

ASSEMBLY BILL

No. 146

Introduced by Assembly Member Kehoe

January 17, 2003

An act to amend Section 4055 of the Family Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 146, as introduced, Kehoe. Child support.

Existing law governing child support sets forth guidelines for determining the annual net disposable income of each parent for that purpose. Amounts attributable to certain items must be deducted from the annual gross income of each parent in determining the annual net disposable income. Existing law requires the court to consider the application of a low-income adjustment, as specified, if the net monthly disposable income of a parent is less than \$1,000.

This bill would extend this consideration to a parent with a net monthly disposable income of less than \$1,500. The bill would further authorize the court in any default proceeding for child support to use specified statements and information in determining income, if a party fails to appear or provide that information.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4055 of the Family Code is amended to
2 read:

1 4055. (a) The statewide uniform guideline for determining
2 child support orders is as follows: $CS = K [HN - (H\%) (TN)]$.

3 (b) (1) The components of the formula are as follows:

4 (A) CS = child support amount.

5 (B) K = amount of both parents' income to be allocated for
6 child support as set forth in paragraph (3).

7 (C) HN = high earner's net monthly disposable income.

8 (D) H% = approximate percentage of time that the high earner
9 has or will have primary physical responsibility for the children
10 compared to the other parent. In cases in which parents have
11 different time-sharing arrangements for different children, H%
12 equals the average of the approximate percentages of time the high
13 earner parent spends with each child.

14 (E) TN = total net monthly disposable income of both parties.

15 (2) To compute net disposable income, see Section 4059.

16 (3) K (amount of both parents' income allocated for child
17 support) equals one plus H% (if H% is less than or equal to 50
18 percent) or two minus H% (if H% is greater than 50 percent) times
19 the following fraction:

20		
21	Total Net Disposable	
22	Income Per Month	K
23	\$0–800	$0.20 + TN/16,000$
24	\$801–6,666	0.25
25	\$6,667–10,000	$0.10 + 1,000/TN$
26	Over \$10,000	$0.12 + 800/TN$

27
28 For example, if H% equals 20 percent and the total monthly net
29 disposable income of the parents is \$1,000, $K = (1 + 0.20) \times 0.25$,
30 or 0.30. If H% equals 80 percent and the total monthly net
31 disposable income of the parents is \$1,000, $K = (2 - 0.80) \times 0.25$,
32 or 0.30.

33 (4) For more than one child, multiply CS by:

34



1	2 children	1.6
2	3 children	2
3	4 children	2.3
4	5 children	2.5
5	6 children	2.625
6	7 children	2.75
7	8 children	2.813
8	9 children	2.844
9	10 children	2.86

10

11 (5) If the amount calculated under the formula results in a
 12 positive number, the higher earner shall pay that amount to the
 13 lower earner. If the amount calculated under the formula results in
 14 a negative number, the lower earner shall pay the absolute value
 15 of that amount to the higher earner.

16 (6) In any default proceeding where proof is by affidavit
 17 pursuant to Section 2336, or in any proceeding for child support
 18 in which a party fails to appear after being duly noticed, H% shall
 19 be set at zero in the formula if the noncustodial parent is the higher
 20 earner or at 100 if the custodial parent is the higher earner, where
 21 there is no evidence presented demonstrating the percentage of
 22 time that the noncustodial parent has primary physical
 23 responsibility for the children. H% ~~shall~~ may not be set as
 24 described above if the moving party in a default proceeding is the
 25 noncustodial parent or if the party who fails to appear after being
 26 duly noticed is the custodial parent. A statement by the party who
 27 is not in default as to the percentage of time that the noncustodial
 28 parent has primary physical responsibility for the children shall be
 29 deemed sufficient evidence.

30 (7) In all cases in which the net disposable income per month
 31 of the obligor is less than one thousand *five hundred* dollars
 32 ~~(\$1,000)~~ (\$1,500), the court shall rule on whether a low-income
 33 adjustment shall be made. The ruling shall be based on the facts
 34 presented to the court, the principles provided in Section 4053, and
 35 the impact of the contemplated adjustment on the respective net
 36 incomes of the obligor and the obligee. Where the court has ruled
 37 that a low-income adjustment shall be made, the child support
 38 amount otherwise determined under this section shall be reduced
 39 by an amount that is no greater than the amount calculated by
 40 multiplying the child support amount otherwise determined under



1 this section by a fraction, the numerator of which is ~~1,000~~ 1,500
 2 minus the obligor's net disposable income per month, and the
 3 denominator of which is ~~1,000~~ 1,500. If a low-income adjustment
 4 is allowed, the court shall state the reasons supporting the
 5 adjustment in writing or on the record and shall document the
 6 amount of the adjustment and the underlying facts and
 7 circumstances.

8 (8) *In any default proceeding for child support in which a party*
 9 *fails to appear after being duly noticed and that party has provided*
 10 *no income information to the court, the court may consider any*
 11 *information from tax returns, wage statements, account*
 12 *statements, and any other relevant information that is made*
 13 *available to the court in determining the annual gross income and*
 14 *net monthly disposable income of that party.*

15 (9) Unless the court orders otherwise, the order for child
 16 support shall allocate the support amount so that the amount of
 17 support for the youngest child is the amount of support for one
 18 child, and the amount for the next youngest child is the difference
 19 between that amount and the amount for two children, with similar
 20 allocations for additional children. However, this paragraph does
 21 not apply to cases in which there are different time-sharing
 22 arrangements for different children or ~~where~~ if the court
 23 determines that the allocation would be inappropriate in the
 24 particular case.

25 (c) If a court uses a computer to calculate the child support
 26 order, the computer program ~~shall~~ may not automatically default
 27 affirmatively or negatively on whether a low-income adjustment
 28 is to be applied. If the low-income adjustment is applied, the
 29 computer program ~~shall~~ may not provide the amount of the
 30 low-income adjustment. Instead, the computer program shall ask
 31 the user whether or not to apply the low-income adjustment, and
 32 if answered affirmatively, the computer program shall provide the
 33 range of the adjustment permitted by paragraph (7) of subdivision
 34 (b).

