

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 20-108.1 and 20-108.2 of the Code of Virginia, relating to determination of child or spousal support.

[H 2290]

Approved

Be it enacted by the General Assembly of Virginia:**1. That §§ 20-108.1 and 20-108.2 of the Code of Virginia are amended and reenacted as follows:****§ 20-108.1. Determination of child or spousal support.**

A. In any proceeding on the issue of determining spousal support, the court shall consider all evidence presented relevant to any issues joined in that proceeding. The court's decision shall be rendered based upon the evidence relevant to each individual case.

B. In any proceeding on the issue of determining child support under this title or Title 16.1 or Title 63.1, the court shall consider all evidence presented relevant to any issues joined in that proceeding. The court's decision in any such proceeding shall be rendered upon the evidence relevant to each individual case. However, there shall be a rebuttable presumption in any judicial or administrative proceeding for child support, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the guidelines set out in § 20-108.2 is the correct amount of child support to be awarded. Liability for support shall be determined retroactively for the period measured from the date that the proceeding was commenced by the filing of an action with the court provided the complainant exercised due diligence in the service of the respondent or, if earlier, the date an order of the Department of Social Services entered pursuant to Title 63.1 and directing payment of support was delivered to the sheriff or process server for service on the obligor.

In order to rebut the presumption, the court shall make written findings in the order, which findings may be incorporated by reference, that the application of such guidelines would be unjust or inappropriate in a particular case. The finding that rebuts the guidelines shall state the amount of support that would have been required under the guidelines, shall give a justification of why the order varies from the guidelines, and shall be determined by relevant evidence pertaining to the following factors affecting the obligation, the ability of each party to provide child support, and the best interests of the child:

1. Actual monetary support for ~~other children~~, other family members or former family members;
2. Arrangements regarding custody of the children;
3. Imputed income to a party who is voluntarily unemployed or voluntarily under-employed; provided that income may not be imputed to the custodial parent when a child is not in school, child care services are not available and the cost of such child care services are not included in the computation;
4. Debts of either party arising during the marriage for the benefit of the child;
5. Debts incurred for production of income;
6. Direct payments ordered by the court for health care coverage, maintaining life insurance coverage pursuant to subsection D, education expenses, or other court-ordered direct payments for the benefit of the child and costs related to the provision of health care coverage pursuant to subdivision 7 of § 20-60.3;
7. Extraordinary capital gains such as capital gains resulting from the sale of the marital abode;
8. Age, physical and mental condition of the child or children, including extraordinary medical or dental expenses, and child-care expenses;
9. Independent financial resources, if any, of the child or children;
10. Standard of living for the family established during the marriage;
11. Earning capacity, obligations and needs, and financial resources of each parent;
12. Education and training of the parties and the ability and opportunity of the parties to secure such education and training;
13. Contributions, monetary and nonmonetary, of each party to the well-being of the family;
14. Provisions made with regard to the marital property under § 20-107.3;
15. Tax consequences to the parties regarding claims for dependent children and child care expenses;
16. A written agreement between the parties which includes the amount of child support;
17. A pendente lite decree, which includes the amount of child support, agreed to by both parties or by counsel for the parties; and
18. Such other factors, including tax consequences to each party, as are necessary to consider the

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equities for the parents and children.

C. In any proceeding under this title or Title 16.1 or Title 63.1 on the issue of determining child support, the court shall have the authority to order a party to provide health care coverage, as defined in § 63.1-250, for dependent children if reasonable under all the circumstances and health care coverage for a spouse or former spouse.

D. In any proceeding under this title, Title 16.1 or Title 63.1 on the issue of determining child support, the court shall have the authority to order a party to (i) maintain any existing life insurance policy on the life of either party provided the party so ordered has the right to designate a beneficiary and (ii) designate a child or children of the parties as the beneficiary of all or a portion of such life insurance for so long as the party so ordered has a statutory obligation to pay child support for the child or children.

E. Except when the parties have otherwise agreed, in any proceeding under this title, Title 16.1 or Title 63.1 on the issue of determining child support, the court shall have the authority to and may, in its discretion, order one party to execute all appropriate tax forms or waivers to grant to the other party the right to take the income tax dependency exemption for any tax year or future years, for any child or children of the parties for federal and state income tax purposes.

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

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

B. For purposes of application of the guideline, a basic child support obligation shall be computed using the schedule set out below. For combined monthly gross income amounts falling between amounts shown in the schedule, basic child support obligation amounts shall be extrapolated. However, unless one of the following exemptions applies, where the sole custody child support obligation as computed pursuant to subdivision G 1 is less than \$65 per month, there shall be a presumptive minimum child support obligation of \$65 per month payable by the payor parent. Exemptions from this presumptive minimum monthly child support obligation shall include: parents unable to pay child support because they lack sufficient assets from which to pay child support and who, in addition, are institutionalized in a psychiatric facility; are imprisoned with no chance of parole; are medically verified to be totally and permanently disabled with no evidence of potential for paying child support, including recipients of Supplemental Security Income (SSI); or are otherwise involuntarily unable to produce income. "Number of children" means the number of children for whom the parents share joint legal responsibility and for whom support is being sought.

SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

COMBINED MONTHLY

| GROSS INCOME | ONE CHILD | TWO CHILDREN | THREE CHILDREN | FOUR CHILDREN | FIVE CHILDREN | SIX CHILDREN |
|-----------------|--------------|-----------------|-------------------|------------------|------------------|-----------------|
| 0-599 | 65 | 65 | 65 | 65 | 65 | 65 |
| 600 | 110 | 111 | 113 | 114 | 115 | 116 |
| 650 | 138 | 140 | 142 | 143 | 145 | 146 |
| 700 | 153 | 169 | 170 | 172 | 174 | 176 |
| 750 | 160 | 197 | 199 | 202 | 204 | 206 |
| 800 | 168 | 226 | 228 | 231 | 233 | 236 |
| 850 | 175 | 254 | 257 | 260 | 263 | 266 |
| 900 | 182 | 281 | 286 | 289 | 292 | 295 |
| 950 | 189 | 292 | 315 | 318 | 322 | 325 |
| 1000 | 196 | 304 | 344 | 348 | 351 | 355 |
| 1050 | 203 | 315 | 373 | 377 | 381 | 385 |
| 1100 | 210 | 326 | 402 | 406 | 410 | 415 |
| 1150 | 217 | 337 | 422 | 435 | 440 | 445 |

| | | | | | | | |
|-----|------|-----|-----|------|------|------|------|
| 117 | 1200 | 225 | 348 | 436 | 465 | 470 | 475 |
| 118 | 1250 | 232 | 360 | 451 | 497 | 502 | 507 |
| 119 | 1300 | 241 | 373 | 467 | 526 | 536 | 542 |
| 120 | 1350 | 249 | 386 | 483 | 545 | 570 | 576 |
| 121 | 1400 | 257 | 398 | 499 | 563 | 605 | 611 |
| 122 | 1450 | 265 | 411 | 515 | 581 | 633 | 645 |
| 123 | 1500 | 274 | 426 | 533 | 602 | 656 | 680 |
| 124 | 1550 | 282 | 436 | 547 | 617 | 672 | 714 |
| 125 | 1600 | 289 | 447 | 560 | 632 | 689 | 737 |
| 126 | 1650 | 295 | 458 | 573 | 647 | 705 | 754 |
| 127 | 1700 | 302 | 468 | 587 | 662 | 721 | 772 |
| 128 | 1750 | 309 | 479 | 600 | 676 | 738 | 789 |
| 129 | 1800 | 315 | 488 | 612 | 690 | 752 | 805 |
| 130 | 1850 | 321 | 497 | 623 | 702 | 766 | 819 |
| 131 | 1900 | 326 | 506 | 634 | 714 | 779 | 834 |
| 132 | 1950 | 332 | 514 | 645 | 727 | 793 | 848 |
| 133 | 2000 | 338 | 523 | 655 | 739 | 806 | 862 |
| 134 | 2050 | 343 | 532 | 666 | 751 | 819 | 877 |
| 135 | 2100 | 349 | 540 | 677 | 763 | 833 | 891 |
| 136 | 2150 | 355 | 549 | 688 | 776 | 846 | 905 |
| 137 | 2200 | 360 | 558 | 699 | 788 | 860 | 920 |
| 138 | 2250 | 366 | 567 | 710 | 800 | 873 | 934 |
| 139 | 2300 | 371 | 575 | 721 | 812 | 886 | 948 |
| 140 | 2350 | 377 | 584 | 732 | 825 | 900 | 963 |
| 141 | 2400 | 383 | 593 | 743 | 837 | 913 | 977 |
| 142 | 2450 | 388 | 601 | 754 | 849 | 927 | 991 |
| 143 | 2500 | 394 | 610 | 765 | 862 | 940 | 1006 |
| 144 | 2550 | 399 | 619 | 776 | 874 | 954 | 1020 |
| 145 | 2600 | 405 | 627 | 787 | 886 | 967 | 1034 |
| 146 | 2650 | 410 | 635 | 797 | 897 | 979 | 1048 |
| 147 | 2700 | 415 | 643 | 806 | 908 | 991 | 1060 |
| 148 | 2750 | 420 | 651 | 816 | 919 | 1003 | 1073 |
| 149 | 2800 | 425 | 658 | 826 | 930 | 1015 | 1085 |
| 150 | 2850 | 430 | 667 | 836 | 941 | 1027 | 1098 |
| 151 | 2900 | 435 | 675 | 846 | 953 | 1039 | 1112 |
| 152 | 2950 | 440 | 683 | 856 | 964 | 1052 | 1125 |
| 153 | 3000 | 445 | 691 | 866 | 975 | 1064 | 1138 |
| 154 | 3050 | 450 | 699 | 876 | 987 | 1076 | 1152 |
| 155 | 3100 | 456 | 707 | 886 | 998 | 1089 | 1165 |
| 156 | 3150 | 461 | 715 | 896 | 1010 | 1101 | 1178 |
| 157 | 3200 | 466 | 723 | 906 | 1021 | 1114 | 1191 |
| 158 | 3250 | 471 | 732 | 917 | 1032 | 1126 | 1205 |
| 159 | 3300 | 476 | 740 | 927 | 1044 | 1139 | 1218 |
| 160 | 3350 | 481 | 748 | 937 | 1055 | 1151 | 1231 |
| 161 | 3400 | 486 | 756 | 947 | 1067 | 1164 | 1245 |
| 162 | 3450 | 492 | 764 | 957 | 1078 | 1176 | 1258 |
| 163 | 3500 | 497 | 772 | 967 | 1089 | 1189 | 1271 |
| 164 | 3550 | 502 | 780 | 977 | 1101 | 1201 | 1285 |
| 165 | 3600 | 507 | 788 | 987 | 1112 | 1213 | 1298 |
| 166 | 3650 | 512 | 797 | 997 | 1124 | 1226 | 1311 |
| 167 | 3700 | 518 | 806 | 1009 | 1137 | 1240 | 1326 |
| 168 | 3750 | 524 | 815 | 1020 | 1150 | 1254 | 1342 |
| 169 | 3800 | 530 | 824 | 1032 | 1163 | 1268 | 1357 |
| 170 | 3850 | 536 | 834 | 1043 | 1176 | 1283 | 1372 |
| 171 | 3900 | 542 | 843 | 1055 | 1189 | 1297 | 1387 |
| 172 | 3950 | 547 | 852 | 1066 | 1202 | 1311 | 1402 |

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|------------|------|-----|------|------|------|------|------|
| 173 | 4000 | 553 | 861 | 1078 | 1214 | 1325 | 1417 |
| 174 | 4050 | 559 | 871 | 1089 | 1227 | 1339 | 1432 |
| 175 | 4100 | 565 | 880 | 1101 | 1240 | 1353 | 1448 |
| 176 | 4150 | 571 | 889 | 1112 | 1253 | 1367 | 1463 |
| 177 | 4200 | 577 | 898 | 1124 | 1266 | 1382 | 1478 |
| 178 | 4250 | 583 | 907 | 1135 | 1279 | 1396 | 1493 |
| 179 | 4300 | 589 | 917 | 1147 | 1292 | 1410 | 1508 |
| 180 | 4350 | 594 | 926 | 1158 | 1305 | 1424 | 1523 |
| 181 | 4400 | 600 | 935 | 1170 | 1318 | 1438 | 1538 |
| 182 | 4450 | 606 | 944 | 1181 | 1331 | 1452 | 1553 |
| 183 | 4500 | 612 | 954 | 1193 | 1344 | 1467 | 1569 |
| 184 | 4550 | 618 | 963 | 1204 | 1357 | 1481 | 1584 |
| 185 | 4600 | 624 | 972 | 1216 | 1370 | 1495 | 1599 |
| 186 | 4650 | 630 | 981 | 1227 | 1383 | 1509 | 1614 |
| 187 | 4700 | 635 | 989 | 1237 | 1395 | 1522 | 1627 |
| 188 | 4750 | 641 | 997 | 1247 | 1406 | 1534 | 1641 |
| 189 | 4800 | 646 | 1005 | 1257 | 1417 | 1546 | 1654 |
| 190 | 4850 | 651 | 1013 | 1267 | 1428 | 1558 | 1667 |
| 191 | 4900 | 656 | 1021 | 1277 | 1439 | 1570 | 1679 |
| 192 | 4950 | 661 | 1028 | 1286 | 1450 | 1582 | 1692 |
| 193 | 5000 | 666 | 1036 | 1295 | 1460 | 1593 | 1704 |
| 194 | 5050 | 671 | 1043 | 1305 | 1471 | 1605 | 1716 |
| 195 | 5100 | 675 | 1051 | 1314 | 1481 | 1616 | 1728 |
| 196 | 5150 | 680 | 1058 | 1323 | 1492 | 1628 | 1741 |
| 197 | 5200 | 685 | 1066 | 1333 | 1502 | 1640 | 1753 |
| 198 | 5250 | 690 | 1073 | 1342 | 1513 | 1651 | 1765 |
| 199 | 5300 | 695 | 1081 | 1351 | 1524 | 1663 | 1778 |
| 200 | 5350 | 700 | 1088 | 1361 | 1534 | 1674 | 1790 |
| 201 | 5400 | 705 | 1096 | 1370 | 1545 | 1686 | 1802 |
| 202 | 5450 | 710 | 1103 | 1379 | 1555 | 1697 | 1815 |
| 203 | 5500 | 714 | 1111 | 1389 | 1566 | 1709 | 1827 |
| 204 | 5550 | 719 | 1118 | 1398 | 1576 | 1720 | 1839 |
| 205 | 5600 | 724 | 1126 | 1407 | 1587 | 1732 | 1851 |
| 206 | 5650 | 729 | 1133 | 1417 | 1598 | 1743 | 1864 |
| 207 | 5700 | 734 | 1141 | 1426 | 1608 | 1755 | 1876 |
| 208 | 5750 | 739 | 1148 | 1435 | 1619 | 1766 | 1888 |
| 209 | 5800 | 744 | 1156 | 1445 | 1629 | 1778 | 1901 |
| 210 | 5850 | 749 | 1163 | 1454 | 1640 | 1790 | 1913 |
| 211 | 5900 | 753 | 1171 | 1463 | 1650 | 1801 | 1925 |
| 212 | 5950 | 758 | 1178 | 1473 | 1661 | 1813 | 1937 |
| 213 | 6000 | 763 | 1186 | 1482 | 1672 | 1824 | 1950 |
| 214 | 6050 | 768 | 1193 | 1491 | 1682 | 1836 | 1962 |
| 215 | 6100 | 773 | 1201 | 1501 | 1693 | 1847 | 1974 |
| 216 | 6150 | 778 | 1208 | 1510 | 1703 | 1859 | 1987 |
| 217 | 6200 | 783 | 1216 | 1519 | 1714 | 1870 | 1999 |
| 218 | 6250 | 788 | 1223 | 1529 | 1724 | 1882 | 2011 |
| 219 | 6300 | 792 | 1231 | 1538 | 1735 | 1893 | 2023 |
| 220 | 6350 | 797 | 1238 | 1547 | 1745 | 1905 | 2036 |
| 221 | 6400 | 802 | 1246 | 1557 | 1756 | 1916 | 2048 |
| 222 | 6450 | 807 | 1253 | 1566 | 1767 | 1928 | 2060 |
| 223 | 6500 | 812 | 1261 | 1575 | 1777 | 1940 | 2073 |
| 224 | 6550 | 816 | 1267 | 1583 | 1786 | 1949 | 2083 |
| 225 | 6600 | 820 | 1272 | 1590 | 1794 | 1957 | 2092 |
| 226 | 6650 | 823 | 1277 | 1597 | 1801 | 1965 | 2100 |
| 227 | 6700 | 827 | 1283 | 1604 | 1809 | 1974 | 2109 |
| 228 | 6750 | 830 | 1288 | 1610 | 1817 | 1982 | 2118 |

| | | | | | | | |
|-----|------|-----|------|------|------|------|------|
| 229 | 6800 | 834 | 1293 | 1617 | 1824 | 1990 | 2127 |
| 230 | 6850 | 837 | 1299 | 1624 | 1832 | 1999 | 2136 |
| 231 | 6900 | 841 | 1304 | 1631 | 1839 | 2007 | 2145 |
| 232 | 6950 | 845 | 1309 | 1637 | 1847 | 2016 | 2154 |
| 233 | 7000 | 848 | 1315 | 1644 | 1855 | 2024 | 2163 |
| 234 | 7050 | 852 | 1320 | 1651 | 1862 | 2032 | 2172 |
| 235 | 7100 | 855 | 1325 | 1658 | 1870 | 2041 | 2181 |
| 236 | 7150 | 859 | 1331 | 1665 | 1878 | 2049 | 2190 |
| 237 | 7200 | 862 | 1336 | 1671 | 1885 | 2057 | 2199 |
| 238 | 7250 | 866 | 1341 | 1678 | 1893 | 2066 | 2207 |
| 239 | 7300 | 870 | 1347 | 1685 | 1900 | 2074 | 2216 |
| 240 | 7350 | 873 | 1352 | 1692 | 1908 | 2082 | 2225 |
| 241 | 7400 | 877 | 1358 | 1698 | 1916 | 2091 | 2234 |
| 242 | 7450 | 880 | 1363 | 1705 | 1923 | 2099 | 2243 |
| 243 | 7500 | 884 | 1368 | 1712 | 1931 | 2108 | 2252 |
| 244 | 7550 | 887 | 1374 | 1719 | 1938 | 2116 | 2261 |
| 245 | 7600 | 891 | 1379 | 1725 | 1946 | 2124 | 2270 |
| 246 | 7650 | 895 | 1384 | 1732 | 1954 | 2133 | 2279 |
| 247 | 7700 | 898 | 1390 | 1739 | 1961 | 2141 | 2288 |
| 248 | 7750 | 902 | 1395 | 1746 | 1969 | 2149 | 2297 |
| 249 | 7800 | 905 | 1400 | 1753 | 1977 | 2158 | 2305 |
| 250 | 7850 | 908 | 1405 | 1758 | 1983 | 2164 | 2313 |
| 251 | 7900 | 910 | 1409 | 1764 | 1989 | 2171 | 2320 |
| 252 | 7950 | 913 | 1414 | 1770 | 1995 | 2178 | 2328 |
| 253 | 8000 | 916 | 1418 | 1776 | 2001 | 2185 | 2335 |
| 254 | 8050 | 918 | 1423 | 1781 | 2007 | 2192 | 2343 |
| 255 | 8100 | 921 | 1428 | 1787 | 2014 | 2198 | 2350 |
| 256 | 8150 | 924 | 1432 | 1793 | 2020 | 2205 | 2357 |
| 257 | 8200 | 927 | 1437 | 1799 | 2026 | 2212 | 2365 |
| 258 | 8250 | 929 | 1441 | 1804 | 2032 | 2219 | 2372 |
| 259 | 8300 | 932 | 1446 | 1810 | 2038 | 2226 | 2380 |
| 260 | 8350 | 935 | 1450 | 1816 | 2045 | 2232 | 2387 |
| 261 | 8400 | 937 | 1455 | 1822 | 2051 | 2239 | 2395 |
| 262 | 8450 | 940 | 1459 | 1827 | 2057 | 2246 | 2402 |
| 263 | 8500 | 943 | 1464 | 1833 | 2063 | 2253 | 2410 |
| 264 | 8550 | 945 | 1468 | 1839 | 2069 | 2260 | 2417 |
| 265 | 8600 | 948 | 1473 | 1845 | 2076 | 2266 | 2425 |
| 266 | 8650 | 951 | 1478 | 1850 | 2082 | 2273 | 2432 |
| 267 | 8700 | 954 | 1482 | 1856 | 2088 | 2280 | 2440 |
| 268 | 8750 | 956 | 1487 | 1862 | 2094 | 2287 | 2447 |
| 269 | 8800 | 959 | 1491 | 1868 | 2100 | 2294 | 2455 |
| 270 | 8850 | 962 | 1496 | 1873 | 2107 | 2300 | 2462 |
| 271 | 8900 | 964 | 1500 | 1879 | 2113 | 2307 | 2470 |
| 272 | 8950 | 967 | 1505 | 1885 | 2119 | 2314 | 2477 |
| 273 | 9000 | 970 | 1509 | 1891 | 2125 | 2321 | 2484 |
| 274 | 9050 | 973 | 1514 | 1896 | 2131 | 2328 | 2492 |
| 275 | 9100 | 975 | 1517 | 1901 | 2137 | 2334 | 2498 |
| 276 | 9150 | 977 | 1521 | 1905 | 2141 | 2339 | 2503 |
| 277 | 9200 | 979 | 1524 | 1909 | 2146 | 2344 | 2509 |
| 278 | 9250 | 982 | 1527 | 1914 | 2151 | 2349 | 2514 |
| 279 | 9300 | 984 | 1531 | 1918 | 2156 | 2354 | 2520 |
| 280 | 9350 | 986 | 1534 | 1922 | 2160 | 2359 | 2525 |
| 281 | 9400 | 988 | 1537 | 1926 | 2165 | 2365 | 2531 |
| 282 | 9450 | 990 | 1541 | 1930 | 2170 | 2370 | 2536 |
| 283 | 9500 | 993 | 1544 | 1935 | 2175 | 2375 | 2541 |
| 284 | 9550 | 995 | 1547 | 1939 | 2179 | 2380 | 2547 |

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|-----|-------|------|------|------|------|------|------|
| 285 | 9600 | 997 | 1551 | 1943 | 2184 | 2385 | 2552 |
| 286 | 9650 | 999 | 1554 | 1947 | 2189 | 2390 | 2558 |
| 287 | 9700 | 1001 | 1557 | 1951 | 2194 | 2396 | 2563 |
| 288 | 9750 | 1003 | 1561 | 1956 | 2198 | 2401 | 2569 |
| 289 | 9800 | 1006 | 1564 | 1960 | 2203 | 2406 | 2574 |
| 290 | 9850 | 1008 | 1567 | 1964 | 2208 | 2411 | 2580 |
| 291 | 9900 | 1010 | 1571 | 1968 | 2213 | 2416 | 2585 |
| 292 | 9950 | 1012 | 1574 | 1972 | 2218 | 2421 | 2590 |
| 293 | 10000 | 1014 | 1577 | 1977 | 2222 | 2427 | 2596 |

294
 295 For gross monthly income between \$10,000 and \$20,000, add the amount of child support for
 296 \$10,000 to the following percentages of gross income above \$10,000:

| | | | | | |
|-----------|----------|----------|----------|----------|----------|
| 297 ONE | TWO | THREE | FOUR | FIVE | SIX |
| 298 CHILD | CHILDREN | CHILDREN | CHILDREN | CHILDREN | CHILDREN |
| 299 3.1% | 5.1% | 6.8% | 7.8% | 8.8% | 9.5% |

300
 301 For gross monthly income between \$20,000 and \$50,000, add the amount of child support for
 302 \$20,000 to the following percentages of gross income above \$20,000:

| | | | | | |
|-----------|----------|----------|----------|----------|----------|
| 303 ONE | TWO | THREE | FOUR | FIVE | SIX |
| 304 CHILD | CHILDREN | CHILDREN | CHILDREN | CHILDREN | CHILDREN |
| 305 2% | 3.5% | 5% | 6% | 6.9% | 7.8% |

306
 307 For gross monthly income over \$50,000, add the amount of child support for \$50,000 to the
 308 following percentages of gross income above \$50,000:

| | | | | | |
|-----------|----------|----------|----------|----------|----------|
| 309 ONE | TWO | THREE | FOUR | FIVE | SIX |
| 310 CHILD | CHILDREN | CHILDREN | CHILDREN | CHILDREN | CHILDREN |
| 311 1% | 2% | 3% | 4% | 5% | 6% |

312
 313 C. For purposes of this section, "gross income" means all income from all sources, and shall include,
 314 but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance
 315 pay, pensions, interest, trust income, annuities, capital gains, social security benefits except as listed
 316 below, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits,
 317 veterans' benefits, spousal support, rental income, gifts, prizes or awards.

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

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

331 *Where there is an existing court or administrative order or written agreement relating to the child or*
 332 *children of a party to the proceeding, who are not the child or children who are the subject of the*
 333 *present proceeding, then there is a presumption that there shall be deducted from the gross income of*
 334 *the party subject to such order or written agreement, the amount that the party is actually paying for*
 335 *the support of a child or children pursuant to such order or agreement.*

336 *Where a party to the proceeding has a natural or adopted child or children in the party's household*
 337 *or primary physical custody, and the child or children are not the subject of the present proceeding,*
 338 *there is a presumption that there shall be deducted from the gross income of that party the amount as*
 339 *shown on the Schedule of Monthly Basic Child Support Obligations contained in subsection B that*
 340 *represents that party's support obligation based solely on that party's income as being the total income*
 341 *available for the natural or adopted child or children in the party's household or primary physical*
 342 *custody, who are not the subject of the present proceeding. Provided, however, that the existence of a*
 343 *party's financial responsibility for such a child or children shall not of itself constitute a material*

change in circumstances for modifying a previous order of child support in any modification proceeding. Any adjustment to gross income under this subsection shall not create or reduce a support obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child, as determined by the court.

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.

E. Any costs for health care coverage as defined in § 63.1-250 and dental care coverage, 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) 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.

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, to the extent allowable by subsection D, shall be shared directly by the parents in accordance with their income shares, and shall not be adjusted by the custody share. The parents shall pay their respective shares of these extraordinary medical expenses as they are incurred, and they are not added to each party's shared custody support owed to the other party. The method of payment of said allowable expenses shall be contained in the support order. When the shared support is compared to the sole custody support to determine which is the lesser support, pursuant to subdivision G 3 (a), the extraordinary medical expenses shall not enter into either calculation.

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

(d) Minimum standards. Any calculation under this subdivision shall not create or reduce a support obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child. If the gross income of either party is equal to or less than 150 percent of the federal poverty level promulgated by the U.S. Department of Health and Human Services from time to time, then the shared custody support calculated pursuant to this subsection shall not be the presumptively correct support and the court may consider whether the sole custody support or the shared custody support is more just and appropriate.

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

(f) In the event that the shared custody support calculation indicates that the net support is to be paid to the parent who would not be the parent receiving support pursuant to the sole custody calculation, then the shared support shall be deemed to be the lesser support.

H. The Secretary of Health and Human Resources shall ensure that the guideline set out in this section is reviewed by October 31, 2001, and every three years thereafter, by a panel which includes representatives of the courts, the executive branch, the General Assembly, the bar, custodial and noncustodial parents and child advocates. The panel shall determine the adequacy of the guideline for the determination of appropriate awards for the support of children by considering current research and data on the cost of and expenditures necessary for rearing children, and any other resources it deems relevant to such review. The panel shall report its findings to the General Assembly before it next convenes following such review.