

The House Committee on Special Judiciary offers the following substitute to HB 149:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to
2 computation of child support awards, so as to revise the method of computing child support
3 for persons who have support obligations for other children in addition to the child or
4 children for whom support is being sought; to provide for related matters; to provide an
5 effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to computation of
9 child support awards, is amended by striking subsections (b) and (c) and inserting in lieu
10 thereof new subsections (b) and (c) to read as follows:

11 "(b) The child support award shall be computed as provided in this subsection:

12 (1) Computation of child support shall be based upon gross income;

13 (2) For the purpose of determining the obligor's child support obligation, gross income
14 shall include 100 percent of wage and salary income and other compensation for personal
15 services, interest, dividends, net rental income, self-employment income, and all other
16 income, except need-based public assistance;

17 (3) The earning capacity of an asset of a party available for child support may be used
18 in determining gross income. The reasonable earning potential of an asset may be
19 determined by multiplying its equity by a reasonable rate of interest. The amount
20 generated by that calculation should be added to the obligor's gross monthly income;

21 (4) Allowable expenses deducted to calculate self-employment income that personally
22 benefit the obligor, or economic in-kind benefits received by an employed obligor, may
23 be included in calculating the obligor's gross monthly income; and

24 (5)(A) The amount of the obligor's child support obligation shall be determined by
25 multiplying the obligor's gross income per pay period by a percentage based on the

1 number of children for whom child support is being determined. The applicable
2 percentages of gross income to be considered by the trier of fact are:

| 3 <u>Number of</u> | 4 <u>Percentage Range of Gross Income</u> |
|--------------------|---|
| 5 <u>Children</u> | |
| 6 1 | 17 percent to 23 percent |
| 7 2 | 23 percent to 28 percent |
| 8 3 | 25 percent to 32 percent |
| 9 4 | 29 percent to 35 percent |
| 10 5 or more | 31 percent to 37 percent |

11 (B) If an obligor has other support obligations to other children, such obligations shall
12 be a part of the presumptive calculation. The presumptive calculation shall include
13 other children only if the obligor can show proof that he or she is the parent of such
14 children and is providing support for such children. Stepchildren shall not be included
15 within such calculation. When the obligor is supporting other children in addition to
16 the child or children for which child support is being determined, the presumptive
17 award shall be calculated by determining the total number of children who are
18 dependent on the obligor, applying the guidelines percentage range to the total number
19 of children dependent on the obligor, multiplying the percentage by the obligor's gross
20 income, and dividing the product by the total number of children dependent on the
21 obligor to determine the per child obligation. The per child amount shall then be
22 multiplied by the number of children for whom child support is being sought in the
23 instant case.

24 (C) Application of these guidelines shall create a rebuttable presumption that the
25 amount of the support awarded is the correct amount of support to be awarded. A
26 written finding or specific finding on the record for the award of child support that the
27 application of the guidelines would be unjust or inappropriate in a particular case shall
28 be sufficient to rebut the presumption in that case. Findings that rebut said presumption
29 must state the amount of support that would have been required under the guidelines
30 and include justification of why the order varies from the guidelines. These guidelines
31 are intended by the General Assembly to be guidelines only and any court so applying
32 these guidelines shall not abrogate its responsibility in making the final determination
33 of child support based on the evidence presented to it at the time of trial.

34 (c) The trier of fact shall vary the final award of child support, up or down, from the range
35 enumerated in paragraph (5) of subsection (b) of this Code section upon a written finding
36 that the presence of one or more of the following special circumstances makes the
presumptive amount of support either excessive or inadequate:

- 1 (1) Ages of the children;
- 2 (2) A child's extraordinary medical costs or needs in addition to accident and sickness
3 insurance, provided that all such costs or needs shall be considered if no insurance is
4 available;
- 5 (3) Educational costs;
- 6 (4) Day-care costs;
- 7 (5) Shared physical custody arrangements, including extended visitation;
- 8 ~~(6) A party's other support obligations to another household;~~
- 9 ~~(7)~~(6) Income that should be imputed to a party because of suppression of income;
- 10 ~~(8)~~(7) In-kind income for the self-employed, such as reimbursed meals or a company car;
- 11 ~~(9)~~(8) Other support a party is providing or will be providing, such as payment of a
12 mortgage;
- 13 ~~(10)~~(9) A party's own extraordinary needs, such as medical expenses;
- 14 ~~(11)~~(10) Extreme economic circumstances including but not limited to:
- 15 (A) Unusually high debt structure; or
- 16 (B) Unusually high income of either party or both parties, which shall be construed as
17 individual gross income of over \$75,000.00 per annum;
- 18 ~~(12)~~(11) Historical spending in the family for children which varies significantly from
19 the percentage table;
- 20 ~~(13)~~(12) Considerations of the economic cost-of-living factors of the community of each
21 party, as determined by the trier of fact;
- 22 ~~(14)~~(13) In-kind contribution of either parent;
- 23 ~~(15)~~(14) The income of the custodial parent;
- 24 ~~(16)~~(15) The cost of accident and sickness insurance coverage for dependent children
25 included in the order;
- 26 ~~(17)~~(16) Extraordinary travel expenses to exercise visitation or shared physical custody;
27 and
- 28 ~~(18)~~(17) Any other factor which the trier of fact deems to be required by the ends of
29 justice."

30 **SECTION 2.**

31 All laws and parts of laws in conflict with this Act are repealed.