

ASSEMBLY BILL NO. 98—ASSEMBLYMAN ELLISON

PREFILED JANUARY 30, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing child support.
(BDR 11-49)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to domestic relations; increasing a parent's monthly presumptive maximum amount for an obligation for the support of a child; providing a method to calculate the amount of child support to be paid in situations involving primary physical custody and joint physical custody; revising the factors a court must consider in adjusting the amount of child support; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a parent's monthly obligation for the support of a child, which is calculated as a percentage of the gross monthly income of the parent. Such an obligation for support is subject to a presumptive maximum amount based on the income range within which a parent's gross monthly income falls. (NRS 125B.070) **Section 8** of this bill: (1) revises the income ranges used to determine the presumptive maximum amount for an obligation for support; and (2) increases the presumptive maximum amount for an obligation for support for each income range. **Section 8** also provides a method for calculating the total amount of child support to be paid by one parent to the other parent depending on whether one parent has primary physical custody or the parents share joint physical custody.

Existing law specifies certain factors that a court must take into consideration when adjusting an amount of child support. (NRS 125B.080) **Section 9** of this bill requires the court to take into consideration the child's standard of living in each parent's household and the specific circumstances of the child if the child: (1) has reached the age of majority; (2) has not graduated from high school; and (3) remains entitled to child support pursuant to a child support order. **Section 9** further provides that when the court is taking into consideration the relative income of both parents, the court must consider any contributions made toward the payment of household expenses by an adult who is cohabitating with either parent of the child.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 125B.070 is hereby amended to read as follows:

125B.070 1. As used in this section and NRS 125B.080,
unless the context otherwise requires :

(a) "Gross monthly income" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) "Obligation for support" means the sum certain dollar amount determined according to the following schedule:

(1) For one child, 18 percent;

(2) For two children, 25 percent;

(3) For three children, 29 percent;

(4) For four children, 31 percent; and

(5) For each additional child, an additional 2 percent,

↪ of a parent's gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection 2 for an obligation for support determined pursuant to subparagraphs (1) to (4), inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080.

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is:



PRESUMPTIVE MAXIMUM AMOUNT			
The Presumptive Maximum Amount {the}			
{Parent May Be Required to Pay}			
<i>for an obligation for support</i>			
INCOME RANGE	But	per Month per Child Pursuant to	
If the Parent's Gross	Less Than	Paragraph (b) of Subsection 1 Is	
Monthly Income Is at Least			
\$0 - { \$4,168 } \$4,235		{ \$500 } \$670	
{ \$4,168 } 4,236 - { \$6,251 } 6,351		{ \$550 } 817	
{ \$6,251 } 6,352 - { \$8,334 } 8,467		{ \$600 } 964	
{ \$8,334 } 8,468 - { \$10,418 } 10,585		{ \$650 } 1,151	
{ \$10,418 } 10,586 - { \$12,501 } 12,701		{ \$700 } 1,338	
{ \$12,501 } 12,702 - { \$14,583 } 14,816		{ \$750 } 1,543	
14,817	No Limit	1,748	

~~If a parent's gross monthly income is equal to or greater than \$14,583, the presumptive maximum amount the parent may be required to pay pursuant to paragraph (b) of subsection 1 is \$800.~~

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Office of Court Administrator shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each district court of the adjusted amounts.

4. *To calculate the support of a child in a case in which one parent has primary physical custody of the child, the applicable percentage set forth in paragraph (b) of subsection 1 will be applied to the gross monthly income of the noncustodial parent. Subject to the presumptive maximum amount set forth in subsection 2 for an obligation for support, and unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080, the resulting amount is the monthly child support obligation of the noncustodial parent.*

5. *To calculate the support of a child in a case in which the parents share joint physical custody of the child, the applicable percentage set forth in paragraph (b) of subsection 1 will be applied to each parent's gross monthly income. Subject to the presumptive maximum amounts set forth in subsection 2 for an obligation for support, the child support obligation of the parent who has the lower gross monthly income will be subtracted from*



the child support obligation of the parent who has the higher gross monthly income. Unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080, the resulting amount is the monthly child support obligation of the parent who has the higher gross monthly income.

6. As used in this section ~~["Office"]~~ :

(a) *"Joint physical custody" means a custodial arrangement in which each parent has physical custody and control of a child for at least 146 days each year.*

(b) *"Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.*

(c) *"Primary physical custody" means a custodial arrangement in which one parent has physical custody and control of a child for more than 219 days each year.*

Sec. 9. NRS 125B.080 is hereby amended to read as follows:

125B.080 Except as otherwise provided in NRS 425.450:

1. A court of this State shall apply the appropriate formula set forth in NRS 125B.070 to:

(a) Determine the required support in any case involving the support of children.

(b) Any request filed after July 1, 1987, to change the amount of the required support of children.

2. If the parties agree as to the amount of support required, the parties shall certify that the amount of support is consistent with the appropriate formula set forth in NRS 125B.070. If the amount of support deviates from the formula, the parties must stipulate sufficient facts in accordance with subsection 9 which justify the deviation to the court, and the court shall make a written finding thereon. Any inaccuracy or falsification of financial information which results in an inappropriate award of support is grounds for a motion to modify or adjust the award.

3. If the parties disagree as to the amount of the gross monthly income of either party, the court shall determine the amount and may direct either party to furnish financial information or other records, including income tax returns for the preceding 3 years. Once a court has established an obligation for support by reference to a formula set forth in NRS 125B.070, any subsequent modification or adjustment of that support, except for any modification or adjustment made pursuant to subsection 3 of NRS 125B.070 or NRS 425.450 or as a result of a review conducted pursuant to subsection 1 of NRS 125B.145, must be based upon changed circumstances.

4. Notwithstanding the formulas set forth in NRS 125B.070, the minimum amount of support that may be awarded by a court in any case is \$100 per month per child, unless the court makes a



1 written finding that the obligor is unable to pay the minimum
2 amount. Willful underemployment or unemployment is not a
3 sufficient cause to deviate from the awarding of at least the
4 minimum amount.

5 5. It is presumed that the basic needs of a child are met by the
6 formulas set forth in NRS 125B.070. This presumption may be
7 rebutted by evidence proving that the needs of a particular child are
8 not met by the applicable formula.

9 6. If the amount of the awarded support for a child is greater or
10 less than the amount which would be established under the
11 applicable formula, the court shall:

12 (a) Set forth findings of fact as to the basis for the deviation
13 from the formula; and

14 (b) Provide in the findings of fact the amount of support that
15 would have been established under the applicable formula.

16 7. Expenses for health care which are not reimbursed,
17 including expenses for medical, surgical, dental, orthodontic and
18 optical expenses, must be borne equally by both parents in the
19 absence of extraordinary circumstances.

20 8. If a parent who has an obligation for support is willfully
21 underemployed or unemployed to avoid an obligation for support of
22 a child, that obligation must be based upon the parent's true
23 potential earning capacity.

24 9. The court shall consider the following factors when
25 adjusting the amount of support of a child, upon specific findings of
26 fact ***to establish an amount of support that is adequate to***
27 ***fulfill a child's needs and is fair to both parents based on the***
28 ***circumstances of the case:***

29 (a) The cost of health insurance;
30 (b) The cost of child care;
31 (c) Any special educational needs of the child;
32 (d) The age of the child;
33 (e) The legal responsibility of the parents for the support of
34 others;

35 (f) The value of services contributed by either parent;
36 (g) Any public assistance paid to support the child;
37 (h) Any expenses reasonably related to the mother's pregnancy
38 and confinement;

39 (i) The cost of transportation of the child to and from visitation
40 if the custodial parent moved with the child from the jurisdiction of
41 the court which ordered the support and the noncustodial parent
42 remained;

43 (j) The amount of time the child spends with each parent;

44 (k) Any other necessary expenses for the benefit of the child;
45 and



(l) The relative income of both parents ~~H~~, *including, without limitation, any contributions made toward the payment of household expenses by an adult who is cohabitating with either parent;*

(m) *The child's standard of living in each parent's household; and*

(n) *The specific circumstances of the child if the child:*

(1) *Has reached the age of majority;*

(2) *Has not graduated from high school; and*

(3) *Remains entitled to support pursuant to an order for the support of a child.*

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

