

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 698
Judiciary II Committee Substitute Adopted 5/9/89

Short Title: Child Support Guidelines.

(Public)

Sponsors:

Referred to:

March 30, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT CHILD SUPPORT GUIDELINES BE USED AS A
3 REBUTTABLE PRESUMPTION TO ESTABLISH CHILD SUPPORT
4 OBLIGATIONS AND TO REQUIRE PERIODIC REVIEW OF THE
5 GUIDELINES.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 50-13.4(c) reads as rewritten:

8 "(c) Payments ordered for the support of a minor child shall be in such amount as
9 to meet the reasonable needs of the child for health, education, and maintenance having
10 due regard to the estates, earnings, conditions, accustomed standard of living of the
11 child and the parties, the child care and homemaker contributions of each party, and
12 other facts of the particular case.

13 by applying the presumptive guidelines established pursuant to subsection (c). Upon
14 request of a party, the court may modify the amount resulting from application of the
15 guidelines if, after considering evidence regarding one or more of the criteria
16 established pursuant to subsection (c), the court finds by the greater weight of the
17 evidence that application of the guidelines would not meet the reasonable needs of the
18 child as set forth in this subsection. If the court orders an amount other than the amount
19 determined by application of the presumptive guidelines, the court shall make findings
20 of fact as to the criteria that justify varying from the guidelines and the basis for the
21 amount ordered. In all cases the court shall hear evidence and from the evidence find
22 the facts relating to the reasonable needs of the child for support and the relative ability
23 of each parent to pay support.

1 Payments ordered for the support of a child shall terminate when the child reaches
2 the age of 18 except:

- 3 (1) If the child is otherwise emancipated, payments shall terminate at that
4 time;
- 5 (2) If the child is still in primary or secondary school when he reaches age
6 18, the court in its discretion may order support payments to continue
7 until he graduates, otherwise ceases to attend school on a regular basis,
8 or reaches age 20, whichever comes first."

9 Sec. 2. G.S. 50-13.4(c1) reads as rewritten:

10 "~~(c1) The Conference of Chief District Judges shall prescribe uniform statewide~~
11 ~~advisory guidelines for the computation of child support obligations of each parent as~~
12 ~~provided in Chapter 50 or elsewhere in the General Statutes.~~

13 ~~Such advisory guidelines may provide for variation of the amount of support~~
14 ~~recommended based on one or more of the following:~~

- 15 ~~(1) The special needs of the child, including physical and emotional health~~
16 ~~needs, educational needs, day care costs, or needs related to the child's~~
17 ~~age.~~
- 18 ~~(2) Any shared physical custody arrangements or extended or unusual~~
19 ~~visitation arrangements.~~
- 20 ~~(3) A party's other support obligations to a current or former household,~~
21 ~~including the payment of alimony.~~
- 22 ~~(4) A party's extremely low or extremely high income, such that~~
23 ~~application of the guidelines produces an amount that is clearly too~~
24 ~~high in relation to the party's own needs or the child's needs.~~
- 25 ~~(5) A party's intentional suppression or reduction of income, hidden~~
26 ~~income, income that should be imputed to a party, or a party's~~
27 ~~substantial assets.~~
- 28 ~~(6) Any support that a party is providing or will be providing other than~~
29 ~~by periodic money payments, such as lump sum payments, possession~~
30 ~~of a residence, payment of a mortgage, payment of medical expenses,~~
31 ~~or provision of health insurance coverage.~~
- 32 ~~(7) A party's own special needs, such as unusual medical or other~~
33 ~~necessary expenses.~~
- 34 ~~(8) Any other factor the court finds to be just and proper. Notwithstanding~~
35 ~~the foregoing, the court shall hear evidence and from the evidence find~~
36 ~~the facts relating to the reasonable needs of the child for support and~~
37 ~~the relative ability of each parent to pay support.~~

38 Effective July 1, 1990, the Conference of Chief District Judges shall prescribe
39 uniform statewide presumptive guidelines for the computation of child support
40 obligations of each parent as provided in Chapter 50 or elsewhere in the General
41 Statutes and shall develop criteria for determining when, in a particular case, application
42 of the guidelines would be unjust or inappropriate. Prior to May 1, 1990 these
43 guidelines and criteria shall be reported to the General Assembly by the Administrative
44 Office of the Courts by delivering copies to the President Pro Tempore of the Senate

1 and the Speaker of the House of Representatives. The purpose of the guidelines and
2 criteria shall be to ensure that payments ordered for the support of a minor child are in
3 such amount as to meet the reasonable needs of the child for health, education, and
4 maintenance, having due regard to the estates, earnings, conditions, accustomed
5 standard of living of the child and the parties, the child care and homemaker
6 contributions of each party, and other facts of the particular case. The guidelines shall
7 include a procedure for setting child support, if any, in a joint or shared custody
8 arrangement which shall reflect the other statutory requirements herein.

9 Periodically, but at least once every four years, the Conference of Chief District
10 Judges shall review the guidelines to determine whether their application results in
11 appropriate child support award amounts. The Conference may modify the guidelines
12 accordingly. The Conference shall give the Department of Human Resources, the
13 Administrative Office of the Courts, and the general public an opportunity to provide
14 the Conference with information relevant to the development and review of the
15 guidelines. Any modifications of the guidelines or criteria shall be reported to the
16 General Assembly by the Administrative Office of the Courts before they become
17 effective by delivering copies to the President Pro Tempore of the Senate and the
18 Speaker of the House of Representatives. The guidelines, when adopted or modified,
19 shall be provided to the Department of Human Resources and the Administrative Office
20 of the Courts, which shall disseminate them to the public through local IV-D offices,
21 clerks of court, and the media.

22 Until July 1, 1990, the advisory guidelines adopted by the Conference of Chief
23 District Judges pursuant to this subsection as formerly written shall operate as
24 presumptive guidelines and the factors adopted by the Conference of Chief District
25 Judges pursuant to this subsection as formerly written shall constitute criteria for
26 varying from the amount of support determined by the guidelines."

27 Sec. 3. Before October 1, 1989, the child support guidelines and factors for
28 varying from those guidelines, as adopted by the Conference of Chief District Judges
29 pursuant to G.S. 50-13.4(c1), shall be disseminated to the public by the Department of
30 Human Resources and the Administrative Office of the Courts through local IV-D
31 offices, clerks of court, and the media.

32 Sec. 4. G.S. 14-322(e) reads as rewritten:

33 "(e) Upon conviction for an offense under this section, the court may make such
34 order as will best provide for the support, as far as may be necessary, of the abandoned
35 spouse or child, or both, from the property of labor of the defendant. If the court
36 requires the payment of child support, the amount of the payments shall be determined
37 as provided in G.S. 50-13.4(c)."

38 Sec. 5. G.S. 15A-1343(b)(4) reads as rewritten:

39 "(4) Satisfy child support and other family obligations as required by the
40 court. If the court requires the payment of child support, the amount of
41 the payments shall be determined as provided in G.S. 50-13.4(c)."

42 Sec. 6. G.S. 49-7 reads as rewritten:

43 **"§ 49-7. Issues and orders.**

1 The court before which the matter may be brought shall determine whether or not
2 the defendant is a parent of the child on whose behalf the proceeding is instituted. After
3 this matter has been determined in the affirmative, the court shall proceed to determine
4 the issue as to whether or not the defendant has neglected or refused to provide adequate
5 support and maintain the child who is the subject of the proceeding. After this matter
6 shall have been determined in the affirmative, the court shall fix by order, subject to
7 notification or increase from time to time, a specific sum of money necessary for the
8 support and maintenance of the ~~particular child who is the object of the proceedings~~ child,
9 subject to the limitations of G.S. 50-13.10. ~~The court in fixing this sum shall take into~~
10 ~~account the circumstances of the case, the financial ability to pay and earning capacity of the~~
11 ~~defendant, and his or her willingness to cooperate for the welfare of the child.~~ The amount of
12 child support shall be determined as provided in G.S. 50-13.4(c). The order fixing the
13 sum shall require the defendant to pay it either as a lump sum or in periodic payments as
14 the circumstances of the case may appear to the court to require. Compliance by the
15 defendant with any or all of the further provisions of this Article or the order or orders
16 of the court requiring additional acts to be performed by the defendant shall not be
17 construed to relieve the defendant of his or her responsibility to pay the sum fixed or
18 any modification or increase thereof.

19 The court before whom the matter may be brought, on motion of the State or the
20 defendant, shall order that the alleged-parent defendant, the known natural parent, and
21 the child submit to any blood tests and comparisons which have been developed and
22 adapted for purposes of establishing or disproving parentage and which are reasonably
23 accessible to the alleged-parent defendant, the known natural parent, and the child. The
24 results of those blood tests and comparisons, including the statistical likelihood of the
25 alleged parent's parentage, if available, shall be admitted in evidence when offered by a
26 duly qualified, licensed practicing physician, duly qualified immunologist, duly
27 qualified geneticist or other duly qualified person. The evidentiary effect of those blood
28 tests and comparisons and the manner in which the expenses therefor are to be taxed as
29 costs shall be as prescribed in G.S. 8-50.1. In addition, if a jury tries the issue of
30 parentage, they shall be instructed as set out in G.S. 8-50.1. From a finding on the issue
31 of parentage against the alleged-parent defendant, the alleged-parent defendant has the
32 same right of appeal as though he or she had been found guilty of the crime of willful
33 failure to support an illegitimate child."

34 Sec. 7. G.S. 7A-650(c) reads as rewritten:

35 "(c) Whenever legal custody of a juvenile is vested in someone other than his
36 parent, after due notice to the parent and after a hearing, the judge may order that the
37 parent pay a reasonable sum that will cover in whole or in part the support of the
38 juvenile after the order is entered. If the court requires the payment of child support, the
39 amount of the payments shall be determined as provided in G.S. 50-13.4(c). If the
40 judge places a juvenile in the custody of a county department of social services and if
41 the judge finds that the parent is unable to pay the cost of the support required by the
42 juvenile, the cost shall be paid by the county department of social services in whose
43 custody the juvenile is placed, provided the juvenile is not receiving care in an

1 institution owned or operated by the State or federal government or any subdivision
2 thereof."

3 Sec. 8. G.S. 110-132(b) reads as rewritten:

4 "(b) At any time after the filing with the district court of an acknowledgment of
5 paternity, upon the application of any interested party, the court or any judge thereof
6 shall cause a summons signed by him or by the clerk or assistant clerk of superior court,
7 to be issued, requiring the putative father to appear in court at a time and place named
8 therein, to show cause, if any he has, why the court should not enter an order for the
9 support of the child by periodic payments, which order may include provision for
10 reimbursement for medical expenses incident to the pregnancy and the birth of the child,
11 accrued maintenance and reasonable expense of the action under this subsection on the
12 acknowledgment of paternity previously filed with said court. The amount of child
13 support payments so ordered shall be determined as provided in G.S. 50-13.4(c). The
14 prior judgment as to paternity shall be **res judicata** as to that issue and shall not be
15 reconsidered by the court."

16 Sec. 9. Section 3 of this act shall become effective upon ratification. The
17 remainder of the act shall become effective October 1, 1989, and shall apply to child
18 support orders entered or modified on or after that date.