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THE STATE SENATE
Thursday, February 21, 2008

Committee Substitute for
Senate Bill No. 2194

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

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

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

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

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

B. The Schedule of Basic Child Support Obligations assumes that all families incur certain child-rearing expenses and includes in the basic child support obligation an average amount to cover these expenses for various levels of the parents' combined income and number of children. The bulk of these child-rearing expenses is

1 comprised of housing, food, transportation, basic public educational
2 expenses, clothing, and entertainment. The base child support
3 obligation does not include the child's health insurance premium,
4 work or education related childcare costs, the child's uninsured
5 medical expenses, special expenses, or extraordinary educational
6 expenses.

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

- 12 a. the amount of support so indicated is unjust or
13 inappropriate under the circumstances,
- 14 b. the parties are represented by counsel and have agreed
15 to a different disposition, or
- 16 c. one party is represented by counsel and the deviation
17 benefits the unrepresented party.

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

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

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

7 c. a finding by the court that states how, in its
8 determination:

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

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

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

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~~

1 ~~(e) severance pay.~~

2 ~~(3) "Passive income" is defined as all other income~~

3 ~~and includes, but is not limited to, income from:~~

4 ~~(a) dividends,~~

5 ~~(b) pensions,~~

6 ~~(c) rent,~~

7 ~~(d) interest income,~~

8 ~~(e) trust income,~~

9 ~~(f) annuities,~~

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

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

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

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

14 ~~(k) gifts,~~

15 ~~(l) prizes, and~~

16 ~~(m) royalties.~~

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

18 ~~(1) actual child support received for children not~~

19 ~~before the court, and~~

20 ~~(2) benefits received from means tested public~~

21 ~~assistance programs including, but not limited~~

22 ~~to:~~

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

2 ~~(TANF),~~

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

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

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

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

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

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

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

1 ~~d. The district or administrative court shall deduct from~~
2 ~~self employment gross income an amount equal to the~~
3 ~~employer contribution for F.I.C.A. tax which an~~
4 ~~employer would withhold from an employee's earnings on~~
5 ~~an equivalent gross income amount. A determination of~~
6 ~~business income for tax purposes shall not control for~~
7 ~~purposes of determining a child support obligation.~~

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

15 ~~4. a. For purposes of computing gross income of the parents,~~
16 ~~the district or administrative court shall include for~~
17 ~~each parent, whichever is most equitable, either:~~
18 ~~(1) all earned and passive monthly income,~~
19 ~~(2) all passive income, and earned income equivalent~~
20 ~~to a forty hour work week plus such overtime and~~
21 ~~supplemental income as the court deems equitable,~~

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

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

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

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

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

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

1 ~~by the reasonably anticipated reduction or elimination of any debt~~
2 ~~service;~~

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

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

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

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

21 ~~b. An adjustment for shared parenting time shall be made~~
22 ~~to the base monthly child support obligation by the~~
23 ~~following formula: The total combined base monthly~~

1 ~~child support obligation shall be multiplied by one~~
2 ~~and one half (1 1/2). The result shall be designated~~
3 ~~the adjusted combined child support obligation.~~
4 ~~e. To determine each parent's adjusted child support~~
5 ~~obligation, the adjusted combined child support~~
6 ~~obligation shall be divided between the parents in~~
7 ~~proportion to their respective adjusted gross incomes.~~
8 ~~d. (1) The percentage of time a child spends with each~~
9 ~~parent shall be calculated by determining the~~
10 ~~number of nights the child is in the physical~~
11 ~~custody of each parent and dividing that number~~
12 ~~by three hundred sixty five (365).~~
13 ~~(2) Each parent's share of the adjusted combined~~
14 ~~child support obligation shall then be multiplied~~
15 ~~by the percentage of time the child spends with~~
16 ~~the other parent to determine the base child~~
17 ~~support obligation owed to the other parent.~~
18 ~~(3) The respective adjusted base child support~~
19 ~~obligations for each parent are then offset, with~~
20 ~~the parent owing more base child support paying~~
21 ~~the difference between the two amounts to the~~
22 ~~other parent. The base child support obligation~~

1 ~~of the parent owing the lesser amount is then set~~
2 ~~at zero dollars.~~

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

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

14 ~~11. a. The actual medical and dental insurance premium for~~
15 ~~the child shall be allocated between the parents in~~
16 ~~the same proportion as their adjusted gross income and~~
17 ~~shall be added to the base child support obligation.~~
18 ~~If the insurance policy covers a person other than the~~
19 ~~child before the court, only that portion of the~~
20 ~~premium attributed to the child before the court shall~~
21 ~~be allocated and added to the base child support~~
22 ~~obligation.~~

1 ~~b. If the obligor pays the medical insurance premium, the~~
2 ~~obligor shall receive credit against the base child~~
3 ~~support obligation for the obligee's allocated share~~
4 ~~of the medical insurance premium.~~

5 ~~e. If the obligee pays the medical insurance premium, the~~
6 ~~obligor shall pay the obligor's allocated share of the~~
7 ~~medical insurance premium to the obligee as part of~~
8 ~~the base child support obligation;~~

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

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

20 ~~e. In all cases the parent with the larger child support~~
21 ~~obligation shall pay the difference between the two~~
22 ~~amounts to the parent with the smaller child support~~
23 ~~obligation;~~

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

4 ~~(1) be employed,~~

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

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

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

1 ~~Human Services shall promulgate rules, as necessary,~~
2 ~~to implement the provisions of this subparagraph.~~

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

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

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

1 ~~circumstances for child support orders in~~
2 ~~existence on November 1, 1999.~~

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

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

13 ~~b. (1) A child support order shall not be modified~~
14 ~~retroactively regardless of whether support was~~
15 ~~ordered in a temporary order, a decree of~~
16 ~~divorce, an order establishing paternity,~~
17 ~~modification of an order of support, or other~~
18 ~~action to establish or to enforce support.~~

19 ~~(2) All final orders shall state whether past due~~
20 ~~support and interest has accrued pursuant to any~~
21 ~~temporary order and the amount due, if any,~~
22 ~~however, failure to state a past due amount shall~~

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

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

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

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

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

22 ~~e. Requested information may include verification of~~
23 ~~income, proof and cost of children's medical~~

1 ~~insurance, and current and projected child care costs.~~
2 ~~If shared parenting time has been awarded by the~~
3 ~~court, documentation of past and prospective overnight~~
4 ~~visits shall be exchanged.~~

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

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

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

22 ~~f. If the district court refuses to consider the parents'~~
23 ~~agreed modification order or the parents do not agree~~

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

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

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

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

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

1 ~~address any foreseen changes including, but not limited to, changes~~
2 ~~in medical insurance, child care expenses, medical expenses, and~~
3 ~~extraordinary costs;~~

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

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

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

15 As used in this act:

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

19 a. adding to the parent's gross income any social
20 security benefit paid to the child on the parent's
21 account,

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

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

19 3. "Current monthly child support obligation" means the BCSO
20 and the proportional share of any medical insurance and child care
21 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

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:

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

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

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

1 p. royalties.

2 B. Income specifically excluded is:

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

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

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

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

10 b. Supplemental Security Income (SSI),

11 c. Food Stamps, and

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

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

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

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

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

22 or

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

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

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

8 D. Imputed Income.

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

11 a. if a parent has been determined by the court to be
12 willfully or voluntarily underemployed or unemployed,
13 or

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

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

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

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

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

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

21 E. Self-employment income.

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

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

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

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

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

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

20 F. Fringe Benefits.

21 1. Fringe benefits for inclusion as income or "in-kind"
22 remuneration received by a parent in the course of employment, or

1 operation of a trade or business, shall be counted as income if they
2 significantly reduce personal living expenses.

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

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

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

13 G. Social Security Title II Benefits.

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

22 2. The child support obligation shall be computed separately
23 for each child of the parties.

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

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

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

1 additional child support amount must be paid by that
2 parent.

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

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

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

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

- 1 c. The noncustodial parent shall not receive credit for
2 any social security benefits paid directly to the
3 child.
- 4 d. Any credit granted by the court pursuant to
5 subparagraph b of this paragraph shall be limited to
6 the time period during which the social security
7 benefit was paid, or the time period covered by a lump
8 sum for past social security benefits.

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

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

- 16 1. Who is the biological, legal, or adopted child of the
17 parent;
- 18 2. Who was born prior to the child in the case under
19 consideration;
- 20 3. Whom the parent is actually supporting; and
- 21 4. Who is not before the court to set, modify, or enforce
22 support in the case immediately under consideration.

1 B. Children for whom support is being determined in the case
2 under consideration, step-children, and other minors in the home
3 that the parent has no legal obligation to support shall not be
4 considered in the calculation of this credit.

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

11 D. Calculation of Credit for Qualified Other Children.

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

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

1 in any event, such time period shall not be less than
2 twelve (12) months.

3 b. "Documented Proof of Support" includes:

4 (1) physical evidence of monetary payments to the
5 child's caretaker, such as canceled checks or
6 money orders, and

7 (2) evidence of payment of child support under
8 another child support order, such as a payment
9 history from a tribunal clerk or child support
10 office or from the Department's internet child
11 support payment history.

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

18 2. "In-Home" Children.

19 a. To receive a credit against gross income for qualified
20 other children whose primary residence is with the
21 parent seeking credit, but who are not part of the
22 case being determined, the parent must establish a
23 legal duty of support and that the child resides with

1 the parent fifty percent (50%) or more of the time.
2 Documents that may be used to establish that the
3 parent and child share the same residence include the
4 child's school or medical records showing the child's
5 address and the parent's utility bills mailed to the
6 same address, court orders reflecting the parent is
7 the primary residential parent or that the parent
8 shares the parenting time of the child fifty percent
9 (50%) of the time.

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

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

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

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

7 A. 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 Title 43 of the Oklahoma
10 Statutes shall be used for such computation. The child support
11 obligations of each parent shall be computed. The obligor's share
12 shall be paid monthly to the obligee and shall be due on a specific
13 date.

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

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

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

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

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

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

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

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

6 I. Extraordinary Educational Expenses.

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

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

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

21 J. Special Expenses.

22 1. Special expenses incurred for child rearing which can be
23 quantified may be added to the child support obligation as a

1 deviation from the Current Monthly Child Support Obligation. Such
2 expenses include, but are not limited to, camp, music or art
3 lessons, travel, school sponsored extra-curricular activities, such
4 as band, clubs, and athletics, and other activities intended to
5 enhance the athletic, social or cultural development of a child, but
6 that are not otherwise required to be used in calculating the child
7 support order as are health insurance premiums and work-related
8 childcare costs.

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

15 K. The social security numbers of both parents and the children
16 who are the subject of a paternity or child support order shall be
17 included in the support order summary form provided for in Section
18 120 of Title 43 of the Oklahoma Statutes.

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

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

4 A. Parenting Time.

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

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

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

16 4. Average Parenting Time.

17 a. If there are multiple children for whom support is
18 being calculated, and the noncustodial parent is
19 spending a different amount of time with each child,
20 then an annual average of parenting time with all of
21 the children shall be calculated.

22 b. A parenting time average shall not include the
23 parenting time of any child residing with each parent

1 fifty percent (50%) of the time. The parenting time
2 adjustment shall be calculated separately for any such
3 fifty-fifty/equal children.

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

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

13 D. Reduction in Child Support Obligation for Additional
14 Parenting Time

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

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

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

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

7 4. a. The percentage of time a child spends with each parent
8 shall be calculated by determining the number of days
9 the child is in the physical custody of each parent
10 and dividing that number by three hundred sixty-five
11 (365).

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

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

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

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

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

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

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

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

5 1. Health insurance includes:

6 a. fee for service,

7 b. health maintenance organization,

8 c. preferred provider organization, and

9 d. other types of coverage, including but not limited to,
10 Indian Health Services or Defense Eligibility
11 Enrollment Reporting System (DEERS), which is
12 available to either parent under which medical
13 services could be provided to the dependent children

14 2. Cash medical support means:

15 a. an amount ordered to be paid toward the cost of health
16 coverage provided by a public entity or by a person
17 other than the parents through employment or
18 otherwise, or

19 b. fixed periodic payments for ongoing medical costs.

20 B. In entering a temporary order, the court shall order that
21 any health insurance coverage in effect for the child continue in
22 effect pending the entering of a final order, unless the court finds
23 that the existing health insurance coverage is not reasonable in

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

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

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

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

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

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

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

9 2. Health insurance must be accessible.

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

21 3. The court may exceed these standards by agreement of the
22 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

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

8 4. Cash Medical Support.

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

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

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

22 (a) for children who are participating in a
23 government medical assistance program or

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

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

14 (2) The court may also consider:

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

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

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

3 2. The obligor:

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

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

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

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

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

20 4. The parent providing the health insurance coverage shall
21 furnish to the other parent and to the Child Support Enforcement
22 Division of the Oklahoma Department of Human Services, if services
23 are being provided pursuant to Title IV, Part D of the Social

1 Security Act, 42 U.S.C. Section 601 et seq., with timely written
2 documentation of any change in the amount of the health insurance
3 cost premium, carrier, or benefits within thirty days of the date of
4 the change. Upon receiving timely notification of the change of
5 cost, the other parent is responsible for his or her percentage
6 share of the changed cost of the health insurance. If the court
7 finds that the obligor has underpaid child support due to changes in
8 the cost of health insurance, the amount of underpayment may
9 established by the court and enforced in the same manner as any
10 other delinquent child support debt. If the court finds that the
11 obligor has overpaid due to changes in health insurance coverage
12 cost, the overpayment shall be satisfied:

- 13 a. by offset against any past due child support owed to
14 the obligee, or
- 15 b. by adjustment to the future child support amount over
16 a thirty-six-month period.

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

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

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

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

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

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

23 1. Be employed;

1 2. Seek employment; or

2 3. Attend school or training to enhance employment income.

3 B. When the obligee is participating in the Department of Human

4 Services child care subsidy program as provided under Section 230.50

5 of Title 56 of the Oklahoma Statutes, the Child Care

6 Eligibility/Rates Schedule established by the Department shall be

7 used to determine the amount to be treated as actual child care

8 costs incurred. When applying the schedule to determine the family

9 share copayment amount, the obligor's share of the base monthly

10 obligation for child support and the obligee's gross income shall be

11 considered as the obligee's monthly income. The actual child care

12 costs incurred shall be the family share copayment amount indicated

13 on the schedule which shall be allocated and paid monthly in the

14 same proportion as base child support. The Department of Human

15 Services shall promulgate rules, as necessary, to implement the

16 provisions of this section.

17 C. The actual child care costs incurred for the purposes

18 authorized by this section shall be allocated and added to the base

19 child support order, and shall be part of the final child support

20 order.

21 D. The district or administrative court shall require the

22 obligee to provide the obligor with timely documentation of any

23 change in the amount of the child care costs. Upon request by the

1 obligor, whose requests shall not exceed one each month, or upon
2 order of the court, the obligee shall provide the documentation of
3 the amount of incurred child care costs which are related to
4 employment, employment search or education or training as authorized
5 by this section.

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

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

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

21 B. Application of Statutory Threshold to Child Support
22 Determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 5. a. If the parents agree to a modification of a child
21 support order, their agreement shall be in writing
22 using standard modification forms and the child

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

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

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-19-08 - DO
2 PASS, As Amended and Coauthored.