ~~support plan as provided in Section 237 of this title, the~~
14 ~~Department may initiate an administrative or district court action~~
15 ~~to obtain an order to require an unemployed or underemployed obligor~~
16 ~~to participate in counseling, treatment, educational training,~~
17 ~~social skills training, employment training or job-finding or job-~~
18 ~~training programs, or the problem-solving court program under~~
19 ~~Section 14 of this act. "Underemployed" is defined as being~~
20 ~~employed less than full-time or in an occupation which pays less~~
21 ~~than employment which someone ~~of obligor's~~ with the skills and~~
22 ~~education of the obligor could be reasonably expected to earn, so~~
23 ~~that the obligor cannot meet his support obligation. The Department~~
24 ~~shall give notice of this requirement to the obligor who is not~~

1 complying with a district or administrative court ~~or administrative~~
2 order for support and ~~who~~ whom the Department has reason to believe
3 is unemployed or underemployed. ~~Said~~ The notice shall be served by
4 the Department upon the obligor ~~in the same manner prescribed for~~
5 ~~service of summons in a civil action~~ as provided in Section 2005 of
6 Title 12 of the Oklahoma Statutes, or if there is an address of
7 record on file with the central case registry pursuant to Section
8 112A of Title 43 of the Oklahoma Statutes, the notice may be served
9 by regular mail at the address of record.

10 B. The notice shall state:

11 1. The name of the child for whom support is ordered and the
12 custodian of the child;

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

16 3. That it appears that the obligor is unemployed or
17 underemployed so that ~~he~~ the obligor cannot meet ~~his~~ the support
18 obligation;

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

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

10 C. 1. At the ~~conference~~ hearing, or if the obligor fails to
11 appear for the hearing, the Department court shall determine enter
12 an order determining if the obligor is unemployed ~~or is,~~
13 underemployed or in need of services as described in subsection C of
14 this section.

15 2. ~~If it is determined that the obligor is unemployed or~~
16 ~~underemployed, the Department shall enter an order setting the court~~
17 finds the obligor is in need of services as described in this
18 subsection, the order shall set forth the Department's findings of
19 the court and ~~requiring~~ require that the obligor shall participate
20 in counseling, treatment, educational training, social skills
21 training, employment training or job-finding or job-training
22 programs or the problem-solving court program, and accept available
23 employment. The order shall state when the obligor shall report and
24 to what location. ~~The~~

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

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

17 ~~E.~~ The obligor may show good cause why an administrative order
18 should not be entered requiring ~~him~~ the obligor to participate in
19 counseling, treatment, educational training, social skills training,
20 employment training or job-finding or job training programs or the
21 problem-solving court program and accept available employment.

22 "Good cause" is defined as establishing by expert medical opinion
23 that the person is mentally or physically unable to work or such
24

1 other grounds as the Department determines by regulation constitutes
2 good cause.

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

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

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

22 B. Except as provided in subsection A of this section:
23
24

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

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

12 b. contain an immediate income assignment provision
13 pursuant to Section 115 of Title 43 of the Oklahoma
14 Statutes-;

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

18 court may defer the issue of establishment or enforcement of child
19 support to the appropriate administrative or district court when
20 child support services are being provided pursuant to the state
21 child support plan as provided in Section 237 of Title 56 of the
22 Oklahoma Statutes; and

23 3. Any guardianship or conservatorship for a minor created on
24 or after December 1, 2000, shall comply with the provisions of this

1 subsection. Guardianships or conservatorships for a minor in
2 existence prior to December 1, 2000, shall comply with the
3 provisions of this subsection as ordered by the court.

4 C. In any guardianship in which provision is made for the
5 custody or support of a minor child or enforcement of an existing
6 custody or support order or before hearing the matter or signing any
7 orders, the court shall inquire whether public assistance money or
8 medical support has been provided through the Department of Human
9 Services, hereafter referred to as the Department, for the benefit
10 of each child, or whether the Department is providing child support
11 services pursuant to the state child support plan as provided in
12 Section 237 of Title 56 of the Oklahoma Statutes. If public
13 assistance money, medical support, or child support services have
14 been provided for the benefit of the child, the Department shall be
15 a necessary party for the adjudication of the debt due to the state,
16 as defined in Section 238 of Title 56 of the Oklahoma Statutes, and
17 for the adjudication of paternity, child support, and medical
18 insurance coverage for the minor children in accordance with federal
19 regulations. When a guardianship action is filed, the petitioner
20 shall give the Department notice of the action according to Section
21 2004 of Title 12 of the Oklahoma Statutes. The Department shall not
22 be required to intervene in the action to have standing to appear
23 and participate in the action. When the Department is a necessary
24 party to the action, any orders concerning paternity, child support,

1 medical support, or the debt due to the state shall be approved and
2 signed by the Department.

3 SECTION 19. REPEALER 56 O.S. 2001, Section 233.1, is
4 hereby repealed.

5 SECTION 20. Sections 1 through 11 of this act shall become
6 effective July 1, 2009.

7 SECTION 21. Sections 12 through 19 of this act shall become
8 effective November 1, 2008.

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