

005191448

## SENATE BILL NO. 277

Offered January 18, 2000

*A BILL to amend and reenact §§ 20-60.3 and 20-108.2 of the Code of Virginia, relating to child support orders; medical expenses.*

\_\_\_\_\_  
Patron—Howell

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 20-60.3 and 20-108.2 of the Code of Virginia are amended and reenacted as follows:  
§ 20-60.3. Contents of support orders.

All orders directing the payment of child or spousal support, including those orders confirming separation agreements, entered on or after October 1, 1985, whether they are original orders or modifications of existing orders, shall contain the following:

1. Notice that support payments may be withheld as they become due pursuant to § 20-79.1 or § 20-79.2, from income as defined in § 63.1-250, without further amendments of this order or having to file an application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to § 20-79.1;

2. Notice that support payments may be withheld pursuant to Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 without further amendments to the order upon application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to Chapter 13 of Title 63.1;

3. The names and dates of birth of each child to whom a duty of support is then owed by the person responsible for support;

4. If known, the name, date of birth and social security number of each parent of the child and, if different and if known, the name, date of birth and social security number of the person responsible for support and, unless otherwise ordered, each parent or responsible person's residential and, if different, mailing address, residential and employer telephone number, driver's license number, and the name and address of his or her employer; however, when a protective order has been issued or the court otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, information other than the name of the party at risk shall not be included in the order;

5. On and after July 1, 1994, notice that a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business or occupation issued by the Commonwealth to a person responsible for support as provided in § 63.1-263.1 upon a delinquency for a period of ninety days or more or in an amount of \$5,000 or more. The order shall indicate whether either or both parents currently hold such an authorization and, if so, the type of authorization held;

6. The amount of periodic support expressed in fixed sums, together with the payment interval, the date payments are due, and the date the first payment is due;

7. An order for health care coverage, including the health insurance policy information, for dependent children pursuant to §§ 20-108.1 and 20-108.2 if available at reasonable cost as defined in § 63.1-250 and a statement as to whether there is an order for health care coverage for a spouse or former spouse;

8. *An order providing for the payment of any reasonably necessary medical expenses for dependent children, not reimbursed by health insurance pursuant to subsections D and G of § 20-108.2.*

9. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the arrearage, (ii) the period of time for which such arrearage is calculated, and (iii) a direction that all payments are to be credited to current support obligations first, with any payment in excess of the current obligation applied to arrearages;

10. If child support payments are ordered to be paid through the Department of Social Services or directly to the obligee, and unless the court for good cause shown orders otherwise, the parties shall give each other and the court and, when payments are to be made through the Department, the Department of Social Services at least thirty days' written notice, in advance, of any change of address and any change of telephone number within thirty days after the change;

11. If child support payments are ordered to be paid through the Department of Social Services, a provision requiring an obligor to keep the Department of Social Services informed of the name, address and telephone number of his current employer, or if payments are ordered to be paid directly to the obligee, a provision requiring an obligor to keep the court informed of the name, address and telephone

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SB277

60 number of his current employer;

61 ~~11~~12. The separate amounts due to each person under the order, unless the court specifically orders a  
 62 unitary award of child and spousal support due or the order affirms a separation agreement containing  
 63 provision for such unitary award;

64 ~~12~~13. Notice that in determination of a support obligation, the support obligation as it becomes due  
 65 and unpaid creates a judgment by operation of law; and

66 ~~13~~14. Notice that on and after July 1, 1994, the Department of Social Services may, pursuant to  
 67 Chapter 13 of Title 63.1 and in accordance with §§ 20-108.2 and 63.1-252.2, initiate a review of the  
 68 amount of support ordered by any court.

69 § 20-108.2. Guideline for determination of child support.

70 A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child  
 71 support under this title or Title 16.1 or 63.1, including cases involving split custody or shared custody,  
 72 that the amount of the award which would result from the application of the guidelines set forth in this  
 73 section is the correct amount of child support to be awarded. In order to rebut the presumption, the  
 74 court shall make written findings in the order as set out in § 20-108.1, which findings may be  
 75 incorporated by reference, that the application of the guidelines would be unjust or inappropriate in a  
 76 particular case as determined by relevant evidence pertaining to the factors set out in §§ 20-107.2 and  
 77 20-108.1. The Department of Social Services shall set child support at the amount resulting from  
 78 computations using the guidelines set out in this section pursuant to the authority granted to it in  
 79 Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 and subject to the provisions of § 63.1-264.2.

80 B. For purposes of application of the guideline, a basic child support obligation shall be computed  
 81 using the schedule set out below. For combined monthly gross income amounts falling between amounts  
 82 shown in the schedule, basic child support obligation amounts shall be extrapolated. However, where the  
 83 combined monthly gross income is less than \$599, the presumptive child support obligation shall be \$65  
 84 per month. "Number of children" means the number of children for whom the parents share joint legal  
 85 responsibility and for whom support is being sought.

#### 86 SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

##### 87 COMBINED

##### 88 MONTHLY

89 GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
90 INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
91 0-599	65	65	65	65	65	65
92 600	110	111	113	114	115	116
93 650	138	140	142	143	145	146
94 700	153	169	170	172	174	176
95 750	160	197	199	202	204	206
96 800	168	226	228	231	233	236
97 850	175	254	257	260	263	266
98 900	182	281	286	289	292	295
99 950	189	292	315	318	322	325
100 1000	196	304	344	348	351	355
101 1050	203	315	373	377	381	385
102 1100	210	326	402	406	410	415
103 1150	217	337	422	435	440	445
104 1200	225	348	436	465	470	475
105 1250	232	360	451	497	502	507
106 1300	241	373	467	526	536	542
107 1350	249	386	483	545	570	576
108 1400	257	398	499	563	605	611
109 1450	265	411	515	581	633	645
110 1500	274	426	533	602	656	680
111 1550	282	436	547	617	672	714
112 1600	289	447	560	632	689	737
113 1650	295	458	573	647	705	754
114 1700	302	468	587	662	721	772
115 1750	309	479	600	676	738	789
116 1800	315	488	612	690	752	805
117 1850	321	497	623	702	766	819
118 1900	326	506	634	714	779	834

<b>119</b>	1950	332	514	645	727	793	848
<b>120</b>	2000	338	523	655	739	806	862
<b>121</b>	2050	343	532	666	751	819	877
<b>122</b>	2100	349	540	677	763	833	891
<b>123</b>	2150	355	549	688	776	846	905
<b>124</b>	2200	360	558	699	788	860	920
<b>125</b>	2250	366	567	710	800	873	934
<b>126</b>	2300	371	575	721	812	886	948
<b>127</b>	2350	377	584	732	825	900	963
<b>128</b>	2400	383	593	743	837	913	977
<b>129</b>	2450	388	601	754	849	927	991
<b>130</b>	2500	394	610	765	862	940	1006
<b>131</b>	2550	399	619	776	874	954	1020
<b>132</b>	2600	405	627	787	886	967	1034
<b>133</b>	2650	410	635	797	897	979	1048
<b>134</b>	2700	415	643	806	908	991	1060
<b>135</b>	2750	420	651	816	919	1003	1073
<b>136</b>	2800	425	658	826	930	1015	1085
<b>137</b>	2850	430	667	836	941	1027	1098
<b>138</b>	2900	435	675	846	953	1039	1112
<b>139</b>	2950	440	683	856	964	1052	1125
<b>140</b>	3000	445	691	866	975	1064	1138
<b>141</b>	3050	450	699	876	987	1076	1152
<b>142</b>	3100	456	707	886	998	1089	1165
<b>143</b>	3150	461	715	896	1010	1101	1178
<b>144</b>	3200	466	723	906	1021	1114	1191
<b>145</b>	3250	471	732	917	1032	1126	1205
<b>146</b>	3300	476	740	927	1044	1139	1218
<b>147</b>	3350	481	748	937	1055	1151	1231
<b>148</b>	3400	486	756	947	1067	1164	1245
<b>149</b>	3450	492	764	957	1078	1176	1258
<b>150</b>	3500	497	772	967	1089	1189	1271
<b>151</b>	3550	502	780	977	1101	1201	1285
<b>152</b>	3600	507	788	987	1112	1213	1298
<b>153</b>	3650	512	797	997	1124	1226	1311
<b>154</b>	3700	518	806	1009	1137	1240	1326
<b>155</b>	3750	524	815	1020	1150	1254	1342
<b>156</b>	3800	530	824	1032	1163	1268	1357
<b>157</b>	3850	536	834	1043	1176	1283	1372
<b>158</b>	3900	542	843	1055	1189	1297	1387
<b>159</b>	3950	547	852	1066	1202	1311	1402
<b>160</b>	4000	553	861	1078	1214	1325	1417
<b>161</b>	4050	559	871	1089	1227	1339	1432
<b>162</b>	4100	565	880	1101	1240	1353	1448
<b>163</b>	4150	571	889	1112	1253	1367	1463
<b>164</b>	4200	577	898	1124	1266	1382	1478
<b>165</b>	4250	583	907	1135	1279	1396	1493
<b>166</b>	4300	589	917	1147	1292	1410	1508
<b>167</b>	4350	594	926	1158	1305	1424	1523
<b>168</b>	4400	600	935	1170	1318	1438	1538
<b>169</b>	4450	606	944	1181	1331	1452	1553
<b>170</b>	4500	612	954	1193	1344	1467	1569
<b>171</b>	4550	618	963	1204	1357	1481	1584
<b>172</b>	4600	624	972	1216	1370	1495	1599
<b>173</b>	4650	630	981	1227	1383	1509	1614
<b>174</b>	4700	635	989	1237	1395	1522	1627

175	4750	641	997	1247	1406	1534	1641
176	4800	646	1005	1257	1417	1546	1654
177	4850	651	1013	1267	1428	1558	1667
178	4900	656	1021	1277	1439	1570	1679
179	4950	661	1028	1286	1450	1582	1692
180	5000	666	1036	1295	1460	1593	1704
181	5050	671	1043	1305	1471	1605	1716
182	5100	675	1051	1314	1481	1616	1728
183	5150	680	1058	1323	1492	1628	1741
184	5200	685	1066	1333	1502	1640	1753
185	5250	690	1073	1342	1513	1651	1765
186	5300	695	1081	1351	1524	1663	1778
187	5350	700	1088	1361	1534	1674	1790
188	5400	705	1096	1370	1545	1686	1802
189	5450	710	1103	1379	1555	1697	1815
190	5500	714	1111	1389	1566	1709	1827
191	5550	719	1118	1398	1576	1720	1839
192	5600	724	1126	1407	1587	1732	1851
193	5650	729	1133	1417	1598	1743	1864
194	5700	734	1141	1426	1608	1755	1876
195	5750	739	1148	1435	1619	1766	1888
196	5800	744	1156	1445	1629	1778	1901
197	5850	749	1163	1454	1640	1790	1913
198	5900	753	1171	1463	1650	1801	1925
199	5950	758	1178	1473	1661	1813	1937
200	6000	763	1186	1482	1672	1824	1950
201	6050	768	1193	1491	1682	1836	1962
202	6100	773	1201	1501	1693	1847	1974
203	6150	778	1208	1510	1703	1859	1987
204	6200	783	1216	1519	1714	1870	1999
205	6250	788	1223	1529	1724	1882	2011
206	6300	792	1231	1538	1735	1893	2023
207	6350	797	1238	1547	1745	1905	2036
208	6400	802	1246	1557	1756	1916	2048
209	6450	807	1253	1566	1767	1928	2060
210	6500	812	1261	1575	1777	1940	2073
211	6550	816	1267	1583	1786	1949	2083
212	6600	820	1272	1590	1794	1957	2092
213	6650	823	1277	1597	1801	1965	2100
214	6700	827	1283	1604	1809	1974	2109
215	6750	830	1288	1610	1817	1982	2118
216	6800	834	1293	1617	1824	1990	2127
217	6850	837	1299	1624	1832	1999	2136
218	6900	841	1304	1631	1839	2007	2145
219	6950	845	1309	1637	1847	2016	2154
220	7000	848	1315	1644	1855	2024	2163
221	7050	852	1320	1651	1862	2032	2172
222	7100	855	1325	1658	1870	2041	2181
223	7150	859	1331	1665	1878	2049	2190
224	7200	862	1336	1671	1885	2057	2199
225	7250	866	1341	1678	1893	2066	2207
226	7300	870	1347	1685	1900	2074	2216
227	7350	873	1352	1692	1908	2082	2225
228	7400	877	1358	1698	1916	2091	2234
229	7450	880	1363	1705	1923	2099	2243
230	7500	884	1368	1712	1931	2108	2252
231	7550	887	1374	1719	1938	2116	2261

232	7600	891	1379	1725	1946	2124	2270
233	7650	895	1384	1732	1954	2133	2279
234	7700	898	1390	1739	1961	2141	2288
235	7750	902	1395	1746	1969	2149	2297
236	7800	905	1400	1753	1977	2158	2305
237	7850	908	1405	1758	1983	2164	2313
238	7900	910	1409	1764	1989	2171	2320
239	7950	913	1414	1770	1995	2178	2328
240	8000	916	1418	1776	2001	2185	2335
241	8050	918	1423	1781	2007	2192	2343
242	8100	921	1428	1787	2014	2198	2350
243	8150	924	1432	1793	2020	2205	2357
244	8200	927	1437	1799	2026	2212	2365
245	8250	929	1441	1804	2032	2219	2372
246	8300	932	1446	1810	2038	2226	2380
247	8350	935	1450	1816	2045	2232	2387
248	8400	937	1455	1822	2051	2239	2395
249	8450	940	1459	1827	2057	2246	2402
250	8500	943	1464	1833	2063	2253	2410
251	8550	945	1468	1839	2069	2260	2417
252	8600	948	1473	1845	2076	2266	2425
253	8650	951	1478	1850	2082	2273	2432
254	8700	954	1482	1856	2088	2280	2440
255	8750	956	1487	1862	2094	2287	2447
256	8800	959	1491	1868	2100	2294	2455
257	8850	962	1496	1873	2107	2300	2462
258	8900	964	1500	1879	2113	2307	2470
259	8950	967	1505	1885	2119	2314	2477
260	9000	970	1509	1891	2125	2321	2484
261	9050	973	1514	1896	2131	2328	2492
262	9100	975	1517	1901	2137	2334	2498
263	9150	977	1521	1905	2141	2339	2503
264	9200	979	1524	1909	2146	2344	2509
265	9250	982	1527	1914	2151	2349	2514
266	9300	984	1531	1918	2156	2354	2520
267	9350	986	1534	1922	2160	2359	2525
268	9400	988	1537	1926	2165	2365	2531
269	9450	990	1541	1930	2170	2370	2536
270	9500	993	1544	1935	2175	2375	2541
271	9550	995	1547	1939	2179	2380	2547
272	9600	997	1551	1943	2184	2385	2552
273	9650	999	1554	1947	2189	2390	2558
274	9700	1001	1557	1951	2194	2396	2563
275	9750	1003	1561	1956	2198	2401	2569
276	9800	1006	1564	1960	2203	2406	2574
277	9850	1008	1567	1964	2208	2411	2580
278	9900	1010	1571	1968	2213	2416	2585
279	9950	1012	1574	1972	2218	2421	2590
280	10000	1014	1577	1977	2222	2427	2596

281  
282 For gross monthly income between \$10,000 and \$20,000, add the amount of child support for  
283 \$10,000 to the following percentages of gross income above \$10,000:

284 ONE	TWO	THREE	FOUR	FIVE	SIX
285 CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
286 3.1%	5.1%	6.8%	7.8%	8.8%	9.5%
287					

For gross monthly income between \$20,000 and \$50,000, add the amount of child support for \$20,000 to the following percentages of gross income above \$20,000:

ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
2%	3.5%	5%	6%	6.9%	7.8%

For gross monthly income over \$50,000, add the amount of child support for \$50,000 to the following percentages of gross income above \$50,000:

ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
1%	2%	3%	4%	5%	6%

C. For purposes of this section, "gross income" means all income from all sources, and shall include, but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits except as listed below, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, veterans' benefits, spousal support, rental income, gifts, prizes or awards.

If a parent's gross income includes disability insurance benefits, it shall also include any amounts paid to or for the child who is the subject of the order and derived by the child from the parent's entitlement to disability insurance benefits. To the extent that such derivative benefits are included in a parent's gross income, that parent shall be entitled to a credit against his or her ongoing basic child support obligation for any such amounts, and, if the amount of the credit exceeds the parent's basic child support obligations, the credit may be used to reduce arrearages.

Gross income shall be subject to deduction of reasonable business expenses for persons with income from self-employment, a partnership, or a closely held business. "Gross income" shall not include benefits from public assistance programs as defined in § 63.1-87, federal supplemental security income benefits, or child support received. For purposes of this subsection, spousal support included in gross income shall be limited to spousal support paid pursuant to a pre-existing order or written agreement and spousal support shall be deducted from the gross income of the payor when paid pursuant to a pre-existing order or written agreement between the parties to the present proceeding.

In cases in which retroactive liability for support is being determined, the court or administrative agency may use the gross monthly income of the parties averaged over the period of retroactivity.

~~D. Any extraordinary medical and dental expenses for treatment of the child or children shall be added to the basic child support obligation. For purposes of this section, extraordinary medical and dental expenses are uninsured expenses in excess of \$100 for a single illness or condition and shall include but not be limited to eyeglasses, prescription medication, prostheses, and mental health services whether provided by a social worker, psychologist, psychiatrist, or counselor. Every decree providing for child support shall include a provision for the payment of the reasonably necessary medical expenses of the children of the parties, which are not reimbursed by insurance. It shall be presumed that all such medical expenses of the parties' children, not reimbursed by insurance, which exceed a threshold of eight percent of the monthly basic child support obligation of both parties, shall be shared by the parents in the same proportion as are their monthly gross incomes. The first eight percent of such uninsured expenses is presumed to be included in the monthly basic child support obligation of both parties. However, this presumption may be rebutted under the same factors and standards set forth in § 20-108.1 and this section. For the purposes of this section, "medical expenses" means all reasonably necessary medical, dental and psychological expenses incurred for the treatment of any illness, disease or disorder or for the reasonable prevention of illness or disease or disorder, and shall include, but not be limited to, the services of any licensed health-care provider, hospital or clinic, or for prescription eyewear, orthodontia, prescription medication and medical devices or prostheses, and for mental health services provided by any licensed provider.~~

E. Any costs for health care coverage as defined in § 63.1-250, when actually being paid by a parent, to the extent such costs are directly allocable to the child or children, and which are the extra costs of covering the child or children beyond whatever coverage the parent providing the coverage would otherwise have, shall be added to the basic child support obligation.

F. Any child-care costs incurred on behalf of the child or children due to employment of the custodial parent shall be added to the basic child support obligation. Child-care costs shall not exceed the amount required to provide quality care from a licensed source. When requested by the noncustodial parent, the court may require the custodial parent to present documentation to verify the costs incurred for child care under this subsection. Where appropriate, the court shall consider the willingness and availability of the noncustodial parent to provide child care personally in determining whether child-care costs are necessary or excessive.

G. 1. Sole custody support. The sole custody total monthly child support obligation shall be established by adding (i) the monthly basic child support obligation, as determined from the schedule contained in subsection B of this section, (ii) ~~all extraordinary medical expenses~~, (iii) costs for health care coverage to the extent allowable by subsection E, and ~~(iv)~~(iii) work-related child-care costs and taking into consideration all the factors set forth in subsection B of § 20-108.1. The total monthly child support obligation shall be divided between the parents in the same proportion as their monthly gross incomes bear to their monthly combined gross income. The monthly obligation of each parent shall be computed by multiplying each parent's percentage of the parents' monthly combined gross income by the total monthly child support obligation. *In addition to this monthly obligation, the parents shall share all reasonably necessary, unreimbursed medical expenses of the children pursuant to the provisions of subsection D above.*

However, the monthly obligation of the noncustodial parent shall be reduced by the cost for health care coverage to the extent allowable by subsection E when paid directly by the noncustodial parent.

2. Split custody support. In cases involving split custody, the amount of child support to be paid shall be the difference between the amounts owed by each parent as a noncustodial parent, computed in accordance with subdivision 1 of this subsection, with the noncustodial parent owing the larger amount paying the difference to the other parent.

For the purpose of this section and § 20-108.1, split custody shall be limited to those situations where each parent has physical custody of a child or children born of the parents, born of either parent and adopted by the other parent or adopted by both parents. For the purposes of calculating a child support obligation where split custody exists, a separate family unit exists for each parent, and child support for that family unit shall be calculated upon the number of children in that family unit who are born of the parents, born of either parent and adopted by the other parent or adopted by both parents. Where split custody exists, a parent is a custodial parent to the children in that parent's family unit and is a noncustodial parent to the children in the other parent's family unit.

3. Shared custody support.

(a) Where a party has custody or visitation of a child or children for more than ninety days of the year, as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the ratio in which the parents share the custody and visitation of any child or children shall be calculated in accordance with this subdivision. The presumptive support to be paid shall be the shared custody support amount, unless a party affirmatively shows that the sole custody support amount calculated as provided in subdivision G 1 is less than the shared custody support amount. If so, the lesser amount shall be the support to be paid. For the purposes of this subsection, the following shall apply:

(i) Income share. "Income share" means a parent's percentage of the combined monthly gross income of both parents. The income share of a parent is that parent's gross income divided by the combined gross incomes of the parties.

(ii) Custody share. "Custody share" means the number of days that a parent has physical custody, whether by sole custody, joint legal or joint residential custody, or visitation, of a shared child per year divided by the number of days in the year. The actual or anticipated "custody share" of the parent who has or will have fewer days of physical custody shall be calculated for a one-year period. The "custody share" of the other parent shall be presumed to be the number of days in the year less the number of days calculated as the first parent's "custody share." For purposes of this calculation, the year may begin on such date as is determined in the discretion of the court, and the day may begin at such time as is determined in the discretion of the court. For purposes of this calculation, a day shall be as defined in subdivision G 3 (c).

(iii) Shared support need. "Shared support need" means the presumptive guideline amount of needed support for the shared child or children calculated pursuant to subsection B of this section, for the combined gross income of the parties and the number of shared children, multiplied by 1.4.

(iv) Sole custody support. "Sole custody support" means the support amount determined in accordance with subdivision G 1.

(b) Support to be paid. The shared support need of the shared child or children shall be calculated pursuant to subdivision G 3 (a) (iii). This amount shall then be multiplied by the other parent's custody share. To that sum for each parent shall be added the other parent's cost of health care coverage to the extent allowable by subsection E, plus the other parent's work-related child-care costs to the extent allowable by subsection F. This total for each parent shall be multiplied by that parent's income share. The support amounts thereby calculated that each parent owes the other shall be subtracted one from the other and the difference shall be the shared custody support one parent owes to the other, with the payor parent being the one whose shared support is the larger. Any ~~extraordinary medical and dental expenses~~ *reasonably necessary unreimbursed medical expenses of the children*, to the extent allowable by subsection D, shall be shared directly by the parents in accordance with their income shares, and shall

410 not be adjusted by the custody share, and this amount shall be added to the shared custody support  
411 amount as calculated herein nor adjusted by any threshold amount as set forth in subsection D above.

412 (c) Definition of a day. For the purposes of this section, "day" means a period of twenty-four hours;  
413 however, where the parent who has the fewer number of overnight periods during the year has an  
414 overnight period with a child, but has physical custody of the shared child for less than twenty-four  
415 hours during such overnight period, there is a presumption that each parent shall be allocated one-half of  
416 a day of custody for that period.

417 (d) Minimum standards. Any calculation under this subdivision shall not create or reduce a support  
418 obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal  
419 adequate housing and provide other basic necessities for the child. If the gross income of the payee is  
420 equal to or less than 150 percent of the federal poverty level promulgated by the U.S. Department of  
421 Health and Human Services from time to time, there shall be a presumption that the sole custody  
422 guideline calculation shall apply.

423 (e) Support modification. When there has been an award of child support based on the shared  
424 custody formula and one parent consistently fails to exercise custody or visitation in accordance with the  
425 parent's custody share upon which the award was based, there shall be a rebuttable presumption that the  
426 support award should be modified.

427 H. The Secretary of Health and Human Resources shall ensure that the guideline set out in this  
428 section is reviewed by July 1, 1990, and every four years thereafter, by a panel which includes  
429 representatives of the courts, the executive branch, the General Assembly, the bar, custodial and  
430 noncustodial parents and child advocates. The panel shall determine the adequacy of the guideline for  
431 the determination of appropriate awards for the support of children by considering current research and  
432 data on the cost of and expenditures necessary for rearing children, and any other resources it deems  
433 relevant to such review. The panel shall report its findings to the General Assembly before it next  
434 convenes following such review.