

FINAL BILL REPORT

ESHB 1794

C 84 L 09
Synopsis as Enacted

Brief Description: Concerning the calculation of child support.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Moeller).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background:

A parent's child support obligation is determined by reference to a child support schedule. The schedule includes standards, work sheets, and an economic table that establishes a presumptive amount of child support based on the combined monthly net income (CMNI) of both parents.

To calculate net income, each parent fills out work sheets identifying his or her sources of income and deductions from that income. Once the CMNI is determined, the total monthly support obligation is established by reference to the economic table.

The specific amounts in the table are based on the number of children in the family and their ages. This amount is referred to as the "basic child support obligation" and is allocated between the parents based on each parent's share of the CMNI. The court may then consider additional expenses and reasons for deviations to come up with the actual child support amount.

The economic table is presumptive for a CMNI up to and including \$5,000. The table goes up to a CMNI of \$7,000. The amounts in the table are advisory and not presumptive when CMNI is between \$5,000 and \$7,000.

Health Care Costs.

Ordinary health care expenses are included in the economic table. The table assumes that 5 percent of the basic child support obligation is spent on ordinary health care. Monthly health care expenses that exceed 5 percent of that amount are considered extraordinary and are allocated between the parties according to their proportionate share of the basic child support obligation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Determination of Income.

All income and resources of each parent's household must be disclosed and considered by the court when determining child support. Overtime, income from second jobs, and bonuses are considered in the calculation of gross income.

Some expenses may be deducted from gross income. Up to \$2,000 per year in voluntary pension payments may be deducted if: (1) they are actually made; and (2) the parent made the contributions for the two tax years preceding the earlier of the tax year in which the parties separated or filed for divorce.

Imputation of Income.

The court will impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. In the absence of information to the contrary, a parent's imputed income will be based on the median income of year-round full-time workers as derived from reports from the U.S. Census Bureau.

Limitations on Amount of Child Support Ordered.

There is an upper limit and a lower limit to the amount of child support that may be ordered.

Limitation of 45 percent of parent's net income: Neither parent's total child support obligation may exceed 45 percent of the parent's net income except for good cause shown. Good cause includes, but is not limited to, possession of substantial wealth, children with day care expenses, and special medical needs.

Presumptive minimum support obligation: When the parents' CMNI is less than \$600, a support order of not less than \$25 per child per month will be entered for each parent unless the obligated parent establishes that it would be unjust or inappropriate to do so.

Self-support reserve amount: A parent's support obligation must not reduce his or her net income below the "need standard" for one person as established by the Department of Social and Health Services (DSHS), except for the presumptive minimum payment of \$25. The DSHS establishes need standards for the purposes of implementing public assistance programs. The need standard may vary by geographical areas, program, and family size.

Summary:

The economic table in the child support schedule is amended to: (1) start at a CMNI of \$1,000 and go up to \$12,000 of CMNI; and (2) be entirely presumptive.

Health Care Costs.

Ordinary health care costs are no longer considered part of the basic support obligation amount in the economic table. The assumption that 5 percent of the basic support obligation amount is for ordinary health care costs is removed. Instead, all health care costs must be

shared by the parents in the same proportion as the basic support obligation. Health care costs include, but are not limited to, medical, dental, orthodontia, vision, chiropractic, mental health treatment, and prescription medications, and other similar costs for care and treatment. References to extraordinary health care costs are removed.

Limitations on Amount of Child Support Ordered.

Limitation of 45 percent of parent's net income: Language is added to specify that the child support obligation owed for *all of a parent's biological or legal children* may not exceed 45 percent of net income except for good cause. Each child is entitled to a pro rata share of the income available for support, but the court only applies the pro rata share to the children in the case before the court. Before determining whether to apply the 45 percent limitation, the court must consider whether it would be unjust to apply the limitation after considering the best interest of the child or children and the circumstances of each parent. The court may consider whether application of the limitation would leave insufficient funds in the custodial parent's household to meet the basic needs of the child or children, and whether there are any involuntary limits on either parent's earning capacity, including incarceration, disabilities, or incapacity.

Presumptive minimum support obligation: The table starts at a CMNI of \$1,000 with a presumptive minimum amount of basic support of \$50.

Self-support reserve amount: The support obligation may not reduce a parent's income below 125 percent of the federal poverty guideline, rather than the need standard established by the DSHS. The self-support reserve applies to the noncustodial parent unless it would be unjust to apply it after considering the child's best interest and the circumstances of each parent.

Determining Income: Overtime, Second Jobs, and Retirement Contributions.

The court must consider income from self-employment, rent, royalties, contracts, and businesses when the court determines the child support obligation of each parent. Overtime and income from second jobs are excluded from gross income if the overtime or second job was worked to provide for a current family's need, to retire past relationship debts, or to retire child support debt. The court must find that the income will cease when the party has paid off his or her debts. However, if the person with the overtime or second job income asks for a deviation from the support obligation for any reason, the court will consider that person's overtime or second job income.

The parties may deduct up to \$5,000 of retirement contributions per year from their gross monthly income if there is a pattern of contributions during the one-year period preceding the action establishing child support, unless the contributions were made for the purposes of reducing child support.

Imputing Income When a Parent is Unemployed or Underemployed.

Before looking to information from the U.S. Census Bureau to determine the amount of income to impute, the court must impute a parent's income based on the following information in the following order:

- full-time earnings at the current rate of pay;
- full-time earnings at the historical rate of pay;
- full-time earnings at a past rate of pay where information is incomplete or sporadic; and
- full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is coming off public assistance or other programs, has recently been released from incarceration, or is a high school student.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: July 26, 2009