

Senate Bill 483

By: Senators Harp of the 29th and Carter of the 13th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to child
2 support in final verdict or decree, guidelines for determining amount of child support award,
3 and the duration of support, so as to revise certain definitions; to change certain provisions
4 relating to the process of calculating child support; to provide for orders in cases involving
5 family violence; to change certain provisions relating to gross income and clarify military
6 compensation and allowances as gross income; to correct cross-references and clarify certain
7 provisions of the Code section; to provide for related matters; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to child support
11 in final verdict or decree, guidelines for determining amount of child support award, and the
12 duration of support, is amended by revising paragraphs (1), (6.1), (17), (18), and (20) of
13 subsection (a) as follows:
14

15 "(1) 'Adjusted child support obligation' means the basic child support obligation adjusted
16 by the ~~parenting time adjustment, if applicable,~~ health insurance; and work related child
17 care costs."

18 "(6.1) 'Child support services' means the ~~Office of Child Support Services~~ agency within
19 the Department of Human Resources which provides and administers child support
20 services."

21 "(17) 'Parenting time ~~adjustment~~ deviation' means ~~an adjustment to a deviation from~~ the
22 noncustodial parent's portion of the basic child support obligation based upon the
23 noncustodial parent's court ordered visitation with the child. For further reference see
24 ~~subsection~~ subsections (g) and (i) of this Code section.

1 (18) 'Preexisting order' means:

2 (A) An order in another case that requires a parent to make child support payments for
3 another child, which child support the parent is actually paying, as evidenced by
4 documentation as provided in division (f)(5)(B)(iii) of this Code section; and

5 (B) That the date of filing with the clerk of court of the initial order for each such other
6 case is earlier than the date of filing with the clerk of court of the initial order in the
7 case immediately before the court, regardless of the age of any child in any of the
8 cases."

9 "(20) 'Qualified child' or 'qualified children' means any child:

10 (A) For whom the parent is legally responsible and in whose home the child resides;

11 (B) That the parent is actually supporting;

12 (C) Who is not subject to a preexisting ~~child support~~ order; and

13 (D) Who is not before the court to set, modify, or enforce support in the case
14 immediately under consideration.

15 Qualified children shall not include stepchildren or other minors in the home that the
16 parent has no legal obligation to support."

17 **SECTION 2.**

18 Said Code section is further amended by revising paragraphs (8) and (9) of subsection (b) as
19 follows:

20 "(8) In accordance with subsection (i) of this Code section, deviations subtracted from
21 or increased to the presumptive amount of child support are applied, if applicable, and if
22 supported by the required findings of fact and application of the best interest of the child
23 standard. The proposed deviations shall be entered on the Child Support Schedule E –
24 Deviations. In the court's or the jury's discretion, deviations may include, but are not
25 limited to, the following:

26 (A) High income;

27 (B) Low income;

28 (C) Other health related insurance;

29 (D) Child and dependent care tax credit;

30 (E) Travel expenses;

31 (F) Alimony;

32 (G) Mortgage;

33 (H) Permanency plan or foster care plan;

34 (I) Extraordinary expenses;

35 (J) ~~Nonspecific deviations~~ Parenting time; and

36 (K) ~~Parenting time~~ Nonspecific deviations;

1 (9) The final child support order shall be the presumptive amount of child support as
 2 increased or decreased by deviations and any benefits which the child receives under
 3 Title II of the federal Social Security Act shall be applied against the final child support
 4 order. The final child support amount for each parent shall be entered on the child
 5 support worksheet, together with the information from each of the utilized schedules;"

6 SECTION 3.

7 Said Code section is further amended by revising subsection (c) as follows:

8 "(c) *Applicability and required findings.*

9 (1) The child support guidelines contained in this Code section are a minimum basis for
 10 determining the amount of child support and shall apply as a rebuttable presumption in
 11 all legal proceedings involving the child support responsibility of a parent. This Code
 12 section shall be used when the court enters a temporary or permanent child support order
 13 in a contested or noncontested hearing or order in a civil action filed pursuant to Code
 14 Section 19-13-4. The rebuttable presumptive amount of child support provided by this
 15 Code section may be increased or decreased according to the best interest of the child for
 16 whom support is being considered, the circumstances of the parties, the grounds for
 17 deviation set forth in subsection (i) of this Code section, and to achieve the state policy
 18 of affording to children of unmarried parents, to the extent possible, the same economic
 19 standard of living enjoyed by children living in intact families consisting of parents with
 20 similar financial means.

21 (2) The provisions of this Code section shall not apply with respect to any divorce case
 22 in which there are no minor children, except to the limited extent authorized by
 23 subsection (e) of this Code section. In the final judgment or decree in a divorce case in
 24 which there are minor children, or in other cases which are governed by the provisions
 25 of this Code section, the court shall:

26 (A) Specify in what sum certain amount and from which parent the child is entitled to
 27 permanent support as determined by use of the worksheet;

28 (B) Specify as required by Code Section 19-5-12 in what manner, how often, to whom,
 29 and until when the support shall be paid;

30 (C) Include a written finding of the parent's gross income as determined by the court
 31 or the jury;

32 (D) Determine whether health insurance for the child involved is reasonably available
 33 at a reasonable cost to either parent. If the health insurance is reasonably available at
 34 a reasonable cost to the parent, then the court ~~may~~ shall order that the child be covered
 35 under such health insurance;

1 (E) Include written findings of fact as to whether one or more of the deviations allowed
 2 under this Code section are applicable, and if one or more such deviations are
 3 applicable as determined by the court or the jury, the written findings of fact shall
 4 further set forth:

5 (i) The reasons the court or the jury deviated from the presumptive amount of child
 6 support;

7 (ii) The amount of child support that would have been required under this Code
 8 section if the presumptive amount of child support had not been rebutted; and

9 (iii) A finding that states how the court's or the jury's application of the child support
 10 guidelines would be unjust or inappropriate considering the relative ability of each
 11 parent to provide support and how the best interest of the child who is subject to the
 12 child support determination is served by deviation from the presumptive amount of
 13 child support;

14 (F) Specify the amount of the noncustodial parent's parenting time as set forth in the
 15 order of visitation; and

16 (G) Include a written finding regarding the use of benefits received under Title II of the
 17 federal Social Security Act in the calculation of the amount of child support; and

18 (H) Specify the percentage of uninsured health care expenses for which each parent
 19 shall be responsible.

20 (3) When child support is ordered, the party who is required to pay the child support
 21 shall not be liable to third persons for necessities furnished to the child embraced in the
 22 judgment or decree.

23 (4) In all cases, the parties shall submit to the court their worksheets and schedules and
 24 the presence or absence of other factors to be considered by the court pursuant to the
 25 provisions of this Code section. The child support worksheet and Schedule E shall be
 26 attached to the final court order or judgment; provided, however, that any order entered
 27 pursuant to Code Section 19-13-4 shall not be required to have such worksheet and
 28 schedule attached thereto.

29 ~~(4)~~(5) In any case in which the gross income of the custodial parent and the noncustodial
 30 parent is determined by a jury, the court shall charge the provisions of this Code section
 31 applicable to the determination of gross income. The jury shall be required to return a
 32 special interrogatory determining gross income. The court shall determine adjusted
 33 income, health insurance costs, and work related child care costs. Based upon the jury's
 34 verdict as to gross income, the court shall determine the presumptive amount of child
 35 support in accordance with the provisions of this Code section. The court shall inform
 36 the jury of the presumptive amount of child support and the identity of the custodial and
 37 noncustodial parents. In the final instructions to the jury, the court shall charge the

1 provisions of this Code section applicable to the determination of deviations and the jury
 2 shall be required to return a special interrogatory as to deviations and the final award of
 3 child support. The court shall include its findings and the jury's verdict on the child
 4 support worksheet in accordance with this Code section and Code Section 19-5-12.

5 ~~(5)~~(6) Nothing contained within this Code section shall prevent the parties from entering
 6 into an enforceable agreement contrary to the presumptive amount of child support which
 7 may be made the order of the court pursuant to review by the court of the adequacy of the
 8 child support amounts negotiated by the parties, including the provision for medical
 9 expenses and health insurance; provided, however, that if the agreement negotiated by
 10 the parties does not comply with the provisions contained in this Code section and does
 11 not contain findings of fact as required to support a deviation, the court shall reject such
 12 agreement.

13 ~~(6)~~(7) In any case filed pursuant to Chapter 11 of this title, relating to the 'Child Support
 14 Recovery Act,' the 'Uniform Reciprocal Enforcement of Support Act,' or the 'Uniform
 15 Interstate Family Support Act,' the court shall make all determinations of fact, including
 16 gross income and deviations, and a jury shall not hear any issue related to such cases."

17 SECTION 4.

18 Said Code section is further amended by revising paragraphs (1) and (3), subparagraphs (B)
 19 and (C) of paragraph (4), and subparagraphs (B) and (D) of paragraph (5) of subsection (f)
 20 as follows:

21 "(1) INCLUSION TO GROSS INCOME.

22 (A) *ATTRIBUTABLE INCOME*. Gross income of each parent shall be determined in the
 23 process of setting the presumptive amount of child support and shall include all income
 24 from any source, before deductions for taxes and other deductions such as preexisting
 25 orders for child support and credits for other qualified children, whether earned or
 26 unearned, and includes, but is not limited to, the following:

27 (i) Salaries;

28 (ii) Commissions, fees, and tips;

29 (iii) Income from self-employment;

30 (iv) Bonuses;

31 (v) Overtime payments;

32 (vi) Severance pay;

33 (vii) Recurring income from pensions or retirement plans including, but not limited
 34 to, United States Department of Veterans Affairs, Railroad Retirement Board,
 35 Keoghs, and individual retirement accounts;

36 (viii) Interest income;

- 1 (ix) Dividend income;
 2 (x) Trust income;
 3 (xi) Income from annuities;
 4 (xii) Capital gains;
 5 (xiii) Disability or retirement benefits that are received from the Social Security
 6 Administration pursuant to Title II of the federal Social Security Act;
 7 (xiv) Workers' compensation benefits, whether temporary or permanent;
 8 (xv) Unemployment insurance benefits;
 9 (xvi) Judgments recovered for personal injuries and awards from other civil actions;
 10 (xvii) Gifts that consist of cash or other liquid instruments, or which can be converted
 11 to cash;
 12 (xviii) Prizes;
 13 (xix) Lottery winnings;
 14 (xx) Alimony or maintenance received from persons other than parties to the
 15 proceeding before the court; ~~and~~
 16 (xxi) Assets which are used for the support of the family; and
 17 (xxii) Other income.

18 (B) *SELF-EMPLOYMENT INCOME*. Income from self-employment includes income from,
 19 but not limited to, business operations, work as an independent contractor or consultant,
 20 sales of goods or services, and rental properties, less ordinary and reasonable expenses
 21 necessary to produce such income. Income from self-employment, rent, royalties,
 22 proprietorship of a business, or joint ownership of a partnership, limited liability
 23 company, or closely held corporation is defined as gross receipts minus ordinary and
 24 ~~necessary~~ reasonable expenses required for self-employment or business operations.
 25 Ordinary and reasonable expenses of self-employment or business operations necessary
 26 to produce income do not include:

- 27 (i) Excessive promotional, travel, vehicle, or personal living expenses, depreciation
 28 on equipment, or costs of operation of home offices; or
 29 (ii) Amounts allowable by the Internal Revenue Service for the accelerated
 30 component of depreciation expenses, investment tax credits, or any other business
 31 expenses determined by the court or the jury to be inappropriate for determining gross
 32 income.

33 In general, income and expenses from self-employment or operation of a business
 34 should be carefully reviewed by the court or the jury to determine an appropriate level
 35 of gross income available to the parent to satisfy a child support obligation. Generally,
 36 this amount will differ from a determination of business income for tax purposes.

1 (C) *FRINGE BENEFITS*. Fringe benefits for inclusion as income or 'in kind' remuneration
 2 received by a parent in the course of employment, or operation of a trade or business,
 3 shall be counted as income if the benefits significantly reduce personal living expenses.
 4 Such fringe benefits might include, but are not limited to, use of a company car,
 5 housing, or room and board. ~~Basic allowance for housing and subsistence and variable~~
 6 ~~housing allowances for members of the armed services shall be considered income for~~
 7 ~~the purposes of determining child support.~~ Fringe benefits ~~do~~ shall not include
 8 employee benefits that are typically added to the salary, wage, or other compensation
 9 that a parent may receive as a standard added benefit, including, but not limited to,
 10 employer paid portions of health insurance premiums or employer contributions to a
 11 retirement or pension plan.

12 (D) *VARIABLE INCOME*. Variable income such as commissions, bonuses, overtime pay,
 13 military bonuses, and dividends shall be averaged by the court or the jury over a
 14 reasonable period of time consistent with the circumstances of the case and added to a
 15 parent's fixed salary or wages to determine gross income. When income is received on
 16 an irregular, nonrecurring, or one-time basis, the court or the jury may, but is not
 17 required to, average or prorate the income over a reasonable specified period of time
 18 or require the parent to pay as a one-time support amount a percentage of his or her
 19 nonrecurring income, taking into consideration the percentage of recurring income of
 20 that parent.

21 (E) MILITARY COMPENSATION AND ALLOWANCES. Income for a parent who is an active
 22 duty member of the regular or reserve component of the United States armed forces, the
 23 United States Coast Guard, the merchant marine of the United States, the commissioned
 24 corps of the Public Health Service or the National Oceanic and Atmospheric
 25 Administration, the National Guard, or the Air National Guard shall include:

26 (i) Base pay;

27 (ii) Drill pay;

28 (iii) Basic allowance for subsistence, whether paid directly to the parent or received
 29 in-kind; and

30 (iv) Basic allowance for housing, whether paid directly to the parent or received
 31 in-kind, determined at the parent's pay grade at the without dependent rate, but shall
 32 include only so much of the allowance that is not attributable to area variable housing
 33 costs.

34 Except as determined by the court or jury, special pay or incentive pay, allowances for
 35 clothing or family separation, and reimbursed expenses related to the parent's
 36 assignment to a high cost of living location shall not be considered income for the
 37 purpose of determining gross income."

1 "(3) SOCIAL SECURITY BENEFITS.

2 (A) Benefits received under Title II of the federal Social Security Act by a child on the
3 obligor's account shall be counted as child support payments and shall be applied
4 against the final child support order to be paid by the obligor for the child.

5 (B) After calculating the obligor's monthly gross income, including the countable
6 ~~Social Security~~ social security benefits as specified in division (1)(A)(xiii) of this
7 subsection, and after calculating the amount of child support, if the presumptive amount
8 of child support, as increased or decreased by deviations, is greater than the ~~Social~~
9 ~~Security~~ social security benefits paid on behalf of the child on the obligor's account, the
10 obligor shall be required to pay the amount exceeding the ~~Social Security~~ social
11 security benefit as part of the final child support order in the case.

12 (C) After calculating the obligor's monthly gross income, including the countable
13 ~~Social Security~~ social security benefits as specified in division (1)(A)(xiii) of this
14 subsection, and after calculating the amount of child support, if the presumptive amount
15 of child support, as increased or decreased by deviations, is equal to or less than the
16 ~~Social Security~~ social security benefits paid to the nonparent custodian or custodial
17 parent on behalf of the child on the obligor's account, the child support responsibility
18 of that parent is shall have been met and no further child support shall be paid.

19 (D) Any benefit amounts under Title II of the federal Social Security Act as determined
20 by the Social Security Administration sent to the nonparent custodian or custodial
21 parent by the Social Security Administration for the child's benefit which are greater
22 than the final child support order shall be retained by the nonparent custodian or
23 custodial parent for the child's benefit and shall not be used as a reason for decreasing
24 the final child support order or reducing arrearages.

25 ~~(E) The court shall make a written finding of fact in the final child support order~~
26 ~~regarding the use of Social Security benefits in the calculation of the child support."~~

27 "(B) *MODIFICATION*. When cases with established orders are reviewed for modification
28 and a parent fails to produce reliable evidence of income, such as tax returns for prior
29 years, check stubs, or other information for determining current ability to pay child
30 support or ability to pay child support in prior years, and the court or jury has no other
31 reliable evidence of ~~that~~ such parent's income or income potential, the court or jury
32 may ~~enter an order to~~ increase the child support of the parent failing or refusing to
33 produce evidence of income by an increment of at least 10 percent per year of ~~that~~ such
34 parent's ~~pro rata share of the basic child support obligation~~ gross income for each year
35 since the final child support order was entered or last modified and shall calculate the
36 basic child support obligation using the increased amount as such parent's gross
37 income.

1 (C) *REHEARING*. If income is imputed pursuant to subparagraph (A) of this paragraph,
 2 the party believing the income of the other party is higher than the amount imputed may
 3 provide within 90 days, upon motion to the court, evidence necessary to determine the
 4 appropriate amount of child support based upon reliable evidence. A hearing shall be
 5 scheduled after the motion is filed. The court may increase, decrease, or leave
 6 unchanged the amount of current child support from the date of filing of either parent's
 7 initial filing or motion for reconsideration. While the motion for reconsideration is
 8 pending, the obligor shall be responsible for the amount of child support originally
 9 ordered. Arrearages entered in the original child support order based upon imputed
 10 income shall not be forgiven. When there is reliable evidence to support a motion for
 11 reconsideration of the amount of income imputed, the party shall not be required to
 12 demonstrate ~~the existence of a significant variance~~ that there has been a substantial
 13 change in either parent's income, financial status, the needs of the child, or other such
 14 factors required for modification of an order pursuant to subsection (k) of this Code
 15 section."

16 "(B) *PREEXISTING ORDERS*. An adjustment to the parent's monthly gross income shall
 17 be made on the Child Support Schedule B – Adjusted Income for current preexisting
 18 orders actually being paid under an order of support for a period of not less than 12
 19 ~~consecutive~~ months immediately prior to the date of the hearing or such period that an
 20 order has been in effect if less than 12 months prior to the date of the hearing before the
 21 court to set, modify, or enforce child support.

22 (i) In calculating the adjustment for preexisting orders, the court shall include only
 23 those preexisting orders where the date of ~~entry~~ filing with the clerk of court of the
 24 initial support order precedes the date of ~~entry~~ filing with the clerk of court of the
 25 initial order in the case immediately under consideration;

26 (ii) The priority for preexisting orders shall be determined by the date of filing with
 27 the clerk of court of the initial order in each case. Subsequent modifications of the
 28 initial support order shall not affect the priority position established by the date of the
 29 initial order. In any modification proceeding, the court rendering the decision shall
 30 make a specific finding of the date of the initial order of the case;

31 (iii) Adjustments shall be allowed for current preexisting support only to the extent
 32 that the payments are actually being paid as evidenced by documentation including,
 33 but not limited to, payment history from a court clerk, a IV-D agency, as defined in
 34 Code Section 19-6-31, the child support services' computer data base, the child
 35 support payment history, or canceled checks or other written proof of payments paid
 36 directly to the other parent. The maximum credit allowed for a preexisting order is

1 an average of the amount of current support actually paid under the preexisting order
2 over the past 12 months prior to the hearing date;

3 (iv) All preexisting orders shall be entered on the Child Support Schedule
4 B – Adjusted Income for the purpose of calculating the total amount of the credit to
5 be included on the child support worksheet; and

6 (v) Payments being made by a parent on any arrearages shall not be considered
7 payments on preexisting orders or subsequent orders and shall not be used as a basis
8 for reducing gross income."

9 "(D) *PRIORITY OF ADJUSTMENTS*. In multiple family situations, the adjustments to a
10 parent's monthly gross income shall be calculated in the following order:

11 (i) Preexisting orders according to the date of the initial order; and

12 (ii) After applying the deductions on the Child Support Schedule B – Adjusted
13 Income for preexisting orders, if any, in subparagraph ~~(A)~~ (B) of paragraph ~~(4)~~ (5) of
14 this subsection, any credit for a parent's other qualified children may be considered
15 using the procedure set forth in subparagraph ~~(B)~~ (C) of this paragraph."

16 SECTION 5.

17 Said Code section is further amended by revising subsection (g) as follows:

18 "(g) *Parenting time ~~adjustment~~ deviation*. The court or the jury may deviate from the
19 presumptive amount of child support as set forth in subparagraph (i)(2)(K) of this Code
20 section."

21 SECTION 6.

22 Said Code section is further amended by revising division (2)(B)(i) of subsection (h) as
23 follows:

24 "(B)(i) If either parent has health insurance reasonably available at reasonable cost
25 that provides for the health care needs of the child ~~can be obtained by a parent at~~
26 ~~reasonable cost~~, then an amount to cover the cost of the premium shall be added as
27 an adjustment to the basic child support obligation. A health insurance premium paid
28 by a nonparent custodian shall be included when determining the amount of health
29 insurance expense. In determining the amount to be added to the order for the health
30 insurance cost, only the amount of the health insurance cost attributable to the child
31 who is the subject of the order shall be included."

32 SECTION 7.

33 Said Code section is further amended by revising paragraph (1), subparagraphs (B), (G), (J),
34 and (K) of paragraph (2), and paragraph (3) of subsection (i) as follows:

1 "(1) GENERAL PRINCIPLES.

2 (A) The amount of child support established by this Code section and the presumptive
3 amount of child support are rebuttable and the court or the jury may deviate from the
4 presumptive amount of child support in compliance with this subsection. In deviating
5 from the presumptive amount of child support, primary consideration shall be given to
6 the best interest of the child for whom support under this Code section is being
7 determined. A nonparent custodian's expenses may be the basis for a deviation.

8 (B) When ordering a deviation from the presumptive amount of child support, the court
9 or the jury shall consider all available income of the parents and shall make written
10 findings or special interrogatory findings that an amount of child support other than the
11 amount calculated is reasonably necessary to provide for the needs of the child for
12 whom child support is being determined and the order or special interrogatory shall
13 state:

14 (i) The reasons for the deviation from the presumptive amount of child support;

15 (ii) The amount of child support that would have been required under this Code
16 section if the presumptive amount of child support had not been rebutted; and

17 (iii) How, in its determination:

18 (I) Application of the presumptive amount of child support would be unjust or
19 inappropriate; and

20 (II) The best interest of the child for whom support is being determined will be
21 served by deviation from the presumptive amount of child support.

22 (C) No deviation in the presumptive amount of child support shall be made which
23 seriously impairs the ability of the custodial parent to maintain minimally adequate
24 housing, food, and clothing for the child being supported by the order and to provide
25 other basic necessities, as determined by the court or the jury.

26 (D) If the circumstances which supported the deviation cease to exist, the final child
27 support order may be modified as set forth in subsection (k) of this Code section to
28 eliminate the deviation."

29 "(B) ~~LOW-INCOME~~ LOW INCOME. For purposes of this subparagraph, 'low-income
30 person' means a parent whose annual gross income is at or below \$1,850.00 per month.

31 (i) If the noncustodial parent is a low-income person and requests a deviation on such
32 basis, the court or the jury shall determine if the noncustodial parent will be
33 financially able to pay the child support order and maintain at least a minimum
34 standard of living by calculating a self-support reserve as set forth in division (ii) of
35 this subparagraph. The court or the jury shall take into account all nonexcluded
36 sources of income available to each parent and all reasonable expenses of each parent,
37 ensuring that such expenses are actually paid by the parent and are clearly justified

1 expenses. The court or the jury shall also consider the financial impact that a
2 reduction in the amount of child support paid to the custodial parent would have on
3 the custodial parent's household. Under no circumstances shall the amount of child
4 support awarded to the custodial parent impair the ability of the custodial parent to
5 maintain minimally adequate housing, food, and clothing and provide for other basic
6 necessities for the child being supported by the court order.

7 (ii) To calculate the self-support reserve for the noncustodial parent, the court or the
8 jury shall deduct \$900.00 from the noncustodial parent's adjusted income. If the
9 resulting amount is less than the noncustodial parent's pro rata responsibility of the
10 presumptive amount of child support, the court or the jury may deviate from the
11 amount of support provided for in the child support obligation table to the resulting
12 amount. If the child support award amount would be less than \$75.00, then the
13 minimum child support order amount shall be \$75.00.

14 (iii) If the custodial parent is a low-income person, the court or the jury shall subtract
15 \$900.00 from the custodial parent's adjusted income. If the resulting amount is less
16 than the custodial parent's pro rata responsibility of the presumptive amount of child
17 support, the court or the jury shall not deviate from the amount of support required to
18 be paid by the noncustodial parent as provided for in the child support obligation
19 table.

20 (iv) The self-support reserve calculation described in this subparagraph shall apply
21 only to the current child support amount and shall not prohibit an additional amount
22 being ordered to reduce an obligor's arrears.

23 (v) The court shall make a written finding in its order or the jury shall find by special
24 interrogatory that the low-income deviation from the presumptive amount of child
25 support is clearly justified based upon the considerations and calculations described
26 in this subparagraph."

27 "(G) *ALIMONY*. Actual payments of alimony shall not be considered as a deduction
28 from gross income but may be considered as a deviation from the presumptive amount
29 of child support. If the court or the jury considers the actual payment of alimony, the
30 court shall make a written finding of such consideration or the jury, in its special
31 interrogatory, shall make a written finding of such consideration as a basis for deviation
32 from the presumptive amount of child support."

33 "(J) *EXTRAORDINARY EXPENSES*. The child support obligation table includes average
34 child rearing expenditures for families given the parents' combined adjusted income
35 and number of children. Extraordinary expenses are in excess of average amounts
36 estimated in the child support obligation table and are highly variable among families.
37 Extraordinary expenses shall be considered on a case-by-case basis in the calculation

1 of support and may form the basis for deviation from the presumptive amount of child
2 support so that the actual amount of the expense is considered in the calculation of the
3 final child support order for only those families actually incurring the expense.
4 Extraordinary expenses shall be prorated between the parents by assigning or deducting
5 credit for actual payments for extraordinary expenses.

6 (i) *Extraordinary educational expenses.* Extraordinary educational expenses may be
7 a basis for deviation from the presumptive amount of child support. Extraordinary
8 educational expenses include, but are not limited to, tuition, room and board, lab fees,
9 books, fees, and other reasonable and necessary expenses associated with special
10 needs education or private elementary and secondary schooling that are appropriate
11 to the parent's financial abilities and to the lifestyle of the child if the parents and the
12 child were living together.

13 (I) In determining the amount of deviation for extraordinary educational expenses,
14 scholarships, grants, stipends, and other cost-reducing programs received by or on
15 behalf of the child shall be considered; and

16 (II) If a deviation is allowed for extraordinary educational expenses, a monthly
17 average of the extraordinary educational expenses shall be based on evidence of
18 prior or anticipated expenses and entered on the Child Support Schedule
19 E – Deviations.

20 (ii) *Special expenses incurred for child rearing.* Special expenses incurred for child
21 rearing, including, but not limited to, quantifiable expense variations related to the
22 food, clothing, and hygiene costs of children at different age levels, may be a basis for
23 a deviation from the presumptive amount of child support. Such expenses include, but
24 are not limited to, summer camp; music or art lessons; travel; school sponsored
25 extracurricular activities, such as band, clubs, and athletics; and other activities
26 intended to enhance the athletic, social, or cultural development of a child but not
27 otherwise required to be used in calculating the presumptive amount of child support
28 as are health insurance premiums and work related child care costs. A portion of the
29 basic child support obligation is intended to cover average amounts of special
30 expenses incurred in the rearing of a child. In order to determine if a deviation for
31 special expenses is warranted, the court or the jury shall consider the full amount of
32 the special expenses as described in this division; and when these special expenses
33 exceed 7 percent of the basic child support obligation, then the additional amount of
34 special expenses shall be considered as a deviation to cover the full amount of the
35 special expenses.

36 (iii) *Extraordinary medical expenses.* In instances of extreme economic hardship
37 involving extraordinary medical expenses not covered by insurance, the court or the

1 jury may consider a deviation from the presumptive amount of child support for
 2 extraordinary medical expenses. Such expenses may include, but are not limited to,
 3 extraordinary medical expenses of the child; or a parent of the child, ~~or a child of a~~
 4 ~~parent's current family~~; provided, however, that any such deviation:

5 (I) Shall not act to leave a child unsupported; and

6 (II) May be ordered for a specific period of time measured in months.

7 When extraordinary medical expenses are claimed, the court or the jury shall consider
 8 the resources available for meeting such needs, including sources available from
 9 agencies and other adults.

10 (K) *PARENTING TIME.*

11 (i) The child support obligation table is based upon expenditures for a child in intact
 12 households. The court may order or the jury may find by special interrogatory a
 13 deviation from the presumptive amount of child support when special circumstances
 14 make the presumptive amount of child support excessive or inadequate due to
 15 extended parenting time as set forth in the order of visitation or when the child resides
 16 with both parents equally.

17 (ii) If the court or the jury determines that a parenting time deviation is applicable,
 18 then such deviation shall be applied to the noncustodial parent's basic child support
 19 obligation.

20 (iii) In accordance with subsection (d) of Code Section 19-11-8, if any action or
 21 claim for parenting time or a parenting time deviation is brought under this
 22 subparagraph, it shall be an action or claim solely between the custodial parent and
 23 the noncustodial parent, and not any third parties, including the child support services.

24 (3) NONSPECIFIC DEVIATIONS. Deviations ~~Deviation~~ from the presumptive amount of
 25 child support may be appropriate for reasons in addition to those established under this
 26 subsection when the court or the jury finds it is in the best interest of the child. ~~If the~~
 27 ~~circumstances which supported the deviation cease to exist, the final child support order~~
 28 ~~may be modified as set forth in subsection (k) of this Code section to eliminate the~~
 29 ~~deviation."~~

30 SECTION 8.

31 Said Code section is further amended by revising paragraphs (1) and (4) of subsection (k) as
 32 follows:

33 "(1) Except as provided in paragraph (2) of this subsection, a parent shall not have the
 34 right to petition for modification of the child support award regardless of the length of
 35 time since the establishment of the child support award unless there is a substantial
 36 change in either ~~parents'~~ parent's income and financial status or the needs of the child."

