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SENATE BILL NO. 1312

Offered January 17, 2003

A BILL to amend and reenact §§ 20-108.1 and 20-108.2 of the Code of Virginia, relating to child support.

Patron—Quayle

Referred to Committee for Courts of Justice

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 63.2, 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~~ *guideline* 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 63.2 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~~ *guideline* would be unjust or inappropriate in a particular case. The finding that rebuts the ~~guidelines~~ *guideline* shall state the amount of support that would have been required under the ~~guidelines~~ *guideline*, shall give a justification of why the order varies from the ~~guidelines~~ *guideline*, 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 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~~

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18. Such other factors, including tax consequences to each party, as are necessary to consider the equities for the parents and children.*; and*

19. Income of the parties obtained from overtime employment or a second job, which income may be considered for inclusion or noninclusion based on the history of receipt of that income, the purpose of that income, and any agreement of the parties related to that income.

B1. In considering the imputation of income to either party pursuant to subdivision B 3, the court shall consider (i) the earning capacity, including the skills, education and training of the party; (ii) the current employment opportunities for persons possessing such earning capacity; (iii) the extent to which the age, physical or mental condition, or special circumstances of any child of the parties makes it appropriate that a party not seek employment outside of the home; and (iv) the decisions regarding employment, career, economics, education, and parenting arrangements made by the parties, and their effect on present and future earning potential, including the length of time 1 or both of the parties have been absent from the job market.

C. In any proceeding under this title or Title 16.1 or Title 63.2 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~~ *63.2-1900,* 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 63.2 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 63.2 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.

F. Notwithstanding any other provision of law, any modifications to this section shall not be retroactive to a date before enactment, and shall not be the basis for a material change in circumstances upon which a modification of child support may be based.

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

A. *The Schedule of Monthly Basic Child Support Obligations ("Schedule") is based on (i) the rationale that there are fixed housing and utility costs and variable transportation costs, and (ii) the assumption of "exercised" visitation by the noncustodial parent of 60 to 90 days annually.* There shall be a rebuttable presumption in any judicial or administrative proceeding for child support under this title or Title 16.1 or 63.2, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the ~~guidelines~~ *guideline* 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~~ *guideline* 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~~ *guideline* set out in this section pursuant to the authority granted to it in Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and subject to the provisions of § 63.2-1918.

A1. Economic Assumptions. The Schedule in this section should be applied in individual cases with consideration of the following economic assumptions:

1. The guideline, including the Schedule amounts, is designed to establish child support levels as a specified proportion of an obligor's gross monthly income. The Schedule is in gross income for 3 reasons:

a. Use of gross income simplifies the use of the child support guideline because it avoids use of a complex gross to net calculation in individual cases;

b. Use of gross income is more equitable because it avoids noncomparable deductions; and

c. Use of gross income avoids an increase in child support when an obligor acquires additional dependents, claims more exemptions, and therefore has a higher net income for a given level of gross income.

2. The Schedule incorporates a "self-support reserve" for obligors. The reserve allows low-income obligors to retain enough income after payment of taxes and child support to maintain at least a subsistence level of living.

3. The Schedule is based on economic data that represent estimates of total expenditures on child-rearing costs up to age 18. The major categories of expenditures include food, housing, home furnishings, utilities, transportation, clothing, education, and recreation. The Schedule amounts do not

include average expenditures for childcare, children's extraordinary medical care, and the children's share of health insurance. These costs are deducted from the base amounts used to establish the Schedule because they are added to child support obligations as actually incurred in individual cases. Deducting these expenditures from the base amounts avoids counting them twice in the child support calculation.

4. The Schedule amounts include expenditures on ordinary medical care of $250 per child per year. This amount is based on the assumption that parents will make expenditures on behalf of the children's medical care that is not covered by insurance.

5. The Schedule is based on modified versions of the Joint Legislative Audit and Review Committee's (i) average use applied to fixed transportation costs for 1 and 2 children, and (ii) per capita approach for 3 or more children. These analytic approaches are described in "Technical Report: The Costs of Raising Children" (Senate Document No. 9, 2001). Child expenditures for households with 4, 5, and 6 children are constructed by multiplying the obligations of households with 3 children by 1.1274, 1.2293, and 1.3142.

6. A "separate household discount" serves 2 purposes. First, it reserves income for the noncustodial parent to spend directly on his children during the 60 to 90 days of visitation. Second, it provides the noncustodial parent income to cover the "fixed cost" of operating a second household. Fixed cost is defined as expenditures on shelter, household equipment and fixed transportation (net outlays on new and used cars and trucks, vehicle insurance and vehicle finance charges).

7. Gross monthly income excludes Supplemental Security Income (SSI) and income from Temporary Assistance to Needy Families. This maintains consistency with the Commonwealth's practice of excluding these components of income.

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~~
~~1200~~	~~225~~	~~348~~	~~436~~	~~465~~	~~470~~	~~475~~
~~1250~~	~~232~~	~~360~~	~~451~~	~~497~~	~~502~~	~~507~~
~~1300~~	~~241~~	~~373~~	~~467~~	~~526~~	~~536~~	~~542~~
~~1350~~	~~249~~	~~386~~	~~483~~	~~545~~	~~570~~	~~576~~
~~1400~~	~~257~~	~~398~~	~~499~~	~~563~~	~~605~~	~~611~~
~~1450~~	~~265~~	~~411~~	~~515~~	~~581~~	~~633~~	~~645~~

180	1500	274	426	533	602	656	680
181	1550	282	436	547	617	672	714
182	1600	289	447	560	632	689	737
183	1650	295	458	573	647	705	754
184	1700	302	468	587	662	721	772
185	1750	309	479	600	676	738	789
186	1800	315	488	612	690	752	805
187	1850	321	497	623	702	766	819
188	1900	326	506	634	714	779	834
189	1950	332	514	645	727	793	848
190	2000	338	523	655	739	806	862
191	2050	343	532	666	751	819	877
192	2100	349	540	677	763	833	891
193	2150	355	549	688	776	846	905
194	2200	360	558	699	788	860	920
195	2250	366	567	710	800	873	934
196	2300	371	575	721	812	886	948
197	2350	377	584	732	825	900	963
198	2400	383	593	743	837	913	977
199	2450	388	601	754	849	927	991
200	2500	394	610	765	862	940	1006
201	2550	399	619	776	874	954	1020
202	2600	405	627	787	886	967	1034
203	2650	410	635	797	897	979	1048
204	2700	415	643	806	908	991	1060
205	2750	420	651	816	919	1003	1073
206	2800	425	658	826	930	1015	1085
207	2850	430	667	836	941	1027	1098
208	2900	435	675	846	953	1039	1112
209	2950	440	683	856	964	1052	1125
210	3000	445	691	866	975	1064	1138
211	3050	450	699	876	987	1076	1152
212	3100	456	707	886	998	1089	1165
213	3150	461	715	896	1010	1101	1178
214	3200	466	723	906	1021	1114	1191
215	3250	471	732	917	1032	1126	1205
216	3300	476	740	927	1044	1139	1218
217	3350	481	748	937	1055	1151	1231
218	3400	486	756	947	1067	1164	1245
219	3450	492	764	957	1078	1176	1258
220	3500	497	772	967	1089	1189	1271
221	3550	502	780	977	1101	1201	1285
222	3600	507	788	987	1112	1213	1298
223	3650	512	797	997	1124	1226	1311
224	3700	518	806	1009	1137	1240	1326
225	3750	524	815	1020	1150	1254	1342
226	3800	530	824	1032	1163	1268	1357
227	3850	536	834	1043	1176	1283	1372
228	3900	542	843	1055	1189	1297	1387
229	3950	547	852	1066	1202	1311	1402
230	4000	553	861	1078	1214	1325	1417
231	4050	559	871	1089	1227	1339	1432
232	4100	565	880	1101	1240	1353	1448
233	4150	571	889	1112	1253	1367	1463
234	4200	577	898	1124	1266	1382	1478
235	4250	583	907	1135	1279	1396	1493
236	4300	589	917	1147	1292	1410	1508

237	4350	594	926	1158	1305	1424	1523
238	4400	600	935	1170	1318	1438	1538
239	4450	606	944	1181	1331	1452	1553
240	4500	612	954	1193	1344	1467	1569
241	4550	618	963	1204	1357	1481	1584
242	4600	624	972	1216	1370	1495	1599
243	4650	630	981	1227	1383	1509	1614
244	4700	635	989	1237	1395	1522	1627
245	4750	641	997	1247	1406	1534	1641
246	4800	646	1005	1257	1417	1546	1654
247	4850	651	1013	1267	1428	1558	1667
248	4900	656	1021	1277	1439	1570	1679
249	4950	661	1028	1286	1450	1582	1692
250	5000	666	1036	1295	1460	1593	1704
251	5050	671	1043	1305	1471	1605	1716
252	5100	675	1051	1314	1481	1616	1728
253	5150	680	1058	1323	1492	1628	1741
254	5200	685	1066	1333	1502	1640	1753
255	5250	690	1073	1342	1513	1651	1765
256	5300	695	1081	1351	1524	1663	1778
257	5350	700	1088	1361	1534	1674	1790
258	5400	705	1096	1370	1545	1686	1802
259	5450	710	1103	1379	1555	1697	1815
260	5500	714	1111	1389	1566	1709	1827
261	5550	719	1118	1398	1576	1720	1839
262	5600	724	1126	1407	1587	1732	1851
263	5650	729	1133	1417	1598	1743	1864
264	5700	734	1141	1426	1608	1755	1876
265	5750	739	1148	1435	1619	1766	1888
266	5800	744	1156	1445	1629	1778	1901
267	5850	749	1163	1454	1640	1790	1913
268	5900	753	1171	1463	1650	1801	1925
269	5950	758	1178	1473	1661	1813	1937
270	6000	763	1186	1482	1672	1824	1950
271	6050	768	1193	1491	1682	1836	1962
272	6100	773	1201	1501	1693	1847	1974
273	6150	778	1208	1510	1703	1859	1987
274	6200	783	1216	1519	1714	1870	1999
275	6250	788	1223	1529	1724	1882	2011
276	6300	792	1231	1538	1735	1893	2023
277	6350	797	1238	1547	1745	1905	2036
278	6400	802	1246	1557	1756	1916	2048
279	6450	807	1253	1566	1767	1928	2060
280	6500	812	1261	1575	1777	1940	2073
281	6550	816	1267	1583	1786	1949	2083
282	6600	820	1272	1590	1794	1957	2092
283	6650	823	1277	1597	1801	1965	2100
284	6700	827	1283	1604	1809	1974	2109
285	6750	830	1288	1610	1817	1982	2118
286	6800	834	1293	1617	1824	1990	2127
287	6850	837	1299	1624	1832	1999	2136
288	6900	841	1304	1631	1839	2007	2145
289	6950	845	1309	1637	1847	2016	2154
290	7000	848	1315	1644	1855	2024	2163
291	7050	852	1320	1651	1862	2032	2172
292	7100	855	1325	1658	1870	2041	2181

293	7150	859	1331	1665	1878	2049	2190
294	7200	862	1336	1671	1885	2057	2199
295	7250	866	1341	1678	1893	2066	2207
296	7300	870	1347	1685	1900	2074	2216
297	7350	873	1352	1692	1908	2082	2225
298	7400	877	1358	1698	1916	2091	2234
299	7450	880	1363	1705	1923	2099	2243
300	7500	884	1368	1712	1931	2108	2252
301	7550	887	1374	1719	1938	2116	2261
302	7600	891	1379	1725	1946	2124	2270
303	7650	895	1384	1732	1954	2133	2279
304	7700	898	1390	1739	1961	2141	2288
305	7750	902	1395	1746	1969	2149	2297
306	7800	905	1400	1753	1977	2158	2305
307	7850	908	1405	1758	1983	2164	2313
308	7900	910	1409	1764	1989	2171	2320
309	7950	913	1414	1770	1995	2178	2328
310	8000	916	1418	1776	2001	2185	2335
311	8050	918	1423	1781	2007	2192	2343
312	8100	921	1428	1787	2014	2198	2350
313	8150	924	1432	1793	2020	2205	2357
314	8200	927	1437	1799	2026	2212	2365
315	8250	929	1441	1804	2032	2219	2372
316	8300	932	1446	1810	2038	2226	2380
317	8350	935	1450	1816	2045	2232	2387
318	8400	937	1455	1822	2051	2239	2395
319	8450	940	1459	1827	2057	2246	2402
320	8500	943	1464	1833	2063	2253	2410
321	8550	945	1468	1839	2069	2260	2417
322	8600	948	1473	1845	2076	2266	2425
323	8650	951	1478	1850	2082	2273	2432
324	8700	954	1482	1856	2088	2280	2440
325	8750	956	1487	1862	2094	2287	2447
326	8800	959	1491	1868	2100	2294	2455
327	8850	962	1496	1873	2107	2300	2462
328	8900	964	1500	1879	2113	2307	2470
329	8950	967	1505	1885	2119	2314	2477
330	9000	970	1509	1891	2125	2321	2484
331	9050	973	1514	1896	2131	2328	2492
332	9100	975	1517	1901	2137	2334	2498
333	9150	977	1521	1905	2141	2339	2503
334	9200	979	1524	1909	2146	2344	2509
335	9250	982	1527	1914	2151	2349	2514
336	9300	984	1531	1918	2156	2354	2520
337	9350	986	1534	1922	2160	2359	2525
338	9400	988	1537	1926	2165	2365	2531
339	9450	990	1541	1930	2170	2370	2536
340	9500	993	1544	1935	2175	2375	2541
341	9550	995	1547	1939	2179	2380	2547
342	9600	997	1551	1943	2184	2385	2552
343	9650	999	1554	1947	2189	2390	2558
344	9700	1001	1557	1951	2194	2396	2563
345	9750	1003	1561	1956	2198	2401	2569
346	9800	1006	1564	1960	2203	2406	2574
347	9850	1008	1567	1964	2208	2411	2580
348	9900	1010	1571	1968	2213	2416	2585
349	9950	1012	1574	1972	2218	2421	2590

~~10000 1014 1577 1977 2222 2427 2596~~

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

~~ONE CHILD~~	~~TWO CHILDREN~~	~~THREE CHILDREN~~	~~FOUR CHILDREN~~	~~FIVE CHILDREN~~	~~SIX CHILDREN~~
~~3.1%~~	~~5.1%~~	~~6.8%~~	~~7.8%~~	~~8.8%~~	~~9.5%~~

~~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%~~

SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

COMBINED MONTHLY GROSS INCOME	*ONE CHILD*	*TWO CHILDREN*	*THREE CHILDREN*	*FOUR CHILDREN*	*FIVE CHILDREN*	*SIX CHILDREN*
1200	*83*	*84*	*85*	*96*	*104*	*112*
1250	*111*	*113*	*114*	*129*	*140*	*150*
1300	*139*	*142*	*143*	*161*	*176*	*188*
1350	*167*	*171*	*172*	*194*	*211*	*226*
1400	*195*	*200*	*201*	*227*	*247*	*264*
1450	*223*	*229*	*230*	*259*	*283*	*302*
1500	*251*	*258*	*259*	*292*	*318*	*340*
1550	*279*	*287*	*288*	*325*	*354*	*378*
1600	*293*	*316*	*317*	*357*	*390*	*417*
1650	*307*	*345*	*346*	*390*	*425*	*455*
1700	*321*	*374*	*375*	*423*	*461*	*493*
1750	*329*	*403*	*404*	*455*	*497*	*531*
1800	*338*	*423*	*433*	*488*	*523*	*569*
1850	*346*	*461*	*462*	*521*	*568*	*607*
1900	*355*	*490*	*491*	*554*	*604*	*645*

1950	363	519	520	586	639	683
2000	371	548	549	619	675	721
2050	380	577	578	652	711	760
2100	388	606	607	684	746	798
2150	396	623	636	717	782	836
2200	404	636	665	750	817	874
2250	412	648	694	782	853	912
2300	420	660	723	815	889	950
2350	428	672	752	848	924	988
2400	436	684	781	880	960	1026
2450	444	696	810	913	996	1065
2500	452	707	839	946	1031	1103
2550	459	719	868	979	1067	1141
2600	467	731	897	1011	1103	1179
2650	475	742	926	1044	1138	1217
2700	482	753	955	1077	1174	1255
2750	490	764	972	1095	1194	1277
2800	497	776	986	1111	1212	1296
2850	505	787	1000	1127	1229	1314
2900	512	797	1014	1143	1247	1333
2950	520	808	1028	1159	1264	1351
3000	527	819	1042	1175	1281	1369
3050	534	830	1056	1190	1298	1387
3100	541	840	1069	1205	1314	1405
3150	549	850	1083	1221	1331	1423
3200	556	861	1096	1236	1347	1440
3250	563	871	1109	1250	1364	1458
3300	570	881	1122	1265	1380	1475

3350	577	891	1135	1280	1396	1492
3400	584	901	1148	1294	1411	1509
3450	590	911	1161	1309	1427	1526
3500	597	920	1173	1323	1443	1542
3550	604	930	1186	1337	1458	1559
3600	610	938	1195	1347	1469	1570
3650	616	946	1204	1358	1480	1582
3700	622	954	1213	1368	1491	1594
3750	629	962	1222	1377	1502	1606
3800	635	969	1230	1387	1512	1617
3850	641	976	1239	1396	1523	1628
3900	647	984	1247	1405	1532	1638
3950	653	991	1255	1414	1542	1649
4000	658	998	1262	1423	1552	1659
4050	664	1004	1270	1431	1561	1669
4100	670	1011	1277	1440	1570	1678
4150	676	1018	1284	1448	1578	1687
4200	681	1024	1291	1455	1587	1696
4250	687	1030	1298	1463	1595	1705
4300	692	1036	1304	1470	1603	1714
4350	698	1042	1310	1477	1611	1722
4400	703	1048	1316	1484	1618	1730
4450	708	1054	1322	1491	1625	1737
4500	714	1059	1328	1497	1632	1745
4550	719	1065	1333	1503	1639	1752
4600	724	1073	1344	1515	1652	1766
4650	730	1081	1354	1526	1664	1779
4700	735	1089	1364	1538	1677	1793

520	*4750*	*740*	*1097*	*1374*	*1549*	*1689*	*1806*
521							
522	*4800*	*746*	*1105*	*1384*	*1561*	*1702*	*1819*
523							
524	*4850*	*751*	*1112*	*1394*	*1572*	*1714*	*1832*
525							
526	*4900*	*756*	*1120*	*1404*	*1583*	*1726*	*1845*
527							
528	*4950*	*761*	*1128*	*1414*	*1594*	*1738*	*1858*
529							
530	*5000*	*766*	*1135*	*1423*	*1605*	*1750*	*1871*
531							
532	*5050*	*771*	*1143*	*1433*	*1616*	*1762*	*1883*
533							
534	*5100*	*776*	*1150*	*1442*	*1626*	*1773*	*1896*
535							
536	*5150*	*781*	*1157*	*1452*	*1637*	*1785*	*1908*
537							
538	*5200*	*786*	*1165*	*1461*	*1647*	*1796*	*1920*
539							
540	*5250*	*790*	*1172*	*1470*	*1658*	*1807*	*1932*
541							
542	*5300*	*795*	*1179*	*1479*	*1668*	*1819*	*1944*
543							
544	*5350*	*800*	*1186*	*1488*	*1678*	*1830*	*1956*
545							
546	*5400*	*804*	*1193*	*1497*	*1688*	*1841*	*1968*
547							
548	*5450*	*809*	*1200*	*1506*	*1698*	*1852*	*1979*
549							
550	*5500*	*813*	*1206*	*1515*	*1708*	*1862*	*1991*
551							
552	*5550*	*818*	*1213*	*1524*	*1718*	*1873*	*2002*
553							
554	*5600*	*822*	*1220*	*1532*	*1727*	*1883*	*2014*
555							
556	*5650*	*827*	*1226*	*1541*	*1737*	*1894*	*2025*
557							
558	*5700*	*831*	*1233*	*1549*	*1746*	*1904*	*2036*
559							
560	*5750*	*835*	*1239*	*1557*	*1756*	*1914*	*2047*
561							
562	*5800*	*839*	*1245*	*1565*	*1765*	*1924*	*2057*
563							
564	*5850*	*843*	*1251*	*1574*	*1774*	*1934*	*2068*
565							
566	*5900*	*848*	*1258*	*1581*	*1783*	*1944*	*2078*
567							
568	*5950*	*852*	*1264*	*1589*	*1792*	*1954*	*2089*
569							
570	*6000*	*855*	*1270*	*1597*	*1801*	*1963*	*2099*
571							
572	*6050*	*859*	*1276*	*1605*	*1809*	*1973*	*2109*
573							
574	*6100*	*863*	*1281*	*1613*	*1818*	*1982*	*2119*
575							
576	*6150*	*867*	*1287*	*1620*	*1826*	*1992*	*2129*

6200	871	1293	1628	1835	2001	2139
6250	875	1298	1635	1843	2010	2149
6300	878	1304	1642	1851	2019	2158
6350	882	1309	1649	1859	2027	2168
6400	885	1315	1656	1867	2036	2177
6450	889	1320	1663	1875	2045	2186
6500	892	1325	1670	1883	2053	2195
6550	896	1330	1677	1891	2062	2204
6600	899	1335	1684	1898	2070	2213
6650	902	1340	1690	1906	2078	2221
6700	905	1345	1697	1913	2086	2230
6750	909	1350	1703	1920	2094	2238
6800	912	1355	1710	1927	2102	2247
6850	915	1360	1716	1934	2109	2255
6900	918	1364	1722	1941	2117	2263
6950	921	1369	1728	1948	2124	2271
7000	924	1373	1734	1955	2132	2279
7050	926	1378	1740	1962	2139	2287
7100	929	1382	1746	1968	2146	2294
7150	932	1386	1751	1975	2153	2302
7200	935	1390	1757	1981	2160	2309
7250	937	1394	1762	1987	2167	2316
7300	940	1398	1768	1993	2173	2323
7350	942	1402	1773	1999	2180	2330
7400	945	1406	1778	2005	2186	2337
7450	947	1410	1784	2011	2193	2344
7500	950	1413	1789	2016	2199	2351
7550	952	1417	1794	2022	2205	2357

7600	*954*	*1420*	*1798*	*2028*	*2211*	*2363*
7650	*957*	*1424*	*1803*	*2033*	*2217*	*2370*
7700	*959*	*1427*	*1808*	*2038*	*2222*	*2376*
7750	*961*	*1431*	*1812*	*2043*	*2228*	*2382*
7800	*963*	*1434*	*1817*	*2048*	*2234*	*2388*
7850	*965*	*1437*	*1821*	*2053*	*2239*	*2394*
7900	*967*	*1440*	*1826*	*2058*	*2244*	*2399*
7950	*969*	*1443*	*1830*	*2063*	*2249*	*2405*
8000	*971*	*1446*	*1834*	*2068*	*2254*	*2410*
8050	*972*	*1449*	*1838*	*2072*	*2259*	*2415*
8100	*974*	*1451*	*1842*	*2077*	*2264*	*2421*
8150	*976*	*1454*	*1846*	*2081*	*2269*	*2426*
8200	*977*	*1457*	*1849*	*2085*	*2274*	*2431*
8250	*979*	*1459*	*1853*	*2089*	*2278*	*2435*
8300	*980*	*1462*	*1857*	*2093*	*2282*	*2440*
8350	*982*	*1464*	*1860*	*2097*	*2287*	*2445*
8400	*983*	*1466*	*1864*	*2101*	*2291*	*2449*
8450	*985*	*1468*	*1867*	*2105*	*2295*	*2453*
8500	*986*	*1470*	*1870*	*2108*	*2299*	*2458*
8550	*992*	*1479*	*1878*	*2117*	*2308*	*2468*
8600	*996*	*1485*	*1886*	*2126*	*2318*	*2478*
8650	*1001*	*1492*	*1893*	*2134*	*2327*	*2488*
8700	*1005*	*1498*	*1901*	*2143*	*2337*	*2498*
8750	*1009*	*1504*	*1909*	*2152*	*2346*	*2508*
8800	*1014*	*1511*	*1916*	*2160*	*2355*	*2518*
8850	*1018*	*1517*	*1924*	*2169*	*2365*	*2528*
8900	*1022*	*1523*	*1931*	*2177*	*2374*	*2538*
8950	*1027*	*1529*	*1939*	*2186*	*2383*	*2548*

9000	*1031*	*1535*	*1946*	*2194*	*2392*	*2558*
9050	*1035*	*1541*	*1953*	*2202*	*2401*	*2567*
9100	*1039*	*1547*	*1961*	*2211*	*2410*	*2577*
9150	*1044*	*1553*	*1968*	*2219*	*2419*	*2587*
9200	*1048*	*1559*	*1975*	*2227*	*2428*	*2596*
9250	*1052*	*1565*	*1983*	*2235*	*2437*	*2606*
9300	*1056*	*1571*	*1990*	*2243*	*2446*	*2615*
9350	*1060*	*1577*	*1997*	*2252*	*2455*	*2625*
9400	*1065*	*1583*	*2004*	*2260*	*2464*	*2634*
9450	*1069*	*1589*	*2011*	*2268*	*2473*	*2643*
9500	*1073*	*1595*	*2018*	*2276*	*2481*	*2653*
9550	*1077*	*1601*	*2025*	*2283*	*2490*	*2662*
9600	*1081*	*1607*	*2032*	*2291*	*2498*	*2671*
9650	*1085*	*1612*	*2039*	*2299*	*2507*	*2680*
9700	*1089*	*1618*	*2046*	*2307*	*2515*	*2689*
9750	*1093*	*1624*	*2053*	*2315*	*2524*	*2698*
9800	*1097*	*1629*	*2060*	*2322*	*2532*	*2707*
9850	*1101*	*1635*	*2067*	*2330*	*2541*	*2716*
9900	*1105*	*1641*	*2074*	*2338*	*2549*	*2725*
9950	*1109*	*1646*	*2080*	*2345*	*2557*	*2734*
10000	*1113*	*1652*	*2087*	*2353*	*2565*	*2743*

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

ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
3.1%	5.1%	6.8%	7.8%	8.8%	9.5%

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~~*1. Benefits* from public assistance and social services programs as defined in § 63.2-100~~,~~*;*

~~federal~~ *2. Federal* supplemental security income benefits~~,~~*;*

~~or child~~ *3. Child* support received*; or*

4. Income received by the payor from secondary employment income, whether from an additional job, from self-employment, or from overtime income not previously included in "gross income," where such income has been obtained in a good faith effort by the payor to discharge a child-support arrearage established by a court or administrative order relating to the child or children who are subject to the proceeding, and such parent is paying the arrearage pursuant to the order. Such secondary income, or the cessation of such income upon the payment of the arrearage, shall not be the basis for a material change in circumstances upon which a modification of child support may be based.

For purposes of this subsection: (i) spousal support received shall be included in gross income and spousal support paid shall be deducted from gross income when paid pursuant to an order or written agreement and (ii) one-half of any self-employment tax paid shall be deducted from gross income.

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

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

An obligation of child support under this title shall not reduce the residual income of the noncustodial parent to an amount less than 150 percent of the federal poverty level as established by the United States Department of Health and Human Services. However, any calculation under this subsection shall not create or reduce a support obligation to an amount which seriously impairs either party's ability to maintain minimal adequate housing for himself and provide other basic necessities for the child.

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~~ *Except for good cause shown or the agreement of the parties, in addition to any other child support obligations made pursuant to this section, any child support order shall provide that the parents pay in proportion to their gross incomes, as used for calculating the monthly support obligation, any reasonable and necessary uninsured medical or dental expenses which are in excess of the sum of $250 for any calendar year for each child who is the subject of the obligation. For the purposes of this section, medical or dental expenses shall include but not be limited to eyeglasses, prescription medication, prosthetics, orthodontics, and mental health or developmental disabilities services, including but not limited to services provided by a social worker, psychologist, psychiatrist, counselor, or therapist.*

E. Any costs for health care coverage as defined in § 63.2-1900 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~~.~~ *as follows:*

1. When the monthly gross income of the custodial parent paying such costs falls below (i) $1,100 for 1 child; (ii) $1,500 for 2 children; (iii) $1,700 for 3 children; (iv) $1,900 for 4 children; (v) $2,100 for 5 children; or (vi) $2,300 for 6 children, 100 percent of the child-care costs shall be added to the basic child support obligations.

2. When the monthly gross income of the custodial parent paying such costs exceeds the level set forth in subdivision F 1, 75 percent of the child-care costs shall be added to the basic child support obligation. The sum of 100 percent of the child-care costs exceeding the amount allowed the custodial parent as a child-care tax credit shall be added to the basic child support obligation. The court or administrative agency shall consider tax returns or any other relevant evidence presented in order to rebut the presumption of the percentage of child-care costs to be used.

3. 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, (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, 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 that includes a representative of a juvenile and domestic relations court and a circuit court, a representative of the executive branch, a member of the House of Delegates, a member of the Senate to be appointed by the chairmen of the House and Senate Committees for Courts of Justice, members of the bar, two custodial and two noncustodial parents and a child advocate. 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.

I. Notwithstanding any other provision of law, any modifications to this section shall not be retroactive to a date before enactment, and shall not be the basis for a material change in circumstances upon which a modification of child support may be based.

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