

1 **SENATE FLOOR VERSION**

2 March 29, 2016

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2757

6 By: Kirby of the House

7 and

8 Shortey of the Senate

9 **[child support - interest on past-due child support
10 - guidelines - notice requirement - effective date]**

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

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

15 Section 114. ~~Court-ordered~~ A. Except as provided in subsection
16 B of this section, court-ordered past-due child support payments,
17 court-ordered payments of suit ~~moneys~~ monies and judgments for
18 support pursuant to Section 83 of Title 10 of the Oklahoma Statutes
19 and Sections 238.1 and 238.6B of Title 56 of the Oklahoma Statutes
20 shall draw interest at the rate of ten percent (10%) per year.
21 Past-due child support payments accruing after the establishment of
22 the current support order shall draw interest from the date they
23 become delinquent. Lump-sum judgments pursuant to Titles 10 and 56
24 of the Oklahoma Statutes for support owed prior to the establishment

1 of current support shall draw interest from the first day of the
2 month after the lump-sum judgment is entered. The interest shall be
3 collected in the same manner as the payments upon which the interest
4 accrues.

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

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

12 Section 118A. As used in this act:

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

16 a. adding to the gross income of the parent any ~~social~~
17 ~~security~~ Social Security benefit paid to the child on
18 the account of the parent,

19 b. deducting from gross income the amount of any support
20 alimony arising in a prior case to the extent that
21 payment is actually made,

22 c. deducting from gross income any deductions as set
23 forth for other prior-born or after-born children for
24 whom the parent is legally responsible and is actually

1 supporting, pursuant to Section 4 118C of this ~~act~~
2 title, and

3 d. deducting the amount of reasonable expenses of the
4 parties attributable to debt service for preexisting,
5 jointly acquired debt of the parents;

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

14 3. "Current ~~Monthly Child Support Obligation~~ monthly child
15 support obligation" means the base child support obligation and the
16 proportional share of any medical insurance and annualized child
17 care costs;

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

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

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

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

4 a. a person to whom a support debt or support obligation
5 is owed,

6 b. the Department of Human Services or a public agency of
7 another state that has the right to receive current or
8 accrued support payments or that is providing support
9 enforcement services, or

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

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

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

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

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

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

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

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

9 Adjustments are available for a child:

10 1. Who is the biological, legal, or adopted child of the
11 parent;

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

14 3. Whom the parent is actually supporting; and

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

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

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

24 D. Calculation of deduction for qualified other children.

1 1. Out-of-home children.

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

13 b. Documented proof of support includes:

14 (1) physical evidence of monetary payments to the
15 caretaker of the child, such as canceled checks
16 or money orders, and

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

22 c. The available deduction against gross income for
23 either parent's qualified children not in the home of
24 the parent is the actual documented court-ordered

1 current monthly child support obligation of the
2 qualified other children, averaged to a monthly amount
3 of support paid over the most recent twelve-month
4 period.

5 2. In-home children.

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

21 b. The deduction for other qualified children shall be
22 computed as a hypothetical child support order
23 calculated using the deduction worksheet, the gross
24 income of the parents, the total number of qualified

1 other children living in the home of the parent, and
2 the Child Support Guideline Schedule. The deduction
3 worksheet shall be prepared by the Department of Human
4 Services and shall be published by the Administrative
5 Office of the Courts.

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

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

17 Section 118I. A. 1. Child support orders may be modified upon
18 a material change in circumstances which includes, but is not
19 limited to, an increase or decrease in the needs of the child, an
20 increase or decrease in the income of the parents, changes in actual
21 annualized child care expenses, changes in the cost of medical or
22 dental insurance, or when one of the children in the child support
23 order reaches the age of majority or otherwise ceases to be entitled
24 to support pursuant to the support order. The court shall apply the

1 principles of equity in modifying any child support order due to
2 changes in the circumstances of either party as it relates to the
3 best interests of the children.

4 2. Modification of the Child Support Guideline Schedule shall
5 not alone be a material change in circumstances for child support
6 orders.

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

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

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

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

1 the support order shall constitute a material change in
2 circumstances, but shall not automatically serve to modify the
3 order. When the last child of the parents ceases to be entitled to
4 support, the child support obligation is automatically terminated as
5 to prospective child support only.

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

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

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

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

23 5. a. If the parents agree to a modification of a child
24 support order, their agreement shall be in writing

1 using standard modification forms and the child
2 support computation form provided for in Section 120
3 of Title 43 of the Oklahoma Statutes.

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
19 March 29, 2016 - DO PASS AS AMENDED
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