

031846520

SENATE BILL NO. 1312

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 2, 2003)

(Patron Prior to Substitute—Senator Quayle)

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

19. Such other factors, including tax consequences to each party, and such deviations necessary to accommodate local prevailing wages and costs, as are necessary to consider the equities for the parents and children.

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 Schedule uses gross monthly income to avoid (a) non-comparable deductions; (b) use of complex gross to net calculations in individual cases; and (c) an increase in child support when an obligor acquires additional dependents.

2. The Schedule uses a minimum level of support below \$1,200 to allow low-income obligors to maintain at least a subsistence level of living after payment of taxes and child support.

3. The Schedule is based on the 2000 United States Department of Agriculture Consumer Expenditure Survey for average expenditures on child-rearing up to age 18 in 2-parent households, discounted to recognize expenditures made by the non-custodial household during 60 to 90 days of visitation. Costs borne by the non-custodial parent are assumed to include direct expenditures during visitation, as well as additional expenditures required to accommodate children in the household for shelter, household equipment and purchasing and insuring a vehicle.

4. The Schedule amounts include estimated monthly expenditures on food, housing, home furnishings, utilities, transportation, clothing, education and recreation. Child-rearing 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, respectively.

5. The Schedule does not include expenditures for child care, children's extraordinary medical care,

or the children's share of health insurance because these expenditures are added to child support obligations as actually incurred in individual cases.

6. The Schedule expenditures include expenditures on ordinary medical care of \$250 per child per year.

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	ONE	TWO	THREE	FOUR	FIVE	SIX
INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	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
1500	274	426	533	602	656	680
1550	282	436	547	617	672	714
1600	289	447	560	632	689	737
1650	295	458	573	647	705	754
1700	302	468	587	662	721	772
1750	309	479	600	676	738	789
1800	315	488	612	690	752	805
1850	321	497	623	702	766	819
1900	326	506	634	714	779	834
1950	332	514	645	727	793	848
2000	338	523	655	739	806	862
2050	343	532	666	751	819	877
2100	349	540	677	763	833	891
2150	355	549	688	776	846	905
2200	360	558	699	788	860	920
2250	366	567	710	800	873	934
2300	371	575	721	812	886	948

180	—	2350	377	584	732	825	900	963
181	—	2400	383	593	743	837	913	977
182	—	2450	388	601	754	849	927	991
183	—	2500	394	610	765	862	940	1006
184	—	2550	399	619	776	874	954	1020
185	—	2600	405	627	787	886	967	1034
186	—	2650	410	635	797	897	979	1048
187	—	2700	415	643	806	908	991	1060
188	—	2750	420	651	816	919	1003	1073
189	—	2800	425	658	826	930	1015	1085
190	—	2850	430	667	836	941	1027	1098
191	—	2900	435	675	846	953	1039	1112
192	—	2950	440	683	856	964	1052	1125
193	—	3000	445	691	866	975	1064	1138
194	—	3050	450	699	876	987	1076	1152
195	—	3100	456	707	886	998	1089	1165
196	—	3150	461	715	896	1010	1101	1178
197	—	3200	466	723	906	1021	1114	1191
198	—	3250	471	732	917	1032	1126	1205
199	—	3300	476	740	927	1044	1139	1218
200	—	3350	481	748	937	1055	1151	1231
201	—	3400	486	756	947	1067	1164	1245
202	—	3450	492	764	957	1078	1176	1258
203	—	3500	497	772	967	1089	1189	1271
204	—	3550	502	780	977	1101	1201	1285
205	—	3600	507	788	987	1112	1213	1298
206	—	3650	512	797	997	1124	1226	1311
207	—	3700	518	806	1009	1137	1240	1326
208	—	3750	524	815	1020	1150	1254	1342
209	—	3800	530	824	1032	1163	1268	1357
210	—	3850	536	834	1043	1176	1283	1372
211	—	3900	542	843	1055	1189	1297	1387
212	—	3950	547	852	1066	1202	1311	1402
213	—	4000	553	861	1078	1214	1325	1417
214	—	4050	559	871	1089	1227	1339	1432
215	—	4100	565	880	1101	1240	1353	1448
216	—	4150	571	889	1112	1253	1367	1463
217	—	4200	577	898	1124	1266	1382	1478
218	—	4250	583	907	1135	1279	1396	1493
219	—	4300	589	917	1147	1292	1410	1508
220	—	4350	594	926	1158	1305	1424	1523
221	—	4400	600	935	1170	1318	1438	1538
222	—	4450	606	944	1181	1331	1452	1553
223	—	4500	612	954	1193	1344	1467	1569
224	—	4550	618	963	1204	1357	1481	1584
225	—	4600	624	972	1216	1370	1495	1599
226	—	4650	630	981	1227	1383	1509	1614
227	—	4700	635	989	1237	1395	1522	1627
228	—	4750	641	997	1247	1406	1534	1641
229	—	4800	646	1005	1257	1417	1546	1654
230	—	4850	651	1013	1267	1428	1558	1667
231	—	4900	656	1021	1277	1439	1570	1679
232	—	4950	661	1028	1286	1450	1582	1692
233	—	5000	666	1036	1295	1460	1593	1704
234	—	5050	671	1043	1305	1471	1605	1716
235	—	5100	675	1051	1314	1481	1616	1728
236	—	5150	680	1058	1323	1492	1628	1741

237	—	5200	685	1066	1333	1502	1640	1753
238	—	5250	690	1073	1342	1513	1651	1765
239	—	5300	695	1081	1351	1524	1663	1778
240	—	5350	700	1088	1361	1534	1674	1790
241	—	5400	705	1096	1370	1545	1686	1802
242	—	5450	710	1103	1379	1555	1697	1815
243	—	5500	714	1111	1389	1566	1709	1827
244	—	5550	719	1118	1398	1576	1720	1839
245	—	5600	724	1126	1407	1587	1732	1851
246	—	5650	729	1133	1417	1598	1743	1864
247	—	5700	734	1141	1426	1608	1755	1876
248	—	5750	739	1148	1435	1619	1766	1888
249	—	5800	744	1156	1445	1629	1778	1901
250	—	5850	749	1163	1454	1640	1790	1913
251	—	5900	753	1171	1463	1650	1801	1925
252	—	5950	758	1178	1473	1661	1813	1937
253	—	6000	763	1186	1482	1672	1824	1950
254	—	6050	768	1193	1491	1682	1836	1962
255	—	6100	773	1201	1501	1693	1847	1974
256	—	6150	778	1208	1510	1703	1859	1987
257	—	6200	783	1216	1519	1714	1870	1999
258	—	6250	788	1223	1529	1724	1882	2011
259	—	6300	792	1231	1538	1735	1893	2023
260	—	6350	797	1238	1547	1745	1905	2036
261	—	6400	802	1246	1557	1756	1916	2048
262	—	6450	807	1253	1566	1767	1928	2060
263	—	6500	812	1261	1575	1777	1940	2073
264	—	6550	816	1267	1583	1786	1949	2083
265	—	6600	820	1272	1590	1794	1957	2092
266	—	6650	823	1277	1597	1801	1965	2100
267	—	6700	827	1283	1604	1809	1974	2109
268	—	6750	830	1288	1610	1817	1982	2118
269	—	6800	834	1293	1617	1824	1990	2127
270	—	6850	837	1299	1624	1832	1999	2136
271	—	6900	841	1304	1631	1839	2007	2145
272	—	6950	845	1309	1637	1847	2016	2154
273	—	7000	848	1315	1644	1855	2024	2163
274	—	7050	852	1320	1651	1862	2032	2172
275	—	7100	855	1325	1658	1870	2041	2181
276	—	7150	859	1331	1665	1878	2049	2190
277	—	7200	862	1336	1671	1885	2057	2199
278	—	7250	866	1341	1678	1893	2066	2207
279	—	7300	870	1347	1685	1900	2074	2216
280	—	7350	873	1352	1692	1908	2082	2225
281	—	7400	877	1358	1698	1916	2091	2234
282	—	7450	880	1363	1705	1923	2099	2243
283	—	7500	884	1368	1712	1931	2108	2252
284	—	7550	887	1374	1719	1938	2116	2261
285	—	7600	891	1379	1725	1946	2124	2270
286	—	7650	895	1384	1732	1954	2133	2279
287	—	7700	898	1390	1739	1961	2141	2288
288	—	7750	902	1395	1746	1969	2149	2297
289	—	7800	905	1400	1753	1977	2158	2305
290	—	7850	908	1405	1758	1983	2164	2313
291	—	7900	910	1409	1764	1989	2171	2320
292	—	7950	913	1414	1770	1995	2178	2328

293	8000	916	1418	1776	2001	2185	2335
294	8050	918	1423	1781	2007	2192	2343
295	8100	921	1428	1787	2014	2198	2350
296	8150	924	1432	1793	2020	2205	2357
297	8200	927	1437	1799	2026	2212	2365
298	8250	929	1441	1804	2032	2219	2372
299	8300	932	1446	1810	2038	2226	2380
300	8350	935	1450	1816	2045	2232	2387
301	8400	937	1455	1822	2051	2239	2395
302	8450	940	1459	1827	2057	2246	2402
303	8500	943	1464	1833	2063	2253	2410
304	8550	945	1468	1839	2069	2260	2417
305	8600	948	1473	1845	2076	2266	2425
306	8650	951	1478	1850	2082	2273	2432
307	8700	954	1482	1856	2088	2280	2440
308	8750	956	1487	1862	2094	2287	2447
309	8800	959	1491	1868	2100	2294	2455
310	8850	962	1496	1873	2107	2300	2462
311	8900	964	1500	1879	2113	2307	2470
312	8950	967	1505	1885	2119	2314	2477
313	9000	970	1509	1891	2125	2321	2484
314	9050	973	1514	1896	2131	2328	2492
315	9100	975	1517	1901	2137	2334	2498
316	9150	977	1521	1905	2141	2339	2503
317	9200	979	1524	1909	2146	2344	2509
318	9250	982	1527	1914	2151	2349	2514
319	9300	984	1531	1918	2156	2354	2520
320	9350	986	1534	1922	2160	2359	2525
321	9400	988	1537	1926	2165	2365	2531
322	9450	990	1541	1930	2170	2370	2536
323	9500	993	1544	1935	2175	2375	2541
324	9550	995	1547	1939	2179	2380	2547
325	9600	997	1551	1943	2184	2385	2552
326	9650	999	1554	1947	2189	2390	2558
327	9700	1001	1557	1951	2194	2396	2563
328	9750	1003	1561	1956	2198	2401	2569
329	9800	1006	1564	1960	2203	2406	2574
330	9850	1008	1567	1964	2208	2411	2580
331	9900	1010	1571	1968	2213	2416	2585
332	9950	1012	1574	1972	2218	2421	2590
333	10000	1014	1577	1977	2222	2427	2596

334

335 For gross monthly income between \$10,000 and \$20,000, add the amount of child support for
 336 \$10,000 to the following percentages of gross income above \$10,000:

337	ONE	TWO	THREE	FOUR	FIVE	SIX
338	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
339	3.1%	5.1%	6.8%	7.8%	8.8%	9.5%

340

341 For gross monthly income between \$20,000 and \$50,000, add the amount of child support for
 342 \$20,000 to the following percentages of gross income above \$20,000:

343	ONE	TWO	THREE	FOUR	FIVE	SIX
344	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
345	2%	3.5%	5%	6%	6.9%	7.8%

346

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

349	ONE	TWO	THREE	FOUR	FIVE	SIX
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350 CHILD CHILDREN CHILDREN CHILDREN CHILDREN CHILDREN
 351 1% 2% 3% 4% 5% 6%

352

353 *SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS*

354 COMBINED

355 MONTHLY

356 GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
357 INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
358 \$0-1199	65	65	65	65	65	65
359						
360 1200	83	84	85	96	104	112
361						
362 1250	111	113	114	129	140	150
363						
364 1300	139	142	143	161	176	188
365						
366 1350	167	171	172	194	211	226
367						
368 1400	195	200	201	227	247	264
369						
370 1450	223	229	230	259	283	302
371						
372 1500	251	258	259	292	318	340
373						
374 1550	279	287	288	325	354	378
375						
376 1600	293	316	317	357	390	417
377						
378 1650	307	345	346	390	425	455
379						
380 1700	321	374	375	423	461	493
381						
382 1750	329	403	404	455	497	531
383						
384 1800	338	423	433	488	523	569
385						
386 1850	346	461	462	521	568	607
387						
388 1900	355	490	491	554	604	645
389						
390 1950	363	519	520	586	639	683
391						
392 2000	371	548	549	619	675	721
393						
394 2050	380	577	578	652	711	760
395						
396 2100	388	606	607	684	746	798
397						
398 2150	396	623	636	717	782	836
399						
400 2200	404	636	665	750	817	874
401						
402 2250	412	648	694	782	853	912
403						
404 2300	420	660	723	815	889	950
405						

SENATE SUBSTITUTE

SB1312S1

406	2350	428	672	752	848	924	988
407							
408	2400	436	684	781	880	960	1026
409							
410	2450	444	696	810	913	996	1065
411							
412	2500	452	707	839	946	1031	1103
413							
414	2550	459	719	868	979	1067	1141
415							
416	2600	467	731	897	1011	1103	1179
417							
418	2650	475	742	926	1044	1138	1217
419							
420	2700	482	753	955	1077	1174	1255
421							
422	2750	490	764	972	1095	1194	1277
423							
424	2800	497	776	986	1111	1212	1296
425							
426	2850	505	787	1000	1127	1229	1314
427							
428	2900	512	797	1014	1143	1247	1333
429							
430	2950	520	808	1028	1159	1264	1351
431							
432	3000	527	819	1042	1175	1281	1369
433							
434	3050	534	830	1056	1190	1298	1387
435							
436	3100	541	840	1069	1205	1314	1405
437							
438	3150	549	850	1083	1221	1331	1423
439							
440	3200	556	861	1096	1236	1347	1440
441							
442	3250	563	871	1109	1250	1364	1458
443							
444	3300	570	881	1122	1265	1380	1475
445							
446	3350	577	891	1135	1280	1396	1492
447							
448	3400	584	901	1148	1294	1411	1509
449							
450	3450	590	911	1161	1309	1427	1526
451							
452	3500	597	920	1173	1323	1443	1542
453							
454	3550	604	930	1186	1337	1458	1559
455							
456	3600	610	938	1195	1347	1469	1570
457							
458	3650	616	946	1204	1358	1480	1582
459							
460	3700	622	954	1213	1368	1491	1594
461							
462	3750	629	962	1222	1377	1502	1606

463							
464	3800	635	969	1230	1387	1512	1617
465							
466	3850	641	976	1239	1396	1523	1628
467							
468	3900	647	984	1247	1405	1532	1638
469							
470	3950	653	991	1255	1414	1542	1649
471							
472	4000	658	998	1262	1423	1552	1659
473							
474	4050	664	1004	1270	1431	1561	1669
475							
476	4100	670	1011	1277	1440	1570	1678
477							
478	4150	676	1018	1284	1448	1578	1687
479							
480	4200	681	1024	1291	1455	1587	1696
481							
482	4250	687	1030	1298	1463	1595	1705
483							
484	4300	692	1036	1304	1470	1603	1714
485							
486	4350	698	1042	1310	1477	1611	1722
487							
488	4400	703	1048	1316	1484	1618	1730
489							
490	4450	708	1054	1322	1491	1625	1737
491							
492	4500	714	1059	1328	1497	1632	1745
493							
494	4550	719	1065	1333	1503	1639	1752
495							
496	4600	724	1073	1344	1515	1652	1766
497							
498	4650	730	1081	1354	1526	1664	1779
499							
500	4700	735	1089	1364	1538	1677	1793
501							
502	4750	740	1097	1374	1549	1689	1806
503							
504	4800	746	1105	1384	1561	1702	1819
505							
506	4850	751	1112	1394	1572	1714	1832
507							
508	4900	756	1120	1404	1583	1726	1845
509							
510	4950	761	1128	1414	1594	1738	1858
511							
512	5000	766	1135	1423	1605	1750	1871
513							
514	5050	771	1143	1433	1616	1762	1883
515							
516	5100	776	1150	1442	1626	1773	1896
517							
518	5150	781	1157	1452	1637	1785	1908

519							
520	5200	786	1165	1461	1647	1796	1920
521							
522	5250	790	1172	1470	1658	1807	1932
523							
524	5300	795	1179	1479	1668	1819	1944
525							
526	5350	800	1186	1488	1678	1830	1956
527							
528	5400	804	1193	1497	1688	1841	1968
529							
530	5450	809	1200	1506	1698	1852	1979
531							
532	5500	813	1206	1515	1708	1862	1991
533							
534	5550	818	1213	1524	1718	1873	2002
535							
536	5600	822	1220	1532	1727	1883	2014
537							
538	5650	827	1226	1541	1737	1894	2025
539							
540	5700	831	1233	1549	1746	1904	2036
541							
542	5750	835	1239	1557	1756	1914	2047
543							
544	5800	839	1245	1565	1765	1924	2057
545							
546	5850	843	1251	1574	1774	1934	2068
547							
548	5900	848	1258	1581	1783	1944	2078
549							
550	5950	852	1264	1589	1792	1954	2089
551							
552	6000	855	1270	1597	1801	1963	2099
553							
554	6050	859	1276	1605	1809	1973	2109
555							
556	6100	863	1281	1613	1818	1982	2119
557							
558	6150	867	1287	1620	1826	1992	2129
559							
560	6200	871	1293	1628	1835	2001	2139
561							
562	6250	875	1298	1635	1843	2010	2149
563							
564	6300	878	1304	1642	1851	2019	2158
565							
566	6350	882	1309	1649	1859	2027	2168
567							
568	6400	885	1315	1656	1867	2036	2177
569							
570	6450	889	1320	1663	1875	2045	2186
571							
572	6500	892	1325	1670	1883	2053	2195
573							
574	6550	896	1330	1677	1891	2062	2204
575							

576	6600	899	1335	1684	1898	2070	2213
577							
578	6650	902	1340	1690	1906	2078	2221
579							
580	6700	905	1345	1697	1913	2086	2230
581							
582	6750	909	1350	1703	1920	2094	2238
583							
584	6800	912	1355	1710	1927	2102	2247
585							
586	6850	915	1360	1716	1934	2109	2255
587							
588	6900	918	1364	1722	1941	2117	2263
589							
590	6950	921	1369	1728	1948	2124	2271
591							
592	7000	924	1373	1734	1955	2132	2279
593							
594	7050	926	1378	1740	1962	2139	2287
595							
596	7100	929	1382	1746	1968	2146	2294
597							
598	7150	932	1386	1751	1975	2153	2302
599							
600	7200	935	1390	1757	1981	2160	2309
601							
602	7250	937	1394	1762	1987	2167	2316
603							
604	7300	940	1398	1768	1993	2173	2323
605							
606	7350	942	1402	1773	1999	2180	2330
607							
608	7400	945	1406	1778	2005	2186	2337
609							
610	7450	947	1410	1784	2011	2193	2344
611							
612	7500	950	1413	1789	2016	2199	2351
613							
614	7550	952	1417	1794	2022	2205	2357
615							
616	7600	954	1420	1798	2028	2211	2363
617							
618	7650	957	1424	1803	2033	2217	2370
619							
620	7700	959	1427	1808	2038	2222	2376
621							
622	7750	961	1431	1812	2043	2228	2382
623							
624	7800	963	1434	1817	2048	2234	2388
625							
626	7850	965	1437	1821	2053	2239	2394
627							
628	7900	967	1440	1826	2058	2244	2399
629							
630	7950	969	1443	1830	2063	2249	2405
631							

632	8000	971	1446	1834	2068	2254	2410
633							
634	8050	972	1449	1838	2072	2259	2415
635							
636	8100	974	1451	1842	2077	2264	2421
637							
638	8150	976	1454	1846	2081	2269	2426
639							
640	8200	977	1457	1849	2085	2274	2431
641							
642	8250	979	1459	1853	2089	2278	2435
643							
644	8300	980	1462	1857	2093	2282	2440
645							
646	8350	982	1464	1860	2097	2287	2445
647							
648	8400	983	1466	1864	2101	2291	2449
649							
650	8450	985	1468	1867	2105	2295	2453
651							
652	8500	986	1470	1870	2108	2299	2458
653							
654	8550	992	1479	1878	2117	2308	2468
655							
656	8600	996	1485	1886	2126	2318	2478
657							
658	8650	1001	1492	1893	2134	2327	2488
659							
660	8700	1005	1498	1901	2143	2337	2498
661							
662	8750	1009	1504	1909	2152	2346	2508
663							
664	8800	1014	1511	1916	2160	2355	2518
665							
666	8850	1018	1517	1924	2169	2365	2528
667							
668	8900	1022	1523	1931	2177	2374	2538
669							
670	8950	1027	1529	1939	2186	2383	2548
671							
672	9000	1031	1535	1946	2194	2392	2558
673							
674	9050	1035	1541	1953	2202	2401	2567
675							
676	9100	1039	1547	1961	2211	2410	2577
677							
678	9150	1044	1553	1968	2219	2419	2587
679							
680	9200	1048	1559	1975	2227	2428	2596
681							
682	9250	1052	1565	1983	2235	2437	2606
683							
684	9300	1056	1571	1990	2243	2446	2615
685							
686	9350	1060	1577	1997	2252	2455	2625
687							
688	9400	1065	1583	2004	2260	2464	2634

689							
690	9450	1069	1589	2011	2268	2473	2643
691							
692	9500	1073	1595	2018	2276	2481	2653
693							
694	9550	1077	1601	2025	2283	2490	2662
695							
696	9600	1081	1607	2032	2291	2498	2671
697							
698	9650	1085	1612	2039	2299	2507	2680
699							
700	9700	1089	1618	2046	2307	2515	2689
701							
702	9750	1093	1624	2053	2315	2524	2698
703							
704	9800	1097	1629	2060	2322	2532	2707
705							
706	9850	1101	1635	2067	2330	2541	2716
707							
708	9900	1105	1641	2074	2338	2549	2725
709							
710	9950	1109	1646	2080	2345	2557	2734
711							
712	10000	1113	1652	2087	2353	2565	2743
713							

714 *For gross monthly income between \$10,000 and \$20,000, add the amount of child support for*
715 *\$10,000 to the following percentages of gross income above \$10,000:*

716	ONE	TWO	THREE	FOUR	FIVE	SIX
717						
718	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
719						
720	3.1%	5.1%	6.8%	7.8%	8.8%	9.5%
721						

722 *For gross monthly income between \$20,000 and \$50,000, add the amount of child support for*
723 *\$20,000 to the following percentages of gross income above \$20,000:*

724	ONE	TWO	THREE	FOUR	FIVE	SIX
725						
726	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
727						
728	2%	3.5%	5%	6%	6.9%	7.8%
729						

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

732	ONE	TWO	THREE	FOUR	FIVE	SIX
733						
734	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
735						
736	1%	2%	3%	4%	5%	6%
737						

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

743 If a parent's gross income includes disability insurance benefits, it shall also include any amounts
744 paid to or for the child who is the subject of the order and derived by the child from the parent's
745 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.

~~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 unreimbursed 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. 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 court 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.

2. The amount of any child-care tax credit shall be added to the gross income of the parent who receives the credit.

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.

2. That the provisions of this act shall not be the basis for a material change in circumstances upon which a modification of child support may be based unless the application of the provisions would increase or decrease the monthly support obligation by \$75 or more.