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## HOUSE BILL NO. 551

Offered January 19, 1996

*A BILL to amend and reenact §§ 20-49.8, 20-108.1, 20-108.2 and 63.1-264.2 of the Code of Virginia, relating to child support; retroactive determinations.*

Patrons—McDonnell, Albo, Callahan, Cantor, Dudley, Hamilton, Katzen, Marshall, Mims, O'Brien, Ruff and Wagner; Senators: Schrock and Williams

Referred to Committee for Courts of Justice

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

**1. That §§ 20-49.8, 20-108.1, 20-108.2 and 63.1-264.2 of the Code of Virginia are amended and reenacted as follows:**

§ 20-49.8. Judgment or order; costs; birth record.

A. A judgment or order establishing parentage may include any provision directed against the appropriate party to the proceeding, concerning the duty of support, including an equitable apportionment of the expenses incurred on behalf of the child *for a period not to exceed five years measured from the later of the date notice of the proceeding under this chapter was given to the alleged parent, of the child's birth or the date of abandonment*, which may be in favor of the natural parent or any other person or agency who incurred such expenses. The judgment or order may also include provisions for the custody and guardianship of the child, visitation privileges with the child, or any other matter in the best interest of the child. In circumstances where the parent is outside the jurisdiction of the court, the court may enter a further order requiring the furnishing of bond or other security for the payment required by the judgment or order. The judgment or order may direct either party to pay the reasonable and necessary unpaid expenses of the mother's pregnancy and delivery or equitably apportion the unpaid expenses between the parties. However, when the Commonwealth, through the Medicaid program, has paid such expenses, the court may order reimbursement to the Commonwealth for such expenses.

B. A determination of paternity made by any other state shall be given full faith and credit, whether established through voluntary acknowledgment or through administrative or judicial process; provided, however, that, except as may otherwise be required by law, such full faith and credit shall be given only for the purposes of establishing a duty to make payments of support and other payments contemplated by subsection A.

C. For each court determination of parentage made under the provisions of this chapter, a certified copy of the order or judgment shall be transmitted to the State Registrar of Vital Records by the clerk of the court within thirty days after the order becomes final. Such order shall set forth the full name and date and place of birth of the person whose parentage has been determined, the full names of both parents, including the maiden name, if any, of the mother and the name and address of an informant who can furnish the information necessary to complete a new birth record. In addition, when the State Registrar receives a document signed by a man indicating his consent to submit to scientifically reliable genetic tests, including blood tests, to determine paternity and the genetic test results affirming at least a ninety-eight percent probability of paternity, a new birth record shall be completed as provided in § 32.1-261. When the State Registrar receives a copy of a judgment or order for a person born outside of this Commonwealth, such order shall be forwarded to the appropriate registration authority in the state of birth or the appropriate federal agency.

§ 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 63.1, the court shall consider all evidence presented relevant to any issues joined in that proceeding. The court's decision in any such proceeding shall be rendered upon the evidence relevant to each individual case. However, there shall be a rebuttable presumption in any judicial or administrative proceeding for child support, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the guidelines set out in § 20-108.2 is the correct amount of child support to be awarded. *Liability for support shall be determined retroactively for the period measured from the date of parental abandonment, or, if the parents of the child were not married to each other, from the date of the child's birth, but in no event for a period exceeding five years prior to the date of commencement of the proceedings.*

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

- 67 1. Actual monetary support for other children, other family members or former family members;
- 68 2. Arrangements regarding custody of the children;
- 69 3. Imputed income to a party who is voluntarily unemployed or voluntarily under-employed;  
70 provided that income may not be imputed to the custodial parent when a child is not in school, child  
71 care services are not available and the cost of such child care services are not included in the  
72 computation;
- 73 4. Debts of either party arising during the marriage for the benefit of the child;
- 74 5. Debts incurred for production of income;
- 75 6. Direct payments ordered by the court for health care coverage, maintaining life insurance coverage  
76 pursuant to subsection D, education expenses, or other court-ordered direct payments for the benefit of  
77 the child and costs related to the provision of health care coverage pursuant to subdivision 7 of  
78 § 20-60.3;
- 79 7. Extraordinary capital gains such as capital gains resulting from the sale of the marital abode;
- 80 8. Age, physical and mental condition of the child or children, including extraordinary medical or  
81 dental expenses, and child-care expenses;
- 82 9. Independent financial resources, if any, of the child or children;
- 83 10. Standard of living for the family established during the marriage;
- 84 11. Earning capacity, obligations and needs, and financial resources of each parent;
- 85 12. Education and training of the parties and the ability and opportunity of the parties to secure such  
86 education and training;
- 87 13. Contributions, monetary and nonmonetary, of each party to the well-being of the family;
- 88 14. Provisions made with regard to the marital property under § 20-107.3;
- 89 15. Tax consequences to the parties regarding claims for dependent children and child care expenses;
- 90 16. A written agreement between the parties which includes the amount of child support;
- 91 17. A pendente lite decree, which includes the amount of child support, agreed to by both parties or  
92 by counsel for the parties; and
- 93 18. Such other factors, including tax consequences to each party, as are necessary to consider the  
94 equities for the parents and children.

95 C. In any proceeding under this title or Title 16.1 or Title 63.1 on the issue of determining child  
96 support, the court shall have the authority to order a party to provide health care coverage, as defined in  
97 § 63.1-250, for dependent children if reasonable under all the circumstances and health care coverage for  
98 a spouse or former spouse.

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

105 § 20-108.2. Guideline for determination of child support.

106 A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child  
107 support under this title or Title 16.1 or 63.1, including cases involving split custody or shared custody,  
108 that the amount of the award which would result from the application of the guidelines set forth in this  
109 section is the correct amount of child support to be awarded. In order to rebut the presumption, the  
110 court shall make written findings in the order as set out in § 20-108.1, which findings may be  
111 incorporated by reference, that the application of the guidelines would be unjust or inappropriate in a  
112 particular case as determined by relevant evidence pertaining to the factors set out in §§ 20-107.2 and  
113 20-108.1. The Department of Social Services shall set child support at the amount resulting from  
114 computations using the guidelines set out in this section pursuant to the authority granted to it in  
115 Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 and subject to the provisions of § 63.1-264.2.

116 B. For purposes of application of the guideline, a basic child support obligation shall be computed  
117 using the schedule set out below. For combined monthly gross income amounts falling between amounts  
118 shown in the schedule, basic child support obligation amounts shall be extrapolated. "Number of  
119 children" shall mean the number of children for whom the parents share joint legal responsibility and for  
120 whom support is being sought.

122	MONTHLY BASIC CHILD SUPPORT OBLIGATIONS						
123							
124	COMBINED						
125	MONTHLY						
126	GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
127	INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
128	0-599	65	65	65	65	65	65
129	600	110	111	113	114	115	116
130	650	138	140	142	143	145	146
131	700	153	169	170	172	174	176
132	750	160	197	199	202	204	206
133	800	168	226	228	231	233	236
134	850	175	254	257	260	263	266
135	900	182	281	286	289	292	295
136	950	189	292	315	318	322	325
137	1000	196	304	344	348	351	355
138	1050	203	315	373	377	381	385
139	1100	210	326	402	406	410	415
140	1150	217	337	422	435	440	445
141	1200	225	348	436	465	470	475
142	1250	232	360	451	497	502	507
143	1300	241	373	467	526	536	542
144	1350	249	386	483	545	570	576
145	1400	257	398	499	563	605	611
146	1450	265	411	515	581	633	645
147	1500	274	426	533	602	656	680
148	1550	282	436	547	617	672	714
149	1600	289	447	560	632	689	737
150	1650	295	458	573	647	705	754
151	1700	302	468	587	662	721	772
152	1750	309	479	600	676	738	789
153	1800	315	488	612	690	752	805
154	1850	321	497	623	702	766	819
155	1900	326	506	634	714	779	834
156	1950	332	514	645	727	793	848
157	2000	338	523	655	739	806	862
158	2050	343	532	666	751	819	877
159	2100	349	540	677	763	833	891
160	2150	355	549	688	776	846	905
161	2200	360	558	699	788	860	920
162	2250	366	567	710	800	873	934
163	2300	371	575	721	812	886	948
164	2350	377	584	732	825	900	963
165	2400	383	593	743	837	913	977
166	2450	388	601	754	849	927	991
167	2500	394	610	765	862	940	1006
168	2550	399	619	776	874	954	1020
169	2600	405	627	787	886	967	1034
170	2650	410	635	797	897	979	1048
171	2700	415	643	806	908	991	1060
172	2750	420	651	816	919	1003	1073
173	2800	425	658	826	930	1015	1085
174	2850	430	667	836	941	1027	1098
175	2900	435	675	846	953	1039	1112
176	2950	440	683	856	964	1052	1125
177	3000	445	691	866	975	1064	1138

<b>178</b>	3050	450	699	876	987	1076	1152
<b>179</b>	3100	456	707	886	998	1089	1165
<b>180</b>	3150	461	715	896	1010	1101	1178
<b>181</b>	3200	466	723	906	1021	1114	1191
<b>182</b>	3250	471	732	917	1032	1126	1205
<b>183</b>	3300	476	740	927	1044	1139	1218
<b>184</b>	3350	481	748	937	1055	1151	1231
<b>185</b>	3400	486	756	947	1067	1164	1245
<b>186</b>	3450	492	764	957	1078	1176	1258
<b>187</b>	3500	497	772	967	1089	1189	1271
<b>188</b>	3550	502	780	977	1101	1201	1285
<b>189</b>	3600	507	788	987	1112	1213	1298
<b>190</b>	3650	512	797	997	1124	1226	1311
<b>191</b>	3700	518	806	1009	1137	1240	1326
<b>192</b>	3750	524	815	1020	1150	1254	1342
<b>193</b>	3800	530	824	1032	1163	1268	1357
<b>194</b>	3850	536	834	1043	1176	1283	1372
<b>195</b>	3900	542	843	1055	1189	1297	1387
<b>196</b>	3950	547	852	1066	1202	1311	1402
<b>197</b>	4000	553	861	1078	1214	1325	1417
<b>198</b>	4050	559	871	1089	1227	1339	1432
<b>199</b>	4100	565	880	1101	1240	1353	1448
<b>200</b>	4150	571	889	1112	1253	1367	1463
<b>201</b>	4200	577	898	1124	1266	1382	1478
<b>202</b>	4250	583	907	1135	1279	1396	1493
<b>203</b>	4300	589	917	1147	1292	1410	1508
<b>204</b>	4350	594	926	1158	1305	1424	1523
<b>205</b>	4400	600	935	1170	1318	1438	1538
<b>206</b>	4450	606	944	1181	1331	1452	1553
<b>207</b>	4500	612	954	1193	1344	1467	1569
<b>208</b>	4550	618	963	1204	1357	1481	1584
<b>209</b>	4600	624	972	1216	1370	1495	1599
<b>210</b>	4650	630	981	1227	1383	1509	1614
<b>211</b>	4700	635	989	1237	1395	1522	1627
<b>212</b>	4750	641	997	1247	1406	1534	1641
<b>213</b>	4800	646	1005	1257	1417	1546	1654
<b>214</b>	4850	651	1013	1267	1428	1558	1667
<b>215</b>	4900	656	1021	1277	1439	1570	1679
<b>216</b>	4950	661	1028	1286	1450	1582	1692
<b>217</b>	5000	666	1036	1295	1460	1593	1704
<b>218</b>	5050	671	1043	1305	1471	1605	1716
<b>219</b>	5100	675	1051	1314	1481	1616	1728
<b>220</b>	5150	680	1058	1323	1492	1628	1741
<b>221</b>	5200	685	1066	1333	1502	1640	1753
<b>222</b>	5250	690	1073	1342	1513	1651	1765
<b>223</b>	5300	695	1081	1351	1524	1663	1778
<b>224</b>	5350	700	1088	1361	1534	1674	1790
<b>225</b>	5400	705	1096	1370	1545	1686	1802
<b>226</b>	5450	710	1103	1379	1555	1697	1815
<b>227</b>	5500	714	1111	1389	1566	1709	1827
<b>228</b>	5550	719	1118	1398	1576	1720	1839
<b>229</b>	5600	724	1126	1407	1587	1732	1851
<b>230</b>	5650	729	1133	1417	1598	1743	1864
<b>231</b>	5700	734	1141	1426	1608	1755	1876
<b>232</b>	5750	739	1148	1435	1619	1766	1888
<b>233</b>	5800	744	1156	1445	1629	1778	1901
<b>234</b>	5850	749	1163	1454	1640	1790	1913

<b>235</b>	5900	753	1171	1463	1650	1801	1925
<b>236</b>	5950	758	1178	1473	1661	1813	1937
<b>237</b>	6000	763	1186	1482	1672	1824	1950
<b>238</b>	6050	768	1193	1491	1682	1836	1962
<b>239</b>	6100	773	1201	1501	1693	1847	1974
<b>240</b>	6150	778	1208	1510	1703	1859	1987
<b>241</b>	6200	783	1216	1519	1714	1870	1999
<b>242</b>	6250	788	1223	1529	1724	1882	2011
<b>243</b>	6300	792	1231	1538	1735	1893	2023
<b>244</b>	6350	797	1238	1547	1745	1905	2036
<b>245</b>	6400	802	1246	1557	1756	1916	2048
<b>246</b>	6450	807	1253	1566	1767	1928	2060
<b>247</b>	6500	812	1261	1575	1777	1940	2073
<b>248</b>	6550	816	1267	1583	1786	1949	2083
<b>249</b>	6600	820	1272	1590	1794	1957	2092
<b>250</b>	6650	823	1277	1597	1801	1965	2100
<b>251</b>	6700	827	1283	1604	1809	1974	2109
<b>252</b>	6750	830	1288	1610	1817	1982	2118
<b>253</b>	6800	834	1293	1617	1824	1990	2127
<b>254</b>	6850	837	1299	1624	1832	1999	2136
<b>255</b>	6900	841	1304	1631	1839	2007	2145
<b>256</b>	6950	845	1309	1637	1847	2016	2154
<b>257</b>	7000	848	1315	1644	1855	2024	2163
<b>258</b>	7050	852	1320	1651	1862	2032	2172
<b>259</b>	7100	855	1325	1658	1870	2041	2181
<b>260</b>	7150	859	1331	1665	1878	2049	2190
<b>261</b>	7200	862	1336	1671	1885	2057	2199
<b>262</b>	7250	866	1341	1678	1893	2066	2207
<b>263</b>	7300	870	1347	1685	1900	2074	2216
<b>264</b>	7350	873	1352	1692	1908	2082	2225
<b>265</b>	7400	877	1358	1698	1916	2091	2234
<b>266</b>	7450	880	1363	1705	1923	2099	2243
<b>267</b>	7500	884	1368	1712	1931	2108	2252
<b>268</b>	7550	887	1374	1719	1938	2116	2261
<b>269</b>	7600	891	1379	1725	1946	2124	2270
<b>270</b>	7650	895	1384	1732	1954	2133	2279
<b>271</b>	7700	898	1390	1739	1961	2141	2288
<b>272</b>	7750	902	1395	1746	1969	2149	2297
<b>273</b>	7800	905	1400	1753	1977	2158	2305
<b>274</b>	7850	908	1405	1758	1983	2164	2313
<b>275</b>	7900	910	1409	1764	1989	2171	2320
<b>276</b>	7950	913	1414	1770	1995	2178	2328
<b>277</b>	8000	916	1418	1776	2001	2185	2335
<b>278</b>	8050	918	1423	1781	2007	2192	2343
<b>279</b>	8100	921	1428	1787	2014	2198	2350
<b>280</b>	8150	924	1432	1793	2020	2205	2357
<b>281</b>	8200	927	1437	1799	2026	2212	2365
<b>282</b>	8250	929	1441	1804	2032	2219	2372
<b>283</b>	8300	932	1446	1810	2038	2226	2380
<b>284</b>	8350	935	1450	1816	2045	2232	2387
<b>285</b>	8400	937	1455	1822	2051	2239	2395
<b>286</b>	8450	940	1459	1827	2057	2246	2402
<b>287</b>	8500	943	1464	1833	2063	2253	2410
<b>288</b>	8550	945	1468	1839	2069	2260	2417
<b>289</b>	8600	948	1473	1845	2076	2266	2425
<b>290</b>	8650	951	1478	1850	2082	2273	2432

291	8700	954	1482	1856	2088	2280	2440
292	8750	956	1487	1862	2094	2287	2447
293	8800	959	1491	1868	2100	2294	2455
294	8850	962	1496	1873	2107	2300	2462
295	8900	964	1500	1879	2113	2307	2470
296	8950	967	1505	1885	2119	2314	2477
297	9000	970	1509	1891	2125	2321	2484
298	9050	973	1514	1896	2131	2328	2492
299	9100	975	1517	1901	2137	2334	2498
300	9150	977	1521	1905	2141	2339	2503
301	9200	979	1524	1909	2146	2344	2509
302	9250	982	1527	1914	2151	2349	2514
303	9300	984	1531	1918	2156	2354	2520
304	9350	986	1534	1922	2160	2359	2525
305	9400	988	1537	1926	2165	2365	2531
306	9450	990	1541	1930	2170	2370	2536
307	9500	993	1544	1935	2175	2375	2541
308	9550	995	1547	1939	2179	2380	2547
309	9600	997	1551	1943	2184	2385	2552
310	9650	999	1554	1947	2189	2390	2558
311	9700	1001	1557	1951	2194	2396	2563
312	9750	1003	1561	1956	2198	2401	2569
313	9800	1006	1564	1960	2203	2406	2574
314	9850	1008	1567	1964	2208	2411	2580
315	9900	1010	1571	1968	2213	2416	2585
316	9950	1012	1574	1972	2218	2421	2590
317	10000	1014	1577	1977	2222	2427	2596

318  
319 For gross monthly income between \$10,000 and \$20,000, add the amount of child support for  
320 \$10,000 to the following percentages of gross income above \$10,000:

321	ONE	TWO	THREE	FOUR	FIVE	SIX
322						
323	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
324	3.1%	5.1%	6.8%	7.8%	8.8%	9.5%

325  
326 For gross monthly income between \$20,000 and \$50,000, add the amount of child support for  
327 \$20,000 to the following percentages of gross income above \$20,000:

328	ONE	TWO	THREE	FOUR	FIVE	SIX
329						
330	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
331	2%	3.5%	5%	6%	6.9%	7.8%

332  
333 For gross monthly income over \$50,000, add the amount of child support for \$50,000 to the  
334 following percentages of gross income above \$50,000:

335	ONE	TWO	THREE	FOUR	FIVE	SIX
336						
337	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
338	1%	2%	3%	4%	5%	6%

339  
340 C. For purposes of this section, "gross income" shall mean all income from all sources, and shall  
341 include, but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends,  
342 severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits except as  
343 listed below, workers' compensation benefits, unemployment insurance benefits, disability insurance  
344 benefits, veterans' benefits, spousal support, rental income, gifts, prizes or awards.

345 Gross income shall be subject to deduction of reasonable business expenses for persons with income  
346 from self-employment, a partnership, or a closely held business. "Gross income" shall not include  
347 benefits from public assistance programs as defined in § 63.1-87, federal supplemental security income  
348 benefits, or child support received. For purposes of this subsection, spousal support included in gross

income shall be limited to spousal support paid pursuant to a pre-existing order or written agreement and spousal support shall be deducted from the gross income of the payor when paid pursuant to a pre-existing order or written agreement between the parties to the present proceeding.

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

D. Any extraordinary medical and dental expenses for treatment of the child or children shall be added to the basic child support obligation. For purposes of this section, extraordinary medical and dental expenses are uninsured expenses in excess of \$100 for a single illness or condition and shall include but not be limited to eyeglasses, prescription medication, prostheses, and mental health services whether provided by a social worker, psychologist, psychiatrist, or counselor.

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

F. Any child-care costs incurred on behalf of the child or children due to employment of the custodial parent shall be added to the basic child support obligation. Child-care costs shall not exceed the amount required to provide quality care from a licensed source. 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. Except in cases involving split custody or shared custody, a total monthly child support obligation shall be established by adding (i) the monthly basic child support obligation, as determined from the schedule contained in subsection B of this section, (ii) all extraordinary medical expenses, (iii) costs for health care coverage to the extent allowable by subsection E, and (iv) work-related child-care costs and taking into consideration all the factors set forth in subsection B of § 20-108.1. The total monthly child support obligation shall be divided between the parents in the same proportion as their monthly gross incomes bear to their monthly combined gross income. The monthly obligation of each parent shall be computed by multiplying each parent's percentage of the parents' monthly combined gross income by the total monthly child support obligation.

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

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

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

3. In cases involving shared custody, the amount of child support to be paid is the difference between the amounts owed by each parent to the other parent, with the parent owing the larger amount paying the difference to the other parent.

To compute the monthly amount to be paid by one parent to the other parent, the following calculations shall be made:

(a) The "basic child support obligation" of each parent shall be the "total shared support" multiplied by the other parent's "custody share." The "total shared support" of both parties equals statutory guideline amount determined pursuant to subsection B for the combined income of the parties and the number of shared children multiplied by 1.25. A parent's "custody share" equals the number of days that parent has physical custody of a shared child per year divided by the number of days in the year.

(b) To each parent's "basic child support obligation" shall be added the other parent's costs of health care coverage, to the extent allowable by subsection E, and the other parent's work-related child care costs to the extent allowable by subsection F.

(c) The obligation of each parent to the other shall be then computed by multiplying each parent's percentage of the parents' monthly combined gross income by the support obligation obtained in subdivision G 3 (b).

The shared custody rules set forth herein apply when each parent has physical custody of a child or children born of the parties, born of either parent and adopted by the other parent, or adopted by both parents, for more than 110 days of the year. Any calculation under this subdivision shall not create or

410 reduce a support obligation to an amount which seriously impairs the custodial parent's ability to  
411 maintain minimal adequate housing and provide other basic necessities for the child.

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

420 § 63.1-264.2. Scale of suggested minimum contributions.

421 The Department shall set child support at the amount resulting from computations pursuant to the  
422 guideline set out in § 20-108.2 in determining the required monthly support obligation, the amount of  
423 support obligation arrearage, if any, and the amount to be paid periodically against such arrearage.  
424 *Liability for support shall be determined retroactively for the period measured from the date of parental*  
425 *abandonment, or, if the parents of the child were not married to each other, from the date of the child's*  
426 *birth, but in no event for a period exceeding five years prior to the date of commencement of the*  
427 *proceedings.*

428 There shall be a rebuttable presumption that the amount of the award which would result from the  
429 application of the guidelines is the correct amount of child support to be awarded. In order to rebut the  
430 presumption, the Department shall make written findings in its order that the application of the  
431 guidelines would be unjust or inappropriate in a particular case as determined by relevant evidence  
432 pertaining to support for other children in the household or other children for whom any administrative  
433 or court order exists. Additional factors which may lead to rebuttal of the presumption shall be  
434 determined by Department regulation.