

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 2194

By: Williamson of the Senate

and

(Duncan) of the House

6
7
8
9 COMMITTEE SUBSTITUTE

10 [marriage and family - child support guidelines -
11 codification - effective date]
12

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

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

17 Section 118. A. ~~Except in those cases where parties~~
18 ~~represented by counsel have agreed to a different disposition, there~~
19 There shall be a rebuttable presumption in any judicial or
20 administrative proceeding for the award of child support, that the
21 amount of the award which would result from the application of the
22 following guidelines is the correct amount of child support to be
23 awarded.
24

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

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

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

23 2. If the district or administrative court deviates from the
24 amount of child support indicated by the child support guidelines,

1 the court shall make specific findings of fact supporting such
2 action. The findings of fact shall include:

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

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

9 c. a finding by the court that states how, in its
10 determination:

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

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

18 3. In instances of extreme economic hardship, deviation from
19 the guidelines may be considered when the court finds the deviation
20 is supported by the evidence and is not detrimental to the best
21 interests of the child before the court. The court may consider
22 extraordinary medical needs not covered by insurance or other
23 special needs of a child whom the parent is obligated to support.
24 In such cases, the court must consider all resources available for

1 meeting such needs, including those available from public agencies
2 and other responsible adults.

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

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

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

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

24

1 ~~support obligations of either parent as to only natural, legal, or~~
2 ~~legally adopted minor children in the custody of the parent.~~

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

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

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

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

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

20 ~~(a) salaries,~~

21 ~~(b) wages,~~

22 ~~(c) commissions,~~

23 ~~(d) bonuses, and~~

24 ~~(e) severance pay.~~

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

- ~~(a) dividends,~~
- ~~(b) pensions,~~
- ~~(c) rent,~~
- ~~(d) interest income,~~
- ~~(e) trust income,~~
- ~~(f) annuities,~~
- ~~(g) social security benefits,~~
- ~~(h) workers' compensation benefits,~~
- ~~(i) unemployment insurance benefits,~~
- ~~(j) disability insurance benefits,~~
- ~~(k) gifts,~~
- ~~(l) prizes, and~~
- ~~(m) royalties.~~

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

- ~~(1) actual child support received for children not before the court, and~~
- ~~(2) benefits received from means tested public assistance programs including, but not limited to:~~
 - ~~(a) Temporary Assistance for Needy Families (TANF),~~
 - ~~(b) Supplemental Security Income (SSI),~~

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

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

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

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

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

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

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

8 ~~and necessary expenses required for self employment or~~

9 ~~business operations.~~

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

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

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

13 ~~be inappropriate for determining gross income for~~

14 ~~purposes of calculating child support.~~

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

16 ~~review income and expenses from self employment or~~

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

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

19 ~~satisfy a child support obligation.~~

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

21 ~~self employment gross income an amount equal to the~~

22 ~~employer contribution for F.I.C.A. tax which an~~

23 ~~employer would withhold from an employee's earnings on~~

24 ~~an equivalent gross income amount. A determination of~~

~~business income for tax purposes shall not control for purposes of determining a child support obligation.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ~~(1) be employed,~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 As used in this act:

21 1. "Adjusted Gross Income" (AGI) means the net determination of
22 a parent's income, calculated by modifying the parent's gross income
23 as follows:
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 A. As used in this act:

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

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

24 a. salaries,

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

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

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

24 B. Income specifically excluded is:

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

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

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

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

8 b. Supplemental Security Income (SSI),

9 c. Food Stamps, and

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

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

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

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

18 b. the average of the gross monthly income for the time

19 actually employed during the previous three (3) years,

20 or

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

23

24

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

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

6 D. Imputed Income.

7 1. Imputing gross income to a parent is appropriate in the
8 following situations:

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

11 or

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

13 c. when the parent owns substantial non-income producing
14 assets, the court may impute income based upon a
15 reasonable rate of return upon the assets.

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

19 a. the parent's past and present employment,

20 b. the parent's education, training, and ability to work,

21 c. a parent's lifestyle, including ownership of valuable
22 assets and resources, that appears inappropriate or
23 unreasonable for the income claimed by the parent,

24

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

18 E. Self-employment income.

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

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

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

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

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

10 c. Amounts allowed by the Internal Revenue Service for
11 accelerated depreciation or investment tax credits
12 shall not be considered reasonable expenses.

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

17 F. Fringe Benefits.

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

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

24

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

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

9 G. Social Security Title II Benefits.

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

18 2. The child support obligation shall be computed separately
19 for each child of the parties.

20 3. Child Support Greater Than Social Security Benefit. If
21 after calculating the parent's gross income, including the parent's
22 social security benefits, and after calculating the amount of the
23 child support obligation using the child support computation form,
24 the amount of the child support award due from the parent on whose

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

6 4. Child Support Equal to or Less Than Social Security
7 Benefits.

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

20 b. Any social security benefit amounts as determined by
21 the Social Security Administration (SSA) and sent to
22 the caretaker by the SSA for the child's benefit which
23 are greater than the support ordered by the court
24 shall be retained by the caretaker for the child's

1 benefit and shall not be used as a reason for
2 decreasing the child support order or reducing
3 arrearages.

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

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

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

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

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

24

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. Credits 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 parent's gross income. 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, step-children, and other minors in the home
17 that the parent has no legal obligation to support shall not be
18 considered in the calculation of this credit.

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

1 D. Calculation of Credit for Qualified Other Children.

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

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

16 b. "Documented Proof of Support" includes:

- 17 (1) physical evidence of monetary payments to the
18 child's caretaker, such as canceled checks or
19 money orders, and
20 (2) evidence of payment of child support under
21 another child support order, such as a payment
22 history from a tribunal clerk or child support
23 office or from the Department's internet child
24 support payment history.

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

7 2. "In-Home" Children.

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

22 b. The credit for other qualified children shall be
23 computed as a hypothetical child support order
24 calculated using the credit worksheet, the parent's

1 gross income, the total number of qualified other
2 children living in the parent's home, and the Child
3 Support Guideline Schedule. The credit worksheet
4 shall be prepared by the Department of Human Services
5 and shall be published by the Administrative Office of
6 the Courts.

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

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

18 A. All child support shall be computed as a percentage of the
19 combined gross income of both parents. The Child Support Guideline
20 Schedule as provided in Section 119 of Title 43 of the Oklahoma
21 Statutes shall be used for such computation. The child support
22 obligations of each parent shall be computed. The obligor's share
23 shall be paid monthly to the obligee and shall be due on a specific
24 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 their biological or
13 legally adopted children, 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. In cases where each parent has physical custody of a child
24 fifty percent (50%) of the time, the child support guidelines shall

1 be computed with each parent as an obligor. The parent with the
2 greater child support obligation shall pay the difference between
3 the two amounts to the other parent.

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

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

14 I. Extraordinary Educational Expenses.

15 1. Extraordinary educational expenses may be added to the
16 presumptive child support as a deviation. Extraordinary educational
17 expenses include, but are not limited to, tuition, room and board,
18 books, fees, and other reasonable and necessary expenses associated
19 with special needs education for a child with a disability under the
20 Individuals with Disabilities Educational Act that are appropriate
21 to the parents' financial abilities.

22 2. In determining the amount of deviation for extraordinary
23 educational expenses, scholarships, grants, stipends, and other
24

1 cost-reducing programs received by or on behalf of the child shall
2 be considered.

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

6 J. Special Expenses.

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

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

23 K. The social security numbers of both parents and the children
24 who are the subject of a paternity or child support order shall be

1 included in the support order summary form provided for in Section
2 120 of Title 43 of the Oklahoma Statutes.

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

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

11 A. Parenting Time.

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

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

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

23 4. Average Parenting Time.
24

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

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

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

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

20 D. Reduction in Child Support Obligation for Additional
21 Parenting Time

22 1. If the noncustodial parent is granted one hundred twenty-one
23 (121) or more days of parenting time per twelve month period of with
24 a child, or an average of one hundred twenty-one (121) days with all

1 applicable children, a reduction to the noncustodial parent's child
2 support obligation may be made 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 one and one-half (1 1/2). The result shall be designated the
7 adjusted combined child support obligation.

8 3. To determine each parent's adjusted child support
9 obligation, the adjusted combined child support obligation shall be
10 divided between the parents in proportion to their respective
11 adjusted gross incomes.

12 4. a. The percentage of time a child spends with each parent
13 shall be calculated by determining the number of days
14 the child is in the physical custody of each parent
15 and dividing that number by three hundred sixty-five
16 (365).

17 b. Each parent's share of the adjusted combined child
18 support obligation shall then be multiplied by the
19 percentage of time the child spends with the other
20 parent to determine the base child support obligation
21 owed to the other parent.

22 c. The respective adjusted base child support obligations
23 for each parent are then offset, with the parent owing
24 more base child support paying the difference between

1 the two amounts to the other parent. The base child
2 support obligation of the parent owing the lesser
3 amount is then set at zero dollars (\$0.00).

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

7 6. Failure to exercise the right to visitation upon which the
8 parenting time adjustment is based is a material change of
9 circumstances.

10 7. If the court finds that the obligor has failed to exercise
11 the number of days necessary to receive the parenting time
12 adjustment for a twelve month period preceding a motion to modify
13 the child support order, the obligor shall not receive the parenting
14 time adjustment for the next twelve months following the effective
15 date of the modification. After a twelve month period during which
16 the obligor did not receive the parenting time adjustment, the
17 obligor can petition the court to modify the child support order.
18 The obligor may be granted a prospective parenting time adjustment
19 upon a showing that the obligor has actually exercised the threshold
20 amount of visitation in the preceding twelve months. No retroactive
21 modification or credit from the child support guidelines amount
22 shall be granted based on this section.

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

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

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

8 1. Health insurance includes:

9 a. fee for service,

10 b. health maintenance organization,

11 c. preferred provider organization, and

12 d. other types of coverage, including but not limited to,

13 Indian Health Services or Defense Eligibility

14 Enrollment Reporting System (DEERS), which is

15 available to either parent under which medical

16 services could be provided to the dependent children

17 2. Cash medical support means:

18 a. an amount ordered to be paid toward the cost of health

19 coverage provided by a public entity or by a person

20 other than the parents through employment or

21 otherwise, or

22 b. fixed periodic payments for ongoing medical costs.

23 B. In entering a temporary order, the court shall order that

24 any health insurance coverage in effect for the child continue in

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

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

11 1. make specific findings with respect to the manner in which
12 health care coverage is to be provided for the child, in accordance
13 with the priorities identified in subsection F of this section; and

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

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

21 1. Health insurance must be reasonable in cost, which means
22 that the actual premium cost paid by the insured does not exceed
23 five percent (5%) of the gross income of the responsible parent, as

24

1 defined in Section 3 of this act. To calculate the actual premium
2 cost of the health insurance, the court shall:

- 3 a. deduct from the total insurance premium the cost of
4 coverage for the parent and any other adults in the
5 household,
- 6 b. divide the remainder by the number of dependent
7 children being covered, and
- 8 c. multiply the amount per child by the number of
9 children in the child support case under
10 consideration.

11 2. Health insurance must be accessible.

- 12 a. Health insurance is considered accessible when there
13 are available providers appropriate to meet the
14 children's primary individual health care needs no
15 more than sixty (60) miles one way from the primary
16 residence of the children.
- 17 b. If a parent has available health coverage which
18 includes an option that would be accessible to the
19 child, but the parent has not currently enrolled in
20 that option, the court may require the parent to
21 change existing coverage to an option that is
22 accessible to the child.

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

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

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

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

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

20 3. If the court finds that neither parent has access to private
21 health insurance at a reasonable cost, the court shall order the
22 parent awarded the exclusive right to designate the child's primary
23 residence or, to the extent permitted by law, the other parent to
24 apply immediately on behalf of the child for participation in a

1 government medical assistance program or health plan. If the child
2 participates in a government medical assistance program or health
3 plan, the court shall order cash medical support under paragraph 4
4 of this subsection, in accordance with rules promulgated by the
5 Oklahoma Health Care Authority and the Oklahoma Department of Human
6 Services.

7 4. Cash Medical Support.

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

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

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

21 (a) for children who are participating in a
22 government medical assistance program or
23 health plan, an amount consistent with rules
24 promulgated by the Oklahoma Health Care

1 Authority determining the rates established
2 for the cost of providing medical care
3 through a government medical assistance
4 program or health plan, or

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

12 (2) The court may also consider:

- 13 (a) proof of past medical expenses incurred by
14 either parent for the child,
15 (b) the current state of the child's health, and
16 (c) any medical conditions of the child that
17 would result in an increased monthly medical
18 cost.

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

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

24 2. The obligor:

- 1 a. enrolls the child in the insurance plan, and
- 2 b. provides the obligee and, in a Title IV-D case, the
- 3 Title IV-D agency, the information required under
- 4 paragraph 2 of subsection C of this section.

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

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

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

17 4. The parent providing the health insurance coverage shall
18 furnish to the other parent and to the Child Support Enforcement
19 Division of the Oklahoma Department of Human Services, if services
20 are being provided pursuant to Title IV, Part D of the Social
21 Security Act, 42 U.S.C. Section 601 et seq., with timely written
22 documentation of any change in the amount of the health insurance
23 cost premium, carrier, or benefits within thirty days of the date of
24 the change. Upon receiving timely notification of the change of

1 cost, the other parent is responsible for his or her percentage
2 share of the changed cost of the health insurance. If the court
3 finds that the obligor has underpaid child support due to changes in
4 the cost of health insurance, the amount of underpayment may
5 established by the court and enforced in the same manner as any
6 other delinquent child support debt. If the court finds that the
7 obligor has overpaid due to changes in health insurance coverage
8 cost, the overpayment shall be satisfied:

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

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

13 I. 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 or included in a cash medical support order pursuant to
17 paragraph 4 of subsection F of this section may be allocated in the
18 same proportion as the parents' adjusted gross income as separate
19 items that are not added to the base child support obligation. If
20 reimbursement is required, the parent who incurs the expense shall
21 provide the other parent with proof of the expense within forty-five
22 (45) days of receiving the Explanation of Benefits from the
23 insurance provider or other proof of the expense if the expense is
24 not covered by insurance. The parent responsible for reimbursement

1 shall pay his or her portion of the expense within forty-five (45)
2 days of receipt of documentation of the expense.

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

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

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

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

- 18 1. Be employed;
- 19 2. Seek employment; or
- 20 3. Attend school or training to enhance employment income.

21 B. When the obligee is participating in the Department of Human
22 Services child care subsidy program as provided under Section 230.50
23 of Title 56 of the Oklahoma Statutes, the Child Care
24 Eligibility/Rates Schedule established by the Department shall be

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

11 C. The actual child care costs incurred for the purposes
12 authorized by this section shall be allocated and added to the base
13 child support order, and shall be part of the final child support
14 order.

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

23 E. If the court determines that it will not cause detriment to
24 the child or will not cause undue hardship to either parent, in lieu

1 of payment of child care expenses incurred during employment,
2 employment search, or while the obligee is attending school or
3 training, the obligor may provide care for the child during that
4 time.

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

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

14 B. Application of Statutory Threshold to Child Support
15 Determination.

16 1. If the child support order calculated under these rules
17 exceeds the amount specified above for the number of children for
18 whom support is being calculated, then the amount of the child
19 support order shall be limited to the amount specified above for the
20 number of children for whom support is being calculated, absent the
21 rebuttal provided for in subsection A of this section.

22 2. If the obligee proves the need for support in excess of the
23 amount provided for in paragraph 1 of this subsection, the court
24

1 shall add an appropriate amount to the child support obligation of
2 the obligor as a deviation.

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

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

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

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

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

23 B. 1. A child support order shall not be modified
24 retroactively regardless of whether support was ordered in a

1 temporary order, a decree of divorce, an order establishing
2 paternity, modification of an order of support, or other action to
3 establish or to enforce support.

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

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

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

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

1 process. Information shall be provided to the requesting parent
2 within forty-five (45) days of the request.

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

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

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

15 b. The standard modification forms and the standard child
16 support computation form shall be submitted to the
17 district or administrative court. The court shall
18 review the modification forms to confirm that the
19 child support obligation complies with the child
20 support guidelines and that all necessary parties
21 pursuant to Section 112 of Title 43 of the Oklahoma
22 Statutes have been notified. If the court approves
23 the modification forms, they shall be filed with the
24 court.

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

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

12

13 51-2-3604 TEK 2/21/2008 5:29:10 PM

14

15

16

17

18

19

20

21

22

23

24