

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1427

By: Brecheen

AS INTRODUCED

An Act relating to child support; amending 43 O.S. 2011, Section 118H, which relates to deviation from child support guidelines; authorizing suspension of certain support order upon certain showing; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2011, Section 118H, is amended to read as follows:

Section 118H. A. No deviation in the amount of the child support obligation shall be made which seriously impairs the ability of the obligee in the case under consideration to maintain minimally adequate housing, food, and clothing for the children being supported by the order or to provide other basic necessities, as determined by the court.

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

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

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

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

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

3. A finding by the court that states how, in its determination:

- a. the best interests of the child who is subject to the support award determination are served by deviation from the presumptive guideline amount, and
- b. application of the guidelines would be unjust or inappropriate in the particular case before the tribunal.

1 D. In instances of extreme economic hardship, deviation from
2 the guidelines may be considered when the court finds the deviation
3 is supported by the evidence and is not detrimental to the best
4 interests of the child before the court.

5 E. If a parent is residing with a child with extraordinary
6 medical needs not covered by insurance or other special needs, the
7 court must consider all resources available for meeting such needs,
8 including those available from public agencies and other responsible
9 adults.

10 F. In cases where the child is in the legal custody of the
11 Department of Human Services, the child protection or foster care
12 agency of another state or territory, or any other child-caring
13 entity, public or private, the court may consider a deviation from
14 the presumptive child support order if the deviation will assist in
15 accomplishing a permanency plan or foster care plan for the child
16 that has a goal of returning the child to the parent, and the
17 parents need to establish an adequate household or to otherwise
18 adequately prepare herself or himself for the return of the child
19 clearly justifies a deviation for this purpose. A court shall
20 suspend the child support obligation of a parent ordered to pay the
21 support for a child in legal custody as provided in this subsection
22 upon a showing by such parent of a pattern of violent behavior from
23 the child toward the parent ordered to pay the support or a member
24 of such parent's household.

1 G. Extraordinary educational expenses.

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

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

13 H. Special expenses.

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

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

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

10 SECTION 2. This act shall become effective November 1, 2018.

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