

093179820

SENATE BILL NO. 1237

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend and reenact §§ 20-108.2, 63.2-1900, 63.2-1903, and 63.2-1924.1 of the Code of Virginia, relating to child support.

 Patron—Barker

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-108.2, 63.2-1900, 63.2-1903, and 63.2-1924.1 of the Code of Virginia are amended and reenacted as follows:

§ 20-108.2. Guideline for determination of child support; quadrennial review by Child Support Guidelines Review Panel; executive summary.

A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child support under this title or Title 16.1 or 63.2, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the guidelines set forth in this section is the correct amount of child support to be awarded. In order to rebut the presumption, the court shall make written findings in the order as set out in § 20-108.1, which findings may be incorporated by reference, that the application of the guidelines would be unjust or inappropriate in a particular case as determined by relevant evidence pertaining to the factors set out in § 20-108.1. The Department of Social Services shall set child support at the amount resulting from computations using the guidelines set out in this section pursuant to the authority granted to it in Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and subject to the provisions of § 63.2-1918.

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 for life 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

INTRODUCED

SB1237

57	1250	232	360	451	497	502	507
58	1300	241	373	467	526	536	542
59	1350	249	386	483	545	570	576
60	1400	257	398	499	563	605	611
61	1450	265	411	515	581	633	645
62	1500	274	426	533	602	656	680
63	1550	282	436	547	617	672	714
64	1600	289	447	560	632	689	737
65	1650	295	458	573	647	705	754
66	1700	302	468	587	662	721	772
67	1750	309	479	600	676	738	789
68	1800	315	488	612	690	752	805
69	1850	321	497	623	702	766	819
70	1900	326	506	634	714	779	834
71	1950	332	514	645	727	793	848
72	2000	338	523	655	739	806	862
73	2050	343	532	666	751	819	877
74	2100	349	540	677	763	833	891
75	2150	355	549	688	776	846	905
76	2200	360	558	699	788	860	920
77	2250	366	567	710	800	873	934
78	2300	371	575	721	812	886	948
79	2350	377	584	732	825	900	963
80	2400	383	593	743	837	913	977
81	2450	388	601	754	849	927	991
82	2500	394	610	765	862	940	1006
83	2550	399	619	776	874	954	1020
84	2600	405	627	787	886	967	1034
85	2650	410	635	797	897	979	1048
86	2700	415	643	806	908	991	1060
87	2750	420	651	816	919	1003	1073
88	2800	425	658	826	930	1015	1085
89	2850	430	667	836	941	1027	1098
90	2900	435	675	846	953	1039	1112
91	2950	440	683	856	964	1052	1125
92	3000	445	691	866	975	1064	1138
93	3050	450	699	876	987	1076	1152
94	3100	456	707	886	998	1089	1165
95	3150	461	715	896	1010	1101	1178
96	3200	466	723	906	1021	1114	1191
97	3250	471	732	917	1032	1126	1205
98	3300	476	740	927	1044	1139	1218
99	3350	481	748	937	1055	1151	1231
100	3400	486	756	947	1067	1164	1245
101	3450	492	764	957	1078	1176	1258
102	3500	497	772	967	1089	1189	1271
103	3550	502	780	977	1101	1201	1285
104	3600	507	788	987	1112	1213	1298
105	3650	512	797	997	1124	1226	1311
106	3700	518	806	1009	1137	1240	1326
107	3750	524	815	1020	1150	1254	1342
108	3800	530	824	1032	1163	1268	1357
109	3850	536	834	1043	1176	1283	1372
110	3900	542	843	1055	1189	1297	1387
111	3950	547	852	1066	1202	1311	1402
112	4000	553	861	1078	1214	1325	1417
113	4050	559	871	1089	1227	1339	1432

114	4100	565	880	1101	1240	1353	1448
115	4150	571	889	1112	1253	1367	1463
116	4200	577	898	1124	1266	1382	1478
117	4250	583	907	1135	1279	1396	1493
118	4300	589	917	1147	1292	1410	1508
119	4350	594	926	1158	1305	1424	1523
120	4400	600	935	1170	1318	1438	1538
121	4450	606	944	1181	1331	1452	1553
122	4500	612	954	1193	1344	1467	1569
123	4550	618	963	1204	1357	1481	1584
124	4600	624	972	1216	1370	1495	1599
125	4650	630	981	1227	1383	1509	1614
126	4700	635	989	1237	1395	1522	1627
127	4750	641	997	1247	1406	1534	1641
128	4800	646	1005	1257	1417	1546	1654
129	4850	651	1013	1267	1428	1558	1667
130	4900	656	1021	1277	1439	1570	1679
131	4950	661	1028	1286	1450	1582	1692
132	5000	666	1036	1295	1460	1593	1704
133	5050	671	1043	1305	1471	1605	1716
134	5100	675	1051	1314	1481	1616	1728
135	5150	680	1058	1323	1492	1628	1741
136	5200	685	1066	1333	1502	1640	1753
137	5250	690	1073	1342	1513	1651	1765
138	5300	695	1081	1351	1524	1663	1778
139	5350	700	1088	1361	1534	1674	1790
140	5400	705	1096	1370	1545	1686	1802
141	5450	710	1103	1379	1555	1697	1815
142	5500	714	1111	1389	1566	1709	1827
143	5550	719	1118	1398	1576	1720	1839
144	5600	724	1126	1407	1587	1732	1851
145	5650	729	1133	1417	1598	1743	1864
146	5700	734	1141	1426	1608	1755	1876
147	5750	739	1148	1435	1619	1766	1888
148	5800	744	1156	1445	1629	1778	1901
149	5850	749	1163	1454	1640	1790	1913
150	5900	753	1171	1463	1650	1801	1925
151	5950	758	1178	1473	1661	1813	1937
152	6000	763	1186	1482	1672	1824	1950
153	6050	768	1193	1491	1682	1836	1962
154	6100	773	1201	1501	1693	1847	1974
155	6150	778	1208	1510	1703	1859	1987
156	6200	783	1216	1519	1714	1870	1999
157	6250	788	1223	1529	1724	1882	2011
158	6300	792	1231	1538	1735	1893	2023
159	6350	797	1238	1547	1745	1905	2036
160	6400	802	1246	1557	1756	1916	2048
161	6450	807	1253	1566	1767	1928	2060
162	6500	812	1261	1575	1777	1940	2073
163	6550	816	1267	1583	1786	1949	2083
164	6600	820	1272	1590	1794	1957	2092
165	6650	823	1277	1597	1801	1965	2100
166	6700	827	1283	1604	1809	1974	2109
167	6750	830	1288	1610	1817	1982	2118
168	6800	834	1293	1617	1824	1990	2127
169	6850	837	1299	1624	1832	1999	2136

170	6900	841	1304	1631	1839	2007	2145
171	6950	845	1309	1637	1847	2016	2154
172	7000	848	1315	1644	1855	2024	2163
173	7050	852	1320	1651	1862	2032	2172
174	7100	855	1325	1658	1870	2041	2181
175	7150	859	1331	1665	1878	2049	2190
176	7200	862	1336	1671	1885	2057	2199
177	7250	866	1341	1678	1893	2066	2207
178	7300	870	1347	1685	1900	2074	2216
179	7350	873	1352	1692	1908	2082	2225
180	7400	877	1358	1698	1916	2091	2234
181	7450	880	1363	1705	1923	2099	2243
182	7500	884	1368	1712	1931	2108	2252
183	7550	887	1374	1719	1938	2116	2261
184	7600	891	1379	1725	1946	2124	2270
185	7650	895	1384	1732	1954	2133	2279
186	7700	898	1390	1739	1961	2141	2288
187	7750	902	1395	1746	1969	2149	2297
188	7800	905	1400	1753	1977	2158	2305
189	7850	908	1405	1758	1983	2164	2313
190	7900	910	1409	1764	1989	2171	2320
191	7950	913	1414	1770	1995	2178	2328
192	8000	916	1418	1776	2001	2185	2335
193	8050	918	1423	1781	2007	2192	2343
194	8100	921	1428	1787	2014	2198	2350
195	8150	924	1432	1793	2020	2205	2357
196	8200	927	1437	1799	2026	2212	2365
197	8250	929	1441	1804	2032	2219	2372
198	8300	932	1446	1810	2038	2226	2380
199	8350	935	1450	1816	2045	2232	2387
200	8400	937	1455	1822	2051	2239	2395
201	8450	940	1459	1827	2057	2246	2402
202	8500	943	1464	1833	2063	2253	2410
203	8550	945	1468	1839	2069	2260	2417
204	8600	948	1473	1845	2076	2266	2425
205	8650	951	1478	1850	2082	2273	2432
206	8700	954	1482	1856	2088	2280	2440
207	8750	956	1487	1862	2094	2287	2447
208	8800	959	1491	1868	2100	2294	2455
209	8850	962	1496	1873	2107	2300	2462
210	8900	964	1500	1879	2113	2307	2470
211	8950	967	1505	1885	2119	2314	2477
212	9000	970	1509	1891	2125	2321	2484
213	9050	973	1514	1896	2131	2328	2492
214	9100	975	1517	1901	2137	2334	2498
215	9150	977	1521	1905	2141	2339	2503
216	9200	979	1524	1909	2146	2344	2509
217	9250	982	1527	1914	2151	2349	2514
218	9300	984	1531	1918	2156	2354	2520
219	9350	986	1534	1922	2160	2359	2525
220	9400	988	1537	1926	2165	2365	2531
221	9450	990	1541	1930	2170	2370	2536
222	9500	993	1544	1935	2175	2375	2541
223	9550	995	1547	1939	2179	2380	2547
224	9600	997	1551	1943	2184	2385	2552
225	9650	999	1554	1947	2189	2390	2558
226	9700	1001	1557	1951	2194	2396	2563

227	9750	1003	1561	1956	2198	2401	2569
228	9800	1006	1564	1960	2203	2406	2574
229	9850	1008	1567	1964	2208	2411	2580
230	9900	1010	1571	1968	2213	2416	2585
231	9950	1012	1574	1972	2218	2421	2590
232	10000	1014	1577	1977	2222	2427	2596

233 For gross monthly income between \$10,000 and \$20,000, add the amount of child support for
 234 \$10,000 to the following percentages of gross income above \$10,000:

235	ONE	TWO	THREE	FOUR	FIVE	SIX
236	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
237	3.1%	5.1%	6.8%	7.8%	8.8%	9.5%

238 For gross monthly income between \$20,000 and \$50,000, add the amount of child support for
 239 \$20,000 to the following percentages of gross income above \$20,000:

240	ONE	TWO	THREE	FOUR	FIVE	SIX
241	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
242	2%	3.5%	5%	6%	6.9%	7.8%

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

245	ONE	TWO	THREE	FOUR	FIVE	SIX
246	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
247	1%	2%	3%	4%	5%	6%

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

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

259 Gross income shall be subject to deduction of reasonable business expenses for persons with income
 260 from self-employment, a partnership, or a closely held business. "Gross income" shall not include:

- 261 1. Benefits from public assistance and social services programs as defined in § 63.2-100;
- 262 2. Federal supplemental security income benefits;
- 263 3. Child support received; or
- 264 4. Income received by the payor from secondary employment income not previously included in
 265 "gross income," where the payor obtained the income to discharge a child support arrearage established
 266 by a court or administrative order and the payor is paying the arrearage pursuant to the order.
 267 "Secondary employment income" includes but is not limited to income from an additional job, from
 268 self-employment, or from overtime employment. The cessation of such secondary income upon the
 269 payment of the arrearage shall not be the basis for a material change in circumstances upon which a
 270 modification of child support may be based.

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

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

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

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

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

293 D. Except for good cause shown or the agreement of the parties, in addition to any other child
294 support obligations established pursuant to this section, any child support order shall provide that the
295 parents pay in proportion to their gross incomes, as used for calculating the monthly support obligation,
296 any reasonable and necessary unreimbursed medical or dental expenses that are in excess of \$250 for
297 any calendar year for each child who is the subject of the obligation. The method of payment of those
298 expenses shall be contained in the support order. Each parent shall pay his respective share of expenses
299 as those expenses are incurred. Any amount paid under this subsection shall not be adjusted by, nor
300 added to, the child support calculated in accordance with subsection G. For the purposes of this section,
301 medical or dental expenses shall include but not be limited to eyeglasses, prescription medication,
302 prosthetics, orthodontics, and mental health or developmental disabilities services, including but not
303 limited to services provided by a social worker, psychologist, psychiatrist, counselor, or therapist.

304 E. Any costs for healthcare coverage as defined in § 63.2-1900 and dental care coverage, when
305 actually being paid by a parent *or that parent's spouse*, to the extent such costs are directly allocable to
306 the child or children, and which are the extra costs of covering the child or children beyond whatever
307 coverage the parent *or that parent's spouse* providing the coverage would otherwise have, shall be added
308 to the basic child support obligation.

309 F. Any child-care costs incurred on behalf of the child or children due to employment of the
310 custodial parent shall be added to the basic child support obligation. Child-care costs shall not exceed
311 the amount required to provide quality care from a licensed source. When requested by the noncustodial
312 parent, the court may require the custodial parent to present documentation to verify the costs incurred
313 for child care under this subsection. Where appropriate, the court shall consider the willingness and
314 availability of the noncustodial parent to provide child care personally in determining whether child-care
315 costs are necessary or excessive. Upon the request of either party, and upon a showing of the tax
316 savings a party derives from child-care cost deductions or credits, the court shall factor actual tax
317 consequences into its calculation of the child-care costs to be added to the basic child support obligation.

318 G. 1. Sole custody support. The sole custody total monthly child support obligation shall be
319 established by adding (i) the monthly basic child support obligation, as determined from the schedule
320 contained in subsection B, (ii) costs for health care coverage to the extent allowable by subsection E,
321 and (iii) work-related child-care costs and taking into consideration all the factors set forth in subsection
322 B of § 20-108.1. The total monthly child support obligation shall be divided between the parents in the
323 same proportion as their monthly gross incomes bear to their monthly combined gross income. The
324 monthly obligation of each parent shall be computed by multiplying each parent's percentage of the
325 parents' monthly combined gross income by the total monthly child support obligation.

326 However, the monthly obligation of the noncustodial parent shall be reduced by the cost for health
327 care coverage to the extent allowable by subsection E when paid directly by the noncustodial parent *or*
328 *that parent's spouse*. Unreimbursed medical and dental expenses shall be calculated and allocated in
329 accordance with subsection D.

330 2. Split custody support. In cases involving split custody, the amount of child support to be paid
331 shall be the difference between the amounts owed by each parent as a noncustodial parent, computed in
332 accordance with subdivision 1, with the noncustodial parent owing the larger amount paying the
333 difference to the other parent. Unreimbursed medical and dental expenses shall be calculated and
334 allocated in accordance with subsection D.

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

343 3. Shared custody support.

344 (a) Where a party has custody or visitation of a child or children for more than 90 days of the year,
345 as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the
346 ratio in which the parents share the custody and visitation of any child or children shall be calculated in
347 accordance with this subdivision. The presumptive support to be paid shall be the shared custody
348 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 *or that parent's spouse'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. Unreimbursed medical and dental expenses shall be calculated and allocated in accordance with subsection D.

(c) Definition of a day. For the purposes of this section, "day" means a period of 24 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 24 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 four years thereafter, by the Child Support Guidelines Review Panel, consisting of 15 members comprised of four legislative members and 11 nonlegislative citizen members. Members shall be appointed as follows: three members of the House Committee for Courts of Justice, upon the recommendation of the chairman of such committee, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate Committee for Courts of Justice, upon the recommendation of the chairman of such committee, to be appointed by the Senate Committee on Rules; and one representative of a juvenile and domestic relations district court, one representative of a circuit court, one representative of the Department of Social Services' Division of Child Support Enforcement, three members of the Virginia State Bar, two custodial parents, two noncustodial parents, and one child advocate, upon the recommendation of the Secretary of Health and Human Resources, to be appointed by the Governor. 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 as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports before the General Assembly next convenes following such review.

Legislative members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall serve at the pleasure of the Governor. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

Legislative members shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Social Services.

The Department of Social Services shall provide staff support to the Panel. All agencies of the Commonwealth shall provide assistance to the Panel, upon request.

The chairman of the Panel shall submit to the Governor and the General Assembly a quadrennial executive summary of the interim activity and work of the Panel no later than the first day of 2006 regular session of the General Assembly and every four years thereafter. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 63.2-1900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administrative order" or "administrative support order" means a noncourt-ordered legally enforceable support obligation having the force and effect of a support order established by the court.

"Assignment of rights" means the legal procedure whereby an individual assigns support rights to the Commonwealth on behalf of a dependent child or spouse and dependent child.

"Authorization to seek or enforce a support obligation" means a signed authorization to the Commonwealth to seek or enforce support on behalf of a dependent child or a spouse and dependent child or on behalf of a person deemed to have submitted an application by operation of law.

"Court order" means any judgment or order of any court having jurisdiction to order payment of support or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys.

"Custodial parent" means the natural or adoptive parent with whom the child resides; a stepparent or other person who has physical custody of the child and with whom the child resides; or a local board that has legal custody of a child in foster care.

"Debt" means the total unpaid support obligation established by court order, administrative process or by the payment of public assistance and owed by a noncustodial parent to either the Commonwealth or to his dependent(s).

"Dependent child" means any person who meets the eligibility criteria set forth in § 63.2-602, whose support rights have been assigned or whose authorization to seek or enforce a support obligation has been given to the Commonwealth and whose support is required by Titles 16.1 and 20.

"Employee" means any individual receiving income.

"Employer" means the source of any income.

"Financial institution" means a depository institution, an institution-affiliated party, any federal credit union or state credit union including an institution-affiliated party of such a credit union, and any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in this Commonwealth.

"Financial records" includes, but is not limited to, records held by employers showing income, profit sharing contributions and benefits paid or payable and records held by financial institutions, broker-dealers and other institutions and entities showing bank accounts, IRA and separate contributions, gross winnings, dividends, interest, distributive share, stocks, bonds, agricultural subsidies, royalties, prizes and awards held for or due and payable to a responsible person.

"Foreign support order" means any order issued outside of the Commonwealth by a court or tribunal as defined in § 20-88.32.

"Health care coverage" means (i) any plan providing hospital, medical or surgical care coverage for dependent children provided such coverage is available ~~and~~, *accessible*, can be obtained by a parent *or that parent's spouse* at a reasonable cost *as defined in this section*, and includes only the extra costs of covering the child or children beyond whatever coverage the parent providing the coverage would otherwise have, or (ii) "cash medical support," which means an amount payable towards meeting the child's health care needs when no insurance plan is available at five percent or less of the parent's gross income.

"Income" means any periodic form of payment due an individual from any source and shall include,

but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance pay, payments pursuant to a pension or retirement program, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, veterans' benefits, spousal support, net rental income, gifts, prizes or awards.

"Mistake of fact" means an error in the identity of the payor or the amount of current support or arrearage.

"Net income" means that income remaining after the following deductions have been taken from gross income: federal income tax, state income tax, federal income compensation act benefits, any union dues where collection thereof is required under federal law, and any other amounts required by law.

"Noncustodial parent" means a responsible person who is or may be obligated under Virginia law for support of a dependent child or child's caretaker.

"Obligee" means (i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered, (ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee, or (iii) an individual seeking a judgment determining parentage of the individual's child.

"Obligor" means an individual, or the estate of a decedent, who (i) owes or is alleged to owe a duty of support, (ii) is alleged but has not been adjudicated to be a parent of a child, or (iii) is liable under a support order.

"Payee" means any person to whom spousal or child support is to be paid.

"Reasonable cost" pertaining to health care coverage, *including cash medical support*, means available through employers, unions or other groups without regard to service delivery mechanism; or an insurance premium for dependent children a cost to the parent required to provide health care coverage that does not exceed a percentage five percent of a that parent's gross income as established by federal regulation unless the court deems otherwise in the best interests of the child.

§ 63.2-1903. Authority to issue certain orders; civil penalty.

A. In the absence of a court order, the Department shall have the authority to issue orders directing the payment of child, and child and spousal support and, if available at reasonable cost as defined in § 63.2-1900, to require a provision for health care coverage for dependent children of the parents, which shall include the requirements specified for employers pursuant to subdivision A 5 of § 20-79.3. If health care coverage is unavailable at a reasonable cost through employment of either parent, the Department shall refer the dependent children to the Family Access to Medical Insurance Security plan pursuant to § 32.1-351. However, prior to referring the dependent children to the Family Access to Medical Insurance Security plan, the Department shall confirm that neither parent has access to health care coverage for the dependent children through the parents' employment. Liability for child support shall be determined retroactively for the period measured from the date the order directing payment is delivered to the sheriff or process server for service upon the obligor.

In ordering the payment of child support, the Department shall set such support at the amount resulting from computation pursuant to the guideline set out in § 20-108.2, subject to the provisions of § 63.2-1918.

B. When a payee, as defined in § 63.2-1900, no longer has physical custody of a child, the Department shall have the authority to redirect child support payments to a custodial parent who has physical custody of the child when an assignment of rights has been made to the Department or an application for services has been made by such custodial parent with the Division of Child Support Enforcement.

C. The Department shall have the authority, upon notice from the Department of Medical Assistance Services, to use any existing enforcement mechanisms provided by this chapter to collect the wages, salary, or other employment income or to withhold amounts from state tax refunds of any obligor who has not used payments received from a third party to reimburse, as appropriate, either the other parent of such child or the provider of such services, to the extent necessary to reimburse the Department of Medical Assistance Services.

D. The Department may order the obligor and payee to notify each other or the Department upon request of current gross income as defined in § 20-108.2 and any other pertinent information which may affect child support amounts. For good cause shown, the Department may order that such information be provided to the Department and made available to the parties for inspection in lieu of the parties' providing such information directly to each other. The Department shall record the social security number of each party or control number issued to a party by the Department of Motor Vehicles pursuant to § 46.2-342 in the Department's file of the case.

E. The Department shall develop procedures governing the method and timing of periodic review and adjustment of child support orders established or enforced or both pursuant to Title IV-D of the Social

533 Security Act, as amended. ~~At~~*If there is an assignment under Title IV-A of the Social Security Act or at*
534 *the request of either parent subject to the order or of a state child support enforcement agency,* the
535 Department shall initiate a review of such order every three years without requiring proof or showing of
536 a change in circumstances, and shall initiate appropriate action to adjust such order in accordance with
537 the provisions of § 20-108.2 and subject to the provisions of § 63.2-1918.

538 F. In order to provide essential information for whatever establishment or enforcement actions are
539 necessary for the collection of child support, the Commissioner, the Director of the Division of Child
540 Support Enforcement and district managers of Division of Child Support Enforcement offices shall have
541 the right to (i) subpoena financial records of, or other information relating to, the noncustodial parent
542 and obligee from any person, firm, corporation, association, or political subdivision or department of the
543 Commonwealth and (ii) summons the noncustodial parent and obligee to appear in the Division's offices.
544 The Commissioner, Director and district managers may also subpoena copies of state and federal income
545 tax returns. The district managers shall be trained in the correct use of the subpoena process prior to
546 exercising subpoena authority. A civil penalty not to exceed \$1,000 may be assessed by the
547 Commissioner for a failure to respond to a subpoena issued pursuant to this subsection.

548 G. In the absence of a court order, the Department may establish an administrative support order on
549 an out-of-state obligor if the obligor and the obligee maintained a matrimonial domicile within the
550 Commonwealth. The Department may also take action to enforce an administrative or court order on an
551 out-of-state obligor. Service of such actions shall be in accordance with the provisions of §§ 8.01-296,
552 8.01-327 or § 8.01-329, or by certified mail, return receipt requested, in accordance with § 63.2-1917.

553 H. If a support order has been issued in another state but the obligor, the obligee, and the child now
554 live in the Commonwealth, the Department may (i) enforce the order without registration, using all
555 enforcement remedies available under this chapter and (ii) register the order in the appropriate tribunal
556 of the Commonwealth for enforcement or modification.

557 § 63.2-1924.1. Health care coverage; National Medical Support Notice.

558 A. All child support orders established and enforced pursuant to this title shall include a provision
559 for health care coverage of dependent children. The Department shall use the National Medical Support
560 Notice (NMSN) to enforce the provision of health care coverage through an employment-related group
561 health plan pursuant to a child support order if available at a reasonable cost, as that term is defined in
562 § 63.2-1900, unless a court or administrative order stipulates alternative health care coverage to
563 employer-based coverage.

564 B. The Department shall transfer the NMSN to employers within two business days following the
565 date of entry into the State Directory of New Hires of an employee who is obligated to pay child
566 support *or to provide health care coverage* pursuant to this title. Employers shall transfer the NMSN to
567 the appropriate group plan providing the health care coverage for each eligible child (excluding the
568 severable Notice to Withhold for Health Care Coverage directing the employer to withhold any
569 mandatory employee contributions to the plan) within twenty business days after the date of the NMSN.
570 The Department, in consultation with the custodial parent, shall promptly select from available plan
571 options when the plan administrator reports that there is more than one option available under the plan.

572 C. Employers shall withhold any obligation of the employee for employee contribution necessary for
573 coverage of each eligible child and send any amount withheld directly to the plan. An employee
574 obligated for contribution necessary for coverage may contest the withholding based on a mistake of
575 fact. If the employee contests the withholding, the employer shall continue to withhold the obligation
576 necessary for coverage until the employer receives notice that the contest is resolved in favor of the
577 employee.

578 D. Employers shall notify the Department promptly whenever the ~~noncustodial parent's~~ employment
579 *of the parent required to provide health care coverage* is terminated in the same manner as required for
580 income withholding pursuant to § 20-79.3. The Department shall promptly notify an employer when
581 there is no longer a current order for health care coverage in effect for which the Department is
582 responsible.