

THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 2008

Committee Substitute for

ENGROSSED

Senate Bill No. 2194

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 2194 - By:
WILLIAMSON of the Senate and DUNCAN of the House.

An Act relating to marriage and family; amending 43 O.S. 2001, Section 118, as last amended by Section 25, Chapter 1, O.S.L. 2007 (43 O.S. Supp. 2007, Section 118), which relates to the child support guidelines; modifying guidelines; excluding certain expenses from base child support obligation; specifying circumstances in which a court may deviate from the guidelines; requiring specific findings of fact upon deviation; providing considerations for extreme economic hardship; defining terms; specifying the inclusion of certain compensation as gross income; specifying considerations for imputed income, self-employment income, fringe benefits, and social security benefits; specifying adjustments to gross income; specifying formula for computing child support obligation; providing for extraordinary educational expenses; providing for special expenses; providing guidelines for the adjustment of child support based on certain parenting times; providing for medical support order; specifying content of final order; providing standards for a court to apply when entering a medical support order; providing exception in certain circumstances; specifying guidelines for health insurance coverage; providing for health expenses not covered by insurance; requiring certain review for adjustment; providing for actual child care costs; requiring timely documentation of change in amount of costs; requiring certain standard of proof when requesting support in excess of the highest amount on the child support guidelines schedule; specifying procedures; providing for modification of child support orders; prohibiting retroactive modification; providing for informal review for adjustment; specifying certain procedures for adjustment; providing for exchange of certain information; providing for modification through the Department of Human Services; providing for codification; and providing an effective date.

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

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

- 10 a. the reasons the court deviated from the presumptive amount of child
11 support that would have been paid pursuant to the guidelines,
- 12 b. the amount of child support that would have been required under the
13 guidelines if the presumptive amount had not been rebutted, and
- 14 c. a finding by the court that states how, in its determination:
 - 15 (1) the best interests of the child who is subject to the support
16 award determination are served by deviation from the
17 presumptive guideline amount, and
 - 18 (2) application of the guidelines would be unjust or inappropriate in
19 the particular case before the tribunal.

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

1 extraordinary medical needs not covered by insurance or other special needs of a child
2 whom the parent is obligated to support. In such cases, the court must consider all
3 resources available for meeting such needs, including those available from public
4 agencies and other responsible adults.

5 4. No deviation in the amount of the child support obligation shall be made which
6 seriously impairs the ability of the obligee in the case under consideration to maintain
7 minimally adequate housing, food, and clothing for the children being supported by the
8 order or to provide other basic necessities, as determined by the court. Nothing in this
9 section shall be construed to invalidate a presumed child support amount where income
10 is properly determined under Section 4 of this act.

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

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

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

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

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

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

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

16 (a) ~~salaries,~~

17 (b) ~~wages,~~

18 (c) ~~commissions,~~

19 (d) ~~bonuses, and~~

20 (e) ~~severance pay.~~

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

- 1 (a) ~~dividends,~~
- 2 (b) ~~pensions,~~
- 3 (c) ~~rent,~~
- 4 (d) ~~interest income,~~
- 5 (e) ~~trust income,~~
- 6 (f) ~~annuities,~~
- 7 (g) ~~social security benefits,~~
- 8 (h) ~~workers' compensation benefits,~~
- 9 (i) ~~unemployment insurance benefits,~~
- 10 (j) ~~disability insurance benefits,~~
- 11 (k) ~~gifts,~~
- 12 (l) ~~prizes, and~~
- 13 (m) ~~royalties.~~

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

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

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

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

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

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

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

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

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

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

1 physical custody of the child or children overnight for more than one
2 hundred twenty (120) nights each year.

3 ~~b. An adjustment for shared parenting time 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 by~~
6 ~~one and one-half (1 1/2). The result shall be designated the adjusted~~
7 ~~combined child support obligation.~~

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

11 ~~d. (1) The percentage of time a child spends with each parent shall be~~
12 ~~calculated by determining the number of nights the child is in~~
13 ~~the physical custody of each parent and dividing that number by~~
14 ~~three hundred sixty-five (365).~~

15 ~~(2) Each parent's share of the adjusted combined child support~~
16 ~~obligation shall then be multiplied by the percentage of time the~~
17 ~~child spends with the other parent to determine the base child~~
18 ~~support obligation owed to the other parent.~~

19 ~~(3) The respective adjusted base child support obligations for each~~
20 ~~parent are then offset, with the parent owing more base child~~
21 ~~support paying the difference between the two amounts to the~~

1 other parent. The base child support obligation of the parent
2 owing the lesser amount is then set at zero dollars.
3 e. ~~The parent owing the greater amount of base child support shall pay~~
4 ~~the difference between the two amounts as a child support order. In no~~
5 ~~case shall the amount of child support ordered to be paid exceed the~~
6 ~~amount of child support which would otherwise be ordered to be paid if~~
7 ~~the parents did not participate in shared parenting time.~~
8 f. ~~In no event shall the provisions of this paragraph be construed to~~
9 ~~authorize or allow the payment of child support by the custodial parent~~
10 ~~to the noncustodial parent;~~
11 11. a. ~~The actual medical and dental insurance premium for the child shall~~
12 ~~be allocated between the parents in the same proportion as their~~
13 ~~adjusted gross income and shall be added to the base child support~~
14 ~~obligation. If the insurance policy covers a person other than the child~~
15 ~~before the court, only that portion of the premium attributed to the~~
16 ~~child before the court shall be allocated and added to the base child~~
17 ~~support obligation.~~
18 b. ~~If the obligor pays the medical insurance premium, the obligor shall~~
19 ~~receive credit against the base child support obligation for the obligee's~~
20 ~~allocated share of the medical insurance premium.~~

1 e. ~~If the obligee pays the medical insurance premium, the obligor shall~~
2 ~~pay the obligor's allocated share of the medical insurance premium to~~
3 ~~the obligee as part of the base child support obligation;~~

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

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

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

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

17 (1) ~~be employed,~~

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

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

20 b. ~~When the obligee is participating in the Department of Human~~
21 ~~Services child care subsidy program as provided under Section 230.50~~
22 ~~of Title 56 of the Oklahoma Statutes, the Child Care Eligibility/Rates~~

1 Schedule established by the Department shall be used to determine
2 the amount to be treated as actual child care costs incurred. When
3 applying the schedule to determine the family share copayment
4 amount, the obligor's share of the base monthly obligation for child
5 support and the obligee's gross income shall be considered as the
6 obligee's monthly income. The actual child care costs incurred shall be
7 the family share copayment amount indicated on the schedule which
8 shall be allocated and paid monthly in the same proportion as base
9 child support. The Department of Human Services shall promulgate
10 rules, as necessary, to implement the provisions of this subparagraph.
11 e. ~~The actual child care costs incurred for the purposes authorized by this~~
12 ~~paragraph shall be allocated and paid monthly in the same proportion~~
13 ~~as base child support.~~
14 d. ~~The district or administrative court shall require the obligee to provide~~
15 ~~the obligor with timely documentation of any change in the amount of~~
16 ~~the child care costs. Upon request by the obligor, whose requests shall~~
17 ~~not exceed one each month, or upon order of the court, the obligee shall~~
18 ~~provide the documentation of the amount of incurred child care costs~~
19 ~~which are related to employment, employment search or education or~~
20 ~~training as authorized by this paragraph.~~
21 e. ~~If the court determines that it will not cause detriment to the child or~~
22 ~~will not cause undue hardship to either parent, in lieu of payment of~~

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

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

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

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

20 (2) Modification of the Child Support Guideline Schedule shall not
21 alone be a material change in circumstances for child support
22 orders in existence on November 1, 1999.

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1 ~~(3) Providing support for children born to or adopted by either~~
2 ~~parent after the entry of a child support order shall not alone be~~
3 ~~considered a material change in circumstances.~~

4 ~~(4) An order of modification shall be effective upon the date the~~
5 ~~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 retroactively~~
9 ~~regardless of whether support was ordered in a temporary order,~~
10 ~~a decree of divorce, an order establishing paternity, modification~~
11 ~~of an order of support, or other action to establish or to enforce~~
12 ~~support.~~

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

18 ~~e. The amount of a child support order shall not be construed to be an~~
19 ~~amount per child unless specified by the district or administrative~~
20 ~~court in the order. A child reaching the age of majority or otherwise~~
21 ~~ceasing to be entitled to support pursuant to the support order shall~~

1 constitute a material change in circumstances, but shall not
2 automatically serve to modify the order;

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

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

11 ~~Information shall be provided to the requesting parent within forty-~~
12 ~~five (45) days of the request.~~

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

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

20 ~~e. (1) If the parents agree to a modification of a child support order,~~
21 ~~their agreement shall be in writing using standard modification~~

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1 forms and the child support computation form provided for in
2 Section 120 of this title.

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

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

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

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

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

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

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

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

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

19 As used in this act:

20 1. “Adjusted Gross Income” (AGI) means the net determination of a parent’s
21 income, calculated by modifying the parent’s gross income as follows:

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

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

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

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

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

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

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

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

- 14 a. a person to whom a support debt or support obligation is owed,
- 15 b. the Department of Human Services or a public agency of another state
16 that has the right to receive current or accrued support payments or
17 that is providing support enforcement services, or
- 18 c. a person designated in a support order or as otherwise specified by the
19 court;

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

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

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

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

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

11 A. As used in this act:

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

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

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

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

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

19 B. Income specifically excluded is:

- 20 1. Actual child support received for children not before the court;
- 21 2. Adoption Assistance subsidy paid by the Department of Human Services;

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

- 3 a. Temporary Assistance for Needy Families (TANF),
- 4 b. Supplemental Security Income (SSI),
- 5 c. Food Stamps, and
- 6 d. General Assistance and State Supplemental Payments for Aged, Blind
7 and the Disabled; and

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

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

- 12 a. all actual monthly income described in this section,
- 13 b. the average of the gross monthly income for the time actually
14 employed during the previous three (3) years, or
- 15 c. the minimum wage paid for a forty-hour week, whichever is the most
16 equitable.

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

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

21 D. Imputed Income.

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

- 1 a. if a parent has been determined by the court to be willfully or
2 voluntarily underemployed or unemployed,
3 b. when there is no reliable evidence of income, or
4 c. when the parent owns substantial non-income-producing assets, the
5 court may impute income based upon a reasonable rate of return upon
6 the assets.

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

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

1 the case immediately under consideration by increasing the parent's
2 level of support for that child in the future, and
3 f. any additional factors deemed relevant to the particular circumstances
4 of the case.
5 E. Self-employment income.
6 1. A determination of business income for tax purposes shall not control for
7 purposes of determining a child support obligation.
8 2. Income from self-employment includes income from, but not limited to, business
9 operations, work as an independent contractor or consultant, sales of goods or services,
10 and rental properties, less ordinary and reasonable expenses necessary to produce such
11 income.
12 3. a. The court may exclude ordinary and reasonable expenses of self-
13 employment necessary to produce income.
14 b. The court may include as income expenses for business travel,
15 promotion or transportation, personal expenses, depreciation on
16 equipment, or the cost of operation of home offices to the extent the
17 court finds them excessive.
18 c. Amounts allowed by the Internal Revenue Service for accelerated
19 depreciation or investment tax credits shall not be considered
20 reasonable expenses.

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

4 F. Fringe Benefits.

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

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

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

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

17 G. Social Security Title II Benefits.

18 1. Social Security Title II benefits received by a child shall be included as income to
19 the parent on whose account the child’s benefit is drawn and applied against the support
20 obligation ordered to be paid by that parent. The child’s benefit is only considered when
21 it springs from the parent’s account. If the child’s benefit is drawn from the child’s own

1 disability, the child's benefit is not added to either parent's income and not deducted
2 from either parent's obligation.

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

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

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

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

- 1 b. Any social security benefit amounts as determined by the Social
2 Security Administration (SSA) and sent to the caretaker by the SSA
3 for the child’s benefit which are greater than the support ordered by
4 the court shall be retained by the caretaker for the child’s benefit and
5 shall not be used as a reason for decreasing the child support order or
6 reducing arrearages.
- 7 c. The court shall make a written finding in the support order regarding
8 the use of the social security benefits in the calculation of the child
9 support obligation.
- 10 5. a. Calculation of child support as provided in the preceding subsection
11 shall be effective no earlier than the date on which the motion to
12 modify was filed.
- 13 b. The court may determine if, under the circumstances of the case, it is
14 appropriate to credit social security benefits paid to the custodial
15 person prior to a modification of child support against a noncustodial
16 parent’s past due child support obligation.
- 17 c. The noncustodial parent shall not receive credit for any social security
18 benefits paid directly to the child.
- 19 d. Any credit granted by the court pursuant to subparagraph b of this
20 paragraph shall be limited to the time period during which the social
21 security benefit was paid, or the time period covered by a lump sum for
22 past social security benefits.

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

4 A. Credits for other children of either parent who are qualified under this section
5 may be considered by the court for the purpose of reducing the parent's gross income.

6 Adjustments are available for a child:

- 7 1. Who is the biological, legal, or adopted child of the parent;
- 8 2. Who was born prior to the child in the case under consideration;
- 9 3. Whom the parent is actually supporting; and
- 10 4. Who is not before the court to set, modify, or enforce support in the case

11 immediately under consideration.

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

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

19 D. Calculation of Credit for Qualified Other Children.

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

- 21 a. To receive a credit against gross income for child support provided
22 pursuant to a court order for qualified other children whose primary

1 residence is not in the home of the parent seeking credit, that is, the
2 child resides with this parent less than fifty percent (50%) of the time,
3 the parent shall establish the existence of a support order and provide
4 documented proof of support paid for the other child consistently over a
5 reasonable and extended period of time prior to the initiation of the
6 proceeding that is immediately under consideration by the tribunal,
7 but in any event, such time period shall not be less than twelve (12)
8 months.

9 b. “Documented Proof of Support” includes:

- 10 (1) physical evidence of monetary payments to the child’s caretaker,
11 such as canceled checks or money orders, and
12 (2) evidence of payment of child support under another child
13 support order, such as a payment history from a tribunal clerk
14 or child support office or from the Department’s Internet child
15 support payment history.

16 c. The available credit against gross income for either parent’s qualified
17 “not-in-home” children is the actual documented court-ordered current
18 monthly child support obligation of the qualified other children,
19 averaged to a monthly amount of support paid over the most recent
20 twelve-month period.

21 2. “In-Home” Children.

1 a. To receive a credit against gross income for qualified other children
2 whose primary residence is with the parent seeking credit, but who are
3 not part of the case being determined, the parent must establish a
4 legal duty of support and that the child resides with the parent fifty
5 percent (50%) or more of the time. Documents that may be used to
6 establish that the parent and child share the same residence include
7 the child’s school or medical records showing the child’s address and
8 the parent’s utility bills mailed to the same address, court orders
9 reflecting the parent is the primary residential parent or that the
10 parent shares the parenting time of the child fifty percent (50%) of the
11 time.

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

19 c. The available credit against gross income for either parent’s qualified
20 “in-home” children is seventy-five percent (75%) of a hypothetical
21 support order calculated according to these Guidelines, using the
22 Credit Worksheet, the parent’s gross income less any self-employment

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~~Strike thru~~ language denotes deletion from present Statutes.

1 taxes paid, the total number of qualified other children living in the
2 parent's home, and the Child Support Guideline Schedule.

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

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

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

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

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

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

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

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

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

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

18 I. Extraordinary Educational Expenses.

19 1. Extraordinary educational expenses may be added to the presumptive child
20 support as a deviation. Extraordinary educational expenses include, but are not limited
21 to, tuition, room and board, books, fees, and other reasonable and necessary expenses

1 associated with special needs education for a child with a disability under the Individuals
2 with Disabilities Education Act that are appropriate to the parents' financial abilities.

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

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

8 J. Special Expenses.

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

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

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

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

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

11 A. Parenting Time.

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

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

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

21 4. Average Parenting Time.

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

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

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

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

16 D. Reduction in Child Support Obligation for Additional Parenting Time.

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

21 2. A parenting time adjustment shall be made to the base monthly child support
22 obligation by the following formula: The total combined base monthly child support

1 obligation shall be multiplied by one and one-half (1 1/2). The result shall be designated
2 the adjusted combined child support obligation.

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

6 4. a. The percentage of time a child spends with each parent shall be
7 calculated by determining the number of days the child is in the
8 physical custody of each parent and dividing that number by three
9 hundred sixty-five (365).

10 b. Each parent's share of the adjusted combined child support obligation
11 shall then be multiplied by the percentage of time the child spends
12 with the other parent to determine the base child support obligation
13 owed to the other parent.

14 c. The respective adjusted base child support obligations for each parent
15 are then offset, with the parent owing more base child support paying
16 the difference between the two amounts to the other parent. The base
17 child support obligation of the parent owing the lesser amount is then
18 set at zero dollars (\$0.00).

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

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

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

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

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

17 1. Health insurance includes:

- 18 a. fee for service,
- 19 b. health maintenance organization,
- 20 c. preferred provider organization, and
- 21 d. other types of coverage, including but not limited to, Indian Health
22 Services or Defense Enrollment Eligibility Reporting System (DEERS),

1 which is available to either parent under which medical services could
2 be provided to the dependent children.

3 2. Cash medical support means:

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

7 b. fixed periodic payments for ongoing medical costs.

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

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

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

20 2. Require the parent ordered to provide health care coverage for the child as
21 provided under this section to produce evidence to the court's satisfaction that the parent

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

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

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

- 9 a. deduct from the total insurance premium the cost of coverage for the
10 parent and any other adults in the household,
11 b. divide the remainder by the number of dependent children being
12 covered, and
13 c. multiply the amount per child by the number of children in the child
14 support case under consideration;

15 2. Health insurance must be accessible:

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

1 enrolled in that option, the court may require the parent to change
2 existing coverage to an option that is accessible to the child; and

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

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

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

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

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

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

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

6 4. Cash Medical Support.

- 7 a. If health insurance coverage is not available for the child under
8 paragraph 1 or 2 of this subsection, the court shall determine the
9 amount to be treated as the actual monthly medical costs for the child
10 and order the obligor to pay, in addition to the obligor's current child
11 support obligation, an amount as cash medical support for the child.
- 12 b. The cash medical support order shall not exceed the obligor's pro rata
13 share of the actual monthly medical expenses for the child, or five
14 percent (5%) of the obligor's gross monthly income, whichever is less.
- 15 c. (1) In determining the actual monthly medical costs for the child,
16 the court shall determine:
- 17 (a) for children who are participating in a government
18 medical assistance program or health plan, an amount
19 consistent with rules promulgated by the Oklahoma
20 Health Care Authority determining the rates established
21 for the cost of providing medical care through a
22 government medical assistance program or health plan, or

1 (b) for children who are not participating in a government
2 medical assistance program or health plan, an amount
3 consistent with rules promulgated by the Department of
4 Human Services determining the average monthly cost of
5 health care for uninsured children.

6 (2) The court may also consider:

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

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

10 (c) any medical conditions of the child that would result in an
11 increased monthly medical cost.

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

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

17 2. The obligor:

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

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

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

4 2. If the obligor pays the health insurance premium, the obligor shall receive credit
5 against the base child support obligation for the obligee's allocated share of the health
6 insurance premium.

7 3. If the obligee pays the health insurance premium, the obligor shall pay the
8 obligor's allocated share of the health insurance premium to the obligee as part of in
9 addition to the base child support obligation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

5 2. All final orders shall state whether past due support and interest has accrued
6 pursuant to any temporary order and the amount due, if any; however, failure to state a
7 past due amount shall not 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 to be an amount per
10 child unless specified by the district or administrative court in the order. A child
11 reaching the age of majority or otherwise ceasing to be entitled to support pursuant to
12 the support order shall constitute a material change in circumstances, but shall not
13 automatically serve to modify the order.

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

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

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

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

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

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

18 6. If the district court does not approve the parents' agreed modification order or
19 the parents do not agree to a modification of the child support order, a parent may
20 request a modification through the Department of Human Services Child Support
21 Enforcement Division, hereinafter referred to as the "Department", when the child
22 support services are being provided under the state child support plan as provided in

1 Section 237 of Title 56 of the Oklahoma Statutes. If the parent does not have an open
2 case with the Department, the parent shall make application for services and complete a
3 request for review.

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

5 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04-08-08 -
6 DO PASS, As Amended.