

An Act

SENATE BILL 23-173

BY SENATOR(S) Fields and Liston, Buckner, Gardner, Ginal, Hansen, Lundeen, Marchman, Pelton R., Priola, Smallwood;
also REPRESENTATIVE(S) Bradley and Joseph, Bacon, Dickson, Duran, English, Epps, Froelich, Gonzales-Gutierrez, Hamrick, Jodeh, Kipp, Lindsay, McCormick, McLachlan, Michaelson Jenet, Pugliese, Ricks, Valdez, McCluskie.

CONCERNING RECOMMENDATIONS OF THE COLORADO CHILD SUPPORT COMMISSION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 14-10-115, **amend** (2)(a) as follows:

14-10-115. Child support guidelines - purpose - determination of income - schedule of basic child support obligations - adjustments to basic child support - additional guidelines - child support commission - definitions. (2) Duty of support - factors to consider. (a) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

for the child's support and may order an amount determined to be reasonable under the circumstances for a time period that occurred after the date of the parties' physical separation or the filing of the petition or service upon the respondent, whichever date is latest, and prior to the ~~entry of the support order~~ MONTH THE CHILD SUPPORT OBLIGATION BEGINS, without regard to marital misconduct.

SECTION 2. In Colorado Revised Statutes, 14-10-115, **amend** (4)(a); and **add** (4)(c) and (14)(c) as follows:

14-10-115. Child support guidelines - purpose - determination of income - schedule of basic child support obligations - adjustments to basic child support - additional guidelines - child support commission - definitions. (4) Forms - identifying information - advisement. (a) The child support guidelines ~~shall~~ **MUST** be used with standardized child support guideline forms to be issued by the judicial department. The judicial department is responsible for promulgating and updating the Colorado child support guideline forms, schedules, worksheets, ~~and~~ instructions, AND ADVISEMENTS.

(c) ALL CHILD SUPPORT ORDERS ENTERED PURSUANT TO THIS ARTICLE 10 MUST INCLUDE A WRITTEN ADVISEMENT TO THE PARTIES THAT CONFORM WITH THE WRITTEN CHILD SUPPORT ADVISEMENT APPROVED BY THE JUDICIAL BRANCH, COVERING THE FOLLOWING TOPICS, IN PLAIN LANGUAGE:

(I) THAT A PARTY WHO DOES NOT PAY CHILD SUPPORT MAY BE SUBJECT TO JUDICIAL AND ADMINISTRATIVE ENFORCEMENT REMEDIES AND EXAMPLES OF THOSE REMEDIES;

(II) THE OPERATION OF INCOME ASSIGNMENTS;

(III) THE APPLICATION OF INTEREST ON ARREARS;

(IV) THE PARTIES' OBLIGATIONS CONCERNING PROOF OF PAYMENT;

(V) THE BASIS FOR A MODIFICATION OR CHANGE OF SUPPORT, INCLUDING THE DEFINITION OF A SUBSTANTIAL AND CONTINUING CHANGE OF CIRCUMSTANCES;

(VI) THE EFFECT OF AGREEMENTS TO MODIFY OR AMEND CHILD SUPPORT AND THE REQUIREMENT FOR COURT AUTHORIZATION OR ADMINISTRATIVE PROCESS ACTION OF ALL MODIFICATIONS OR AMENDMENTS;

(VII) THE EFFECT OF EMANCIPATION; AND

(VIII) THE EFFECT OF SPOUSAL MAINTENANCE.

(14) Advisement to parties - annual exchange of information.

(c) IN ANY STATUS CONFERENCE, ADMINISTRATIVE CONFERENCE, OR HEARING IN WHICH CHILD SUPPORT IS AT ISSUE, THE COURT OR THE DELEGATE CHILD SUPPORT UNIT SHALL VERBALLY ADVISE THE PARTIES THAT FAILURE TO PAY CHILD SUPPORT ORDERED BY THE COURT OR AS A RESULT OF AN ADMINISTRATIVE PROCESS ACTION MAY RESULT IN ENFORCEMENT ACTIONS AND THE ADDITION OF INTEREST ON ARREARS AND THAT AN AGREEMENT TO MODIFY CHILD SUPPORT IS NOT EFFECTIVE UNTIL APPROVED BY THE COURT, OR DELEGATE CHILD SUPPORT UNIT FOR ADMINISTRATIVE ORDERS, AND ENTERED AS AN ORDER.

SECTION 3. In Colorado Revised Statutes, 14-10-115, **amend** (3)(a)(II), (5)(a)(I.5), (5)(a)(II)(C), (5)(b.5)(II)(N), (5)(b.5)(II)(O), (10)(e), and (10)(h)(II); and **add** (3)(a)(III), (5)(a)(IV), (5)(b.5)(II)(P), (10)(a.5), and (10)(h)(III) as follows:

14-10-115. Child support guidelines - purpose - determination of income - schedule of basic child support obligations - adjustments to basic child support - additional guidelines - child support commission - definitions. (3) **Definitions.** As used in this section, unless the context otherwise requires:

(a) (II) For purposes of this subsection (3)(a), if the alimony or maintenance actually paid by a parent is deductible for federal income tax purposes by that parent, AND THE ALIMONY OR MAINTENANCE IS PAID AND RECEIVED BY THE SAME PARTIES AS THE CHILD SUPPORT CALCULATION, then the actual amount of alimony or maintenance paid by that parent must be deducted from that parent's gross income. If the alimony or maintenance actually paid by a parent is not deductible for federal income tax purposes by that parent, then the amount of alimony or maintenance deducted from that parent's gross income is the amount of alimony or maintenance actually paid by that parent ~~multiplied by 1.25~~. SUBJECT TO THE FOLLOWING

ADJUSTMENTS:

(A) IF THE COMBINED MONTHLY ADJUSTED GROSS INCOME OF THE PARTIES TO THE MAINTENANCE PAYMENT IS TEN THOUSAND DOLLARS OR LESS, THE MAINTENANCE ACTUALLY PAID WILL BE MULTIPLIED BY 1.25;

(B) IF THE COMBINED MONTHLY ADJUSTED GROSS INCOME OF THE PARTIES TO THE MAINTENANCE PAYMENT IS MORE THAN TEN THOUSAND DOLLARS, THE MAINTENANCE ACTUALLY PAID WILL BE MULTIPLIED BY 1.33; AND

(C) IF THE AMOUNT OF ALIMONY OR MAINTENANCE ACTUALLY PAID IS INCREASED AS DESCRIBED IN THIS SECTION BECAUSE IT IS NOT DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES, THERE IS A REBUTTABLE PRESUMPTION THAT THE MULTIPLIER IS CORRECT. THE PRESUMPTION MAY BE REBUTTED WITH EVIDENCE INDICATING A DIFFERENT MULTIPLIER IS MORE ACCURATE DUE TO THE TAX IMPLICATIONS OF THE MAINTENANCE PAYMENT BEING DIFFERENT THAN THAT REFLECTED BY THE MULTIPLIER.

(III) IF A COURT-ORDERED ALIMONY OR MAINTENANCE OBLIGATION ACTUALLY PAID BY A PARTY DOES NOT INVOLVE THE SAME PARTIES AS THE CHILD SUPPORT CALCULATION AND IS NOT DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES BY THAT PARTY, THEN THE AMOUNT OF THE COURT-ORDERED ALIMONY OR MAINTENANCE THAT IS DEDUCTED FROM THAT PARTY'S GROSS INCOME IS THE AMOUNT ACTUALLY PAID BY THAT PARTY MULTIPLIED BY 1.25.

(5) **Determination of income.** (a) For the purposes of the child support guidelines and schedule of basic child support obligations specified in this section, the gross income of each parent shall be determined according to the following guidelines:

(I.5) For purposes of subsection (5)(a)(I)(Y) of this section, if the alimony or maintenance actually received by a parent is taxable income to that parent for federal income tax purposes, then the actual amount of alimony or maintenance received is included in that parent's gross income. If the alimony or maintenance actually received by a parent is not taxable income to that parent for federal income tax purposes, AND THE ALIMONY OR MAINTENANCE IS PAID AND RECEIVED BY THE SAME PARTIES AS THE CHILD SUPPORT CALCULATION, then the amount of alimony or maintenance

that is included in that parent's gross income is the amount of alimony or maintenance received by that parent ~~multiplied by 1.25~~. SUBJECT TO THE FOLLOWING ADJUSTMENTS:

(A) IF THE COMBINED MONTHLY ADJUSTED GROSS INCOME OF THE PARTIES TO THE MAINTENANCE PAYMENT IS TEN THOUSAND DOLLARS OR LESS, THE MAINTENANCE ACTUALLY RECEIVED WILL BE MULTIPLIED BY 1.25;

(B) IF THE COMBINED MONTHLY ADJUSTED GROSS INCOME OF THE PARTIES TO THE MAINTENANCE PAYMENT IS MORE THAN TEN THOUSAND DOLLARS, THE MAINTENANCE ACTUALLY RECEIVED WILL BE MULTIPLIED BY 1.33; AND

(C) IF THE AMOUNT OF ALIMONY OR MAINTENANCE ACTUALLY RECEIVED IS INCREASED AS DESCRIBED IN THIS SECTION BECAUSE IT IS NOT DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES, THERE IS A REBUTTABLE PRESUMPTION THAT THE MULTIPLIER IS CORRECT. THE PRESUMPTION MAY BE REBUTTED WITH EVIDENCE INDICATING A DIFFERENT MULTIPLIER IS MORE ACCURATE DUE TO THE TAX IMPLICATIONS OF THE MAINTENANCE PAYMENT BEING DIFFERENT THAN THAT REFLECTED BY THE MULTIPLIER.

(II) "Gross income" does not include:

(C) Income from additional jobs that result in the employment of ~~the obligor~~ more than forty hours per week or more than what would otherwise be considered to be full-time employment;

(IV) IF A PREEXISTING COURT-ORDERED ALIMONY OR MAINTENANCE OBLIGATION ACTUALLY RECEIVED BY A PARTY DOES NOT INVOLVE THE SAME PARTIES AS THE CHILD SUPPORT CALCULATION AND IS NOT DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES BY THAT PARTY, THEN THE AMOUNT OF PREEXISTING COURT-ORDERED ALIMONY OR MAINTENANCE THAT IS DEDUCTED FROM THAT PARTY'S GROSS INCOME IS THE AMOUNT ACTUALLY RECEIVED BY THAT PARTY MULTIPLIED BY 1.25.

(b.5)(II) In determining potential income, the court or delegate child support enforcement unit shall consider, to the extent known, the specific circumstances of the parent, including consideration of the following information, when available:

(N) Prevailing earnings level in the local community. ~~and~~ THE TYPICAL HOURS AVAILABLE TO WORKERS IN THE PARENT'S JOB SECTOR AS ESTABLISHED BY ANY RELIABLE SOURCE GENERALLY USED AND RELIED ON BY THE PUBLIC OR PERSONS IN A PARTICULAR OCCUPATION, INCLUDING, BUT NOT LIMITED TO, VERIFIED STATEMENTS, WORK HISTORY, THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS OR OTHER RELIABLE COMPILATIONS, THE DEPARTMENT OF LABOR AND EMPLOYMENT, OR OTHER INFORMATION PROVIDED BY THE PARENT. IN THE ABSENCE OF ANY SUCH INFORMATION, THE COURT OR DELEGATE CHILD SUPPORT ENFORCEMENT UNIT SHALL DETERMINE THE PARENT'S INCOME BASED ON A REASONABLE RATE OF PAY FOR A THIRTY-TWO-HOUR WORKWEEK FOR FIFTY WEEKS EACH YEAR, SUBJECT TO OTHER FACTORS SET FORTH IN THIS SECTION THAT MAY AFFECT THE NUMBER OF HOURS THE PARENT IS CAPABLE OF WORKING, SUCH AS AGE, HEALTH, OR THE SPECIFIC NEEDS OF THE SUBJECT CHILD.

~~(O) Other relevant background factors in the case.~~
TRANSPORTATION; AND

(P) OTHER RELEVANT BACKGROUND FACTORS IN THE CASE.

(10) Adjustments for health-care expenditures for children.

(a.5) IF A CHILD IS COVERED BY INSURANCE, THE PARENT SECURING THE COVERAGE, THE EMPLOYER PROVIDING THE COVERAGE, OR THE INSURANCE PROVIDER SHALL PROVIDE, UPON REQUEST BY THE POLICY HOLDER OR BY COURT ORDER, THE INSURANCE PROVIDER'S NAME, THE INSURANCE PROVIDER'S TELEPHONE NUMBER, THE GROUP AND POLICY NUMBER, AND THE CLAIM ADDRESS TO THE NON-POLICY HOLDER. THE INFORMATION MUST BE PROVIDED UNLESS OTHERWISE ORDERED BY THE COURT FOR GOOD CAUSE SHOWN. THIS SUBSECTION (10) AUTHORIZES THE RELEASE OF INFORMATION TO THE OTHER PARTY OR PARTIES. AFTER NOTICE TO THE PARTY OR PARTIES OF THIS OBLIGATION, THE COURT HAS THE AUTHORITY TO FINE THE PARENT SECURING COVERAGE FOR FAILURE TO PROVIDE THE REQUIRED INFORMATION.

(e) Prior to allowing the health insurance adjustment, the parent requesting the adjustment must submit proof that the child or children have been enrolled in a health insurance plan and must submit proof of the cost of the premium. ~~The court shall require the parent receiving the adjustment to submit annually proof of continued coverage of the child or children to~~

