

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2757

By: Kirby

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5
6 AS INTRODUCED

7 An Act relating to child support; amending 43 O.S.
8 2011, Sections 118A, 118C and 118I, which relate to
9 child support guidelines; modifying term; updating
10 statutory citation; permitting income adjustment for
11 child born after the child in the support order;
12 providing calculation for after-born child; directing
13 court to apply principles of equity in modification
14 due to change in circumstances of obligee;
15 authorizing court to approve modification that
16 deviates from the guidelines; removing notice
17 requirement; and providing an effective date.

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

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

22 Section 118A. As used in this act:

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

- a. adding to the gross income of the parent any social
security benefit paid to the child on the account of
the parent,

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 deductions as set
5 forth for other prior-born or after-born children for
6 whom the parent is legally responsible and is actually
7 supporting, pursuant to Section 4 118C of this ~~act~~
8 title, and

9 d. deducting the amount of reasonable expenses of the
10 parties attributable to debt service for preexisting,
11 jointly acquired debt of the parents;

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

20 3. "Current Monthly Child Support Obligation" means the base
21 child support obligation and the proportional share of any medical
22 insurance and annualized child care 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. "Noncustodial parent" means a parent who has physical
5 custody of a child one hundred eighty-two (182) days per year or
6 less;

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

9 7. "Obligee" or "person entitled" means:

10 a. a person to whom a support debt or support obligation
11 is owed,

12 b. the Department of Human Services or a public agency of
13 another state that has the right to receive current or
14 accrued support payments or that is providing support
15 enforcement services, or

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

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

21 9. "Overnight" means the child is in the physical custody and
22 control of a parent for an overnight period of at least twelve (12)
23 hours, and that parent has made a reasonable expenditure of
24 resources for the care of the child;

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

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

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

8 SECTION 2. AMENDATORY 43 O.S. 2011, Section 118C, is
9 amended to read as follows:

10 Section 118C. A. Deductions for other children of either
11 parent who are qualified under this section may be considered by the
12 court for the purpose of reducing the gross income of the parent.
13 Adjustments are available for a child:

14 1. Who is the biological, legal, or adopted child of the
15 parent;

16 2. Who was born prior to or after the child in the case under
17 consideration;

18 3. Whom the parent is actually supporting; and

19 4. Who is not before the court to set, modify, or enforce
20 support in the case immediately under consideration.

21 B. Children for whom support is being determined in the case
22 under consideration, stepchildren, and other minors in the home that
23 the parent has no legal obligation to support shall not be
24 considered in the calculation of this deduction.

1 C. If the court finds a parent has a parent-child relationship
2 with a child not before the court, the court may grant a deduction
3 for that child as set forth in subsection D of this section.

4 D. Calculation of deduction for qualified other children.

5 1. Out-of-home children.

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

17 b. Documented proof of support includes:

18 (1) physical evidence of monetary payments to the
19 caretaker of the child, such as canceled checks
20 or money orders, and

21 (2) evidence of payment of child support under
22 another child support order, such as a payment
23 history from a tribunal clerk or child support
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1 office or from the Internet child support payment
2 history of the Department of Human Services.

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

10 2. In-home children.

11 a. To receive a deduction against gross income for
12 qualified other prior-born ~~other~~ or after-born
13 children whose primary residence is with the parent
14 seeking deduction, but who are not part of the case
15 being determined, the parent must establish a legal
16 duty of support and that the child resides with the
17 parent more than fifty percent (50%) of the time.
18 Documents that may be used to establish that the
19 parent and child share the same residence include the
20 school or medical records showing the address of the
21 child and the utility bills of the parents mailed to
22 the same address, court orders reflecting the parent
23 is the primary residential parent or that the parent
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1 shares the parenting time of the child fifty percent
2 (50%) of the time.

3 b. The deduction for other qualified children shall be
4 computed as a hypothetical child support order
5 calculated using the deduction worksheet, the gross
6 income of the parents, the total number of qualified
7 other children living in the home of the parent, and
8 the Child Support Guideline Schedule. The deduction
9 worksheet shall be prepared by the Department of Human
10 Services and shall be published by the Administrative
11 Office of the Courts.

12 c. The available deduction against gross income for the
13 qualified in-home children of either parent is
14 seventy-five percent (75%) of a hypothetical support
15 order calculated according to these Guidelines, using
16 the Deduction Worksheet, the gross income of the
17 parent less any self-employment taxes paid, the total
18 number of qualified other children living in the home
19 of the parents, and the Child Support Guideline
20 Schedule.

21 SECTION 3. AMENDATORY 43 O.S. 2011, Section 118I, is
22 amended to read as follows:

23 Section 118I. A. 1. Child support orders may be modified upon
24 a material change in circumstances which includes, but is not

1 limited to, an increase or decrease in the needs of the child, an
2 increase or decrease in the income of the parents, changes in actual
3 annualized child care expenses, changes in the cost of medical or
4 dental insurance, or when one of the children in the child support
5 order reaches the age of majority or otherwise ceases to be entitled
6 to support pursuant to the support order. The court shall apply the
7 principles of equity in modifying any child support order due to
8 changes in the circumstances of the obligee.

9 2. Modification of the Child Support Guideline Schedule shall
10 not alone be a material change in circumstances for child support
11 orders.

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

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

21 2. All final orders shall state whether past-due support and
22 interest have accrued pursuant to any temporary order and the amount
23 due, if any; however, failure to state a past-due amount shall not
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1 bar collection of that amount after entry of the final support
2 order.

3 C. The amount of a child support order shall not be construed
4 to be an amount per child unless specified by the district or
5 administrative court in the order. A child reaching the age of
6 majority or otherwise ceasing to be entitled to support pursuant to
7 the support order shall constitute a material change in
8 circumstances, but shall not automatically serve to modify the
9 order. When the last child of the parents ceases to be entitled to
10 support, the child support obligation is automatically terminated as
11 to prospective child support only.

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

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

22 3. Requested information may include verification of income,
23 proof and cost of medical insurance of the children, and current and
24 projected child care costs. If shared parenting time has been

1 awarded by the court, documentation of past and prospective
2 overnight visits shall be exchanged.

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

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

10 b. The standard modification forms and the standard child
11 support computation form shall be submitted to the
12 district or administrative court. The court shall
13 review the modification forms ~~to confirm that the~~
14 ~~child support obligation complies with~~ and, if agreed
15 to by the parties, may approve a deviation from the
16 child support guidelines ~~and that all necessary~~
17 ~~parties pursuant to Section 112 of Title 43 of the~~
18 ~~Oklahoma Statutes have been notified~~ as provided in
19 subsection B of Section 118H of this title. If the
20 court approves the modification forms, they shall be
21 filed with the court.

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SECTION 4. This act shall become effective November 1, 2016.

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