

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2757

By: Kirby of the House

and

Shortey of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to child support; amending 43 O.S.  
12                   2011, Section 114, as amended by Section 2, Chapter  
13                   253, O.S.L. 2012 (43 O.S. Supp. 2015, Section 114),  
14                   which relates to interest on past-due child support;  
15                   prohibiting certain interest payments for past-due  
16                   child support and other support judgments; amending  
17                   43 O.S. 2011, Sections 118A, 118C and 118I, which  
18                   relate to child support guidelines; modifying term;  
19                   updating statutory citation; permitting income  
20                   adjustment for child born after the child in the  
21                   support order; providing calculation for after-born  
22                   child; directing court to apply principles of equity  
23                   in modification due to change in circumstances;  
24                   authorizing court to approve modification that  
                  deviates from the guidelines; removing notice  
                  requirement; and providing an effective date.

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

1 SECTION 1. AMENDATORY 43 O.S. 2011, Section 114, as  
2 amended by Section 2, Chapter 253, O.S.L. 2012 (43 O.S. Supp. 2015,  
3 Section 114), is amended to read as follows:

4 Section 114. ~~Court-ordered~~ A. Except as provided in subsection  
5 B of this section, court-ordered past-due child support payments,  
6 court-ordered payments of suit ~~moneys~~ monies and judgments for  
7 support pursuant to Section 83 of Title 10 of the Oklahoma Statutes  
8 and Sections 238.1 and 238.6B of Title 56 of the Oklahoma Statutes  
9 shall draw interest at the rate of ten percent (10%) per year.  
10 Past-due child support payments accruing after the establishment of  
11 the current support order shall draw interest from the date they  
12 become delinquent. Lump-sum judgments pursuant to Titles 10 and 56  
13 of the Oklahoma Statutes for support owed prior to the establishment  
14 of current support shall draw interest from the first day of the  
15 month after the lump-sum judgment is entered. The interest shall be  
16 collected in the same manner as the payments upon which the interest  
17 accrues.

18 B. Court-ordered past-due child support payments, court-ordered  
19 payments of suit monies and judgments for support pursuant to  
20 Section 83 of Title 10 of the Oklahoma Statutes and Sections 238.1  
21 and 238.6B of Title 56 of the Oklahoma Statutes entered beginning  
22 November 1, 2016, shall not draw interest.

23 SECTION 2. AMENDATORY 43 O.S. 2011, Section 118A, is  
24 amended to read as follows:

1 Section 118A. As used in this act:

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

- 5 a. adding to the gross income of the parent any ~~social~~  
6 ~~security~~ Social Security benefit paid to the child on  
7 the account of the parent,
- 8 b. deducting from gross income the amount of any support  
9 alimony arising in a prior case to the extent that  
10 payment is actually made,
- 11 c. deducting from gross income any deductions as set  
12 forth for other prior-born or after-born children for  
13 whom the parent is legally responsible and is actually  
14 supporting, pursuant to Section 4 118C of this ~~act~~  
15 title, and
- 16 d. deducting the amount of reasonable expenses of the  
17 parties attributable to debt service for preexisting,  
18 jointly acquired debt of the parents;

19 2. "Base child support obligation" means the amount of support  
20 displayed on the Schedule of Basic Child Support Obligations which  
21 corresponds to the combined AGI of both parents and the number of  
22 children for whom support is being determined. This amount is  
23 rebuttably presumed to be the appropriate amount of basic child  
24 support to be provided by both parents in the case immediately under

1 consideration, prior to consideration of any adjustments for medical  
2 and child care costs, and any other additional expenses;

3 3. "~~Current Monthly Child Support Obligation~~ monthly child  
4 support obligation" means the base child support obligation and the  
5 proportional share of any medical insurance and annualized child  
6 care costs;

7 4. "Custodial person" means a parent or third-party caretaker  
8 who has physical custody of a child more than one hundred eighty-two  
9 (182) days per year;

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

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

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

16 a. a person to whom a support debt or support obligation  
17 is owed,

18 b. the Department of Human Services or a public agency of  
19 another state that has the right to receive current or  
20 accrued support payments or that is providing support  
21 enforcement services, or

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

24

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

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

8 10. "Parent" means an individual who has a parent-child  
9 relationship under 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. AMENDATORY 43 O.S. 2011, Section 118C, is  
16 amended to read as follows:

17 Section 118C. A. Deductions for other children of either  
18 parent who are qualified under this section may be considered by the  
19 court for the purpose of reducing the gross income of the parent.

20 Adjustments are available for a child:

21 1. Who is the biological, legal, or adopted child of the  
22 parent;

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

1 3. Whom the parent is actually supporting; and

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

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

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

11 D. Calculation of deduction for qualified other children.

12 1. Out-of-home children.

13 a. To receive a deduction 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 deduction, the  
17 parent shall establish the existence of a support  
18 order and provide documented proof of support paid for  
19 the other child consistently over a reasonable and  
20 extended period of time prior to the initiation of the  
21 proceeding that is immediately under consideration by  
22 the tribunal, but in any event, such time period shall  
23 not be less than twelve (12) months.

24 b. Documented proof of support includes:

- 1 (1) physical evidence of monetary payments to the  
2 caretaker of the child, such as canceled checks  
3 or money orders, and  
4 (2) evidence of payment of child support under  
5 another child support order, such as a payment  
6 history from a tribunal clerk or child support  
7 office or from the Internet child support payment  
8 history of the Department of Human Services.

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

16 2. In-home children.

17 a. To receive a deduction against gross income for  
18 qualified other prior-born ~~other~~ or after-born  
19 children whose primary residence is with the parent  
20 seeking deduction, but who are not part of the case  
21 being determined, the parent must establish a legal  
22 duty of support and that the child resides with the  
23 parent more than fifty percent (50%) of the time.  
24 Documents that may be used to establish that the

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

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

17 c. The available deduction against gross income for the  
18 qualified in-home children of either parent is  
19 seventy-five percent (75%) of a hypothetical support  
20 order calculated according to these Guidelines, using  
21 the Deduction Worksheet, the gross income of the  
22 parent less any self-employment taxes paid, the total  
23 number of qualified other children living in the home  
24

1 of the parents, and the Child Support Guideline  
2 Schedule.

3 SECTION 4. AMENDATORY 43 O.S. 2011, Section 118I, is  
4 amended to read as follows:

5 Section 118I. A. 1. Child support orders may be modified upon  
6 a material change in circumstances which includes, but is not  
7 limited to, an increase or decrease in the needs of the child, an  
8 increase or decrease in the income of the parents, changes in actual  
9 annualized child care expenses, changes in the cost of medical or  
10 dental insurance, or when one of the children in the child support  
11 order reaches the age of majority or otherwise ceases to be entitled  
12 to support pursuant to the support order. The court shall apply the  
13 principles of equity in modifying any child support order due to  
14 changes in the circumstances of either party as it relates to the  
15 best interests of the children.

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

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

23 B. 1. A child support order shall not be modified  
24 retroactively regardless of whether support was ordered in a

1 temporary order, a decree of divorce, an order establishing  
2 paternity, modification of an order of support, or other action to  
3 establish or to enforce support.

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

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

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

22 2. When an existing child support order does not contain a  
23 provision which requires an informal review and adjustment process,  
24 either parent may request the other parent to provide the

1 information necessary for the informal review and adjustment  
2 process. Information shall be provided to the requesting parent  
3 within forty-five (45) days of the request.

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

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

11 5. a. If the parents agree to a modification of a child  
12 support order, their agreement shall be in writing  
13 using standard modification forms and the child  
14 support computation form provided for in Section 120  
15 of Title 43 of the Oklahoma Statutes.

16 b. The standard modification forms and the standard child  
17 support computation form shall be submitted to the  
18 district or administrative court. ~~The~~ Either court  
19 shall review the modification forms to confirm that  
20 the child support obligation complies with the child  
21 support guidelines ~~and that all necessary parties~~  
22 ~~pursuant to Section 112 of Title 43 of the Oklahoma~~  
23 ~~Statutes have been notified~~ or, if agreed to by the  
24 parties, the court may approve a deviation from the

1           child support guidelines as provided in subsection B  
2           of Section 118H of this title. If the court approves  
3           the modification forms, they shall be filed with the  
4           court.

5           SECTION 5. This act shall become effective November 1, 2016.

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7           COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY  
8           SERVICES, dated 02/16/2016 - DO PASS, As Amended and Coauthored.  
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