

**Introduced by Senator Wright**February 27, 2009

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An act to amend Sections 3751, 3753, and 4059 of the Family Code, relating to child support.

## LEGISLATIVE COUNSEL'S DIGEST

SB 580, as introduced, Wright. Child support: health insurance.

Existing law requires that a parent maintain health insurance coverage for a supported child when that insurance is available at no cost or at a reasonable cost to the parent. Existing law declares health insurance coverage for a supported child to be reasonable in cost if it is group health insurance, as specified.

This bill would specify that the parent must maintain private health insurance coverage for the child, and the insurance must be accessible to the child, as provided. The bill would also declare the rebuttable presumption that the health insurance coverage is reasonable in cost if the cost to the responsible parent providing medical support does not exceed 5% of his or her gross income or some other reasonable alternative income-based numeric standard determined by the Department of Child Support Services. The bill would also specify that if private health insurance coverage is not available at the time the order is entered or modified, the court shall order cash medical support, as defined, until health insurance coverage becomes available at a reasonable cost and is accessible to the child.

Existing law provides that the cost of the health insurance is in addition to the child support amount ordered with allowance for the costs of health insurance actually obtained given due consideration.

This bill would additionally provide that the cost of the cash medical support is in addition to the child support amount ordered, with

allowance for the cash medical support actually obtained given due consideration.

Existing law computes the annual net disposable income of each parent by deducting from his or her annual gross income the actual amounts attributable to specified items, including deductions for health insurance or health plan premiums for the parent and for any children the parent has an obligation to support and deductions for state disability insurance premiums.

This bill would include among those deductions cash medical support. The bill would also make related, conforming changes.

The bill would become operative on January 1, 2011.

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 3751 of the Family Code is amended to  
 2 read:  
 3 3751. (a) (1) Support orders issued or modified pursuant to  
 4 this chapter shall include a provision requiring the child support  
 5 obligor to keep the agency designated under Title IV-D of the  
 6 Social Security Act (42 U.S.C. Sec. 651 et seq.) informed of  
 7 whether the obligor has health insurance coverage at a reasonable  
 8 cost and, if so, the health insurance policy information.  
 9 (2) In any case in which an amount is set for current support,  
 10 the court shall require that *private* health insurance coverage for  
 11 a supported child shall be maintained by either or both parents if  
 12 that insurance is available at no cost or at a reasonable cost to the  
 13 parent. Health insurance coverage shall be rebuttably presumed  
 14 to be reasonable in cost if ~~it is employment-related group health~~  
 15 ~~insurance or other group health insurance, regardless of the service~~  
 16 ~~delivery mechanism. The actual cost of the health insurance to the~~  
 17 ~~obligor shall be considered in determining whether the cost of~~  
 18 ~~insurance is reasonable~~ *the cost to the responsible parent providing*  
 19 *medical support does not exceed 5 percent of his or her gross*  
 20 *income or some other reasonable alternative income-based*  
 21 *numeric standard determined by the Department of Child Support*  
 22 *Services. Health insurance coverage must be accessible to the*  
 23 *child. The Department of Child Support Services is responsible*  
 24 *for determining a standard of accessibility.* If the court determines

1 that the cost of health insurance coverage is not reasonable, the  
2 court shall state its reasons on the record.

3 (b) If the court determines that health insurance coverage is not  
4 available at no cost or at a reasonable cost, the court’s order for  
5 support shall contain a provision that specifies that health insurance  
6 coverage shall be obtained if it becomes available at no cost or at  
7 a reasonable cost. *If private health insurance coverage is not*  
8 *available at the time the order is entered or modified, the court*  
9 *shall order cash medical support until health insurance coverage*  
10 *becomes available at a reasonable cost and is accessible to the*  
11 *child.* Upon health insurance coverage at no cost or at a reasonable  
12 cost becoming available to a parent, the parent shall apply for that  
13 coverage.

14 (c) The court’s order for support shall require the parent who,  
15 at the time of the order or subsequently, provides health insurance  
16 coverage for a supported child to seek continuation of coverage  
17 for the child upon attainment of the limiting age for a dependent  
18 child under the health insurance coverage if the child meets the  
19 criteria specified under Section 1373 of the Health and Safety Code  
20 or Section 10277 or 10278 of the Insurance Code and that health  
21 insurance coverage is available at no cost or at a reasonable cost  
22 to the parent or parents, as applicable.

23 (d) *For the purposes of this section, “cash medical support”*  
24 *means an amount ordered to be paid toward the cost of health*  
25 *insurance provided by a public entity or by another parent through*  
26 *employment or otherwise, or for other medical costs not covered*  
27 *by insurance.*

28 SEC. 2. Section 3753 of the Family Code is amended to read:

29 3753. (a) The cost of the *private* health insurance *or cash*  
30 *medical support* shall be in addition to the child support amount  
31 ordered under Article 2 (commencing with Section 4050), with  
32 allowance for the costs of health insurance *and cash medical*  
33 *support* actually obtained given due consideration under  
34 subdivision (d) of Section 4059.

35 (b) *For the purposes of this section, “cash medical support”*  
36 *means an amount ordered to be paid toward the cost of health*  
37 *insurance provided by a public entity or by another parent through*  
38 *employment or otherwise, or for other medical costs not covered*  
39 *by insurance.*

40 SEC. 3. Section 4059 of the Family Code is amended to read:

1 4059. The annual net disposable income of each parent shall  
2 be computed by deducting from his or her annual gross income  
3 the actual amounts attributable to the following items or other  
4 items permitted under this article:

5 (a) The state and federal income tax liability resulting from the  
6 parties' taxable income. Federal and state income tax deductions  
7 shall bear an accurate relationship to the tax status of the parties  
8 (that is, single, married, married filing separately, or head of  
9 household) and number of dependents. State and federal income  
10 taxes shall be those actually payable (not necessarily current  
11 withholding) after considering appropriate filing status, all available  
12 exclusions, deductions, and credits. Unless the parties stipulate  
13 otherwise, the tax effects of spousal support shall not be considered  
14 in determining the net disposable income of the parties for  
15 determining child support, but shall be considered in determining  
16 spousal support consistent with Chapter 3 (commencing with  
17 Section 4330) of Part 3.

18 (b) Deductions attributed to the employee's contribution or the  
19 self-employed worker's contribution pursuant to the Federal  
20 Insurance Contributions Act (FICA), or an amount not to exceed  
21 that allowed under FICA for persons not subject to FICA, provided  
22 that the deducted amount is used to secure retirement or disability  
23 benefits for the parent.

24 (c) Deductions for mandatory union dues and retirement  
25 benefits, provided that they are required as a condition of  
26 employment.

27 (d) Deductions for *private* health insurance ~~or~~, health plan  
28 premiums, *or cash medical support* for the parent and for any  
29 children the parent has an obligation to support and deductions for  
30 state disability ~~insurance~~ premiums.

31 (e) Any child or spousal support actually being paid by the  
32 parent pursuant to a court order, to or for the benefit of any person  
33 who is not a subject of the order to be established by the court. In  
34 the absence of a court order, any child support actually being paid,  
35 not to exceed the amount established by the guideline, for natural  
36 or adopted children of the parent not residing in that parent's home,  
37 who are not the subject of the order to be established by the court,  
38 and of whom the parent has a duty of support. Unless the parent  
39 proves payment of the support, no deduction shall be allowed under  
40 this subdivision.

1 (f) Job-related expenses, if allowed by the court after  
2 consideration of whether the expenses are necessary, the benefit  
3 to the employee, and any other relevant facts.

4 (g) A deduction for hardship, as defined by Sections 4070 to  
5 4073, inclusive, and applicable published appellate court decisions.  
6 The amount of the hardship shall not be deducted from the amount  
7 of child support, but shall be deducted from the income of the party  
8 to whom it applies. In applying any hardship under paragraph (2)  
9 of subdivision (a) of Section 4071, the court shall seek to provide  
10 equity between competing child support orders. The Judicial  
11 Council shall develop a formula for calculating the maximum  
12 hardship deduction and shall submit it to the Legislature for its  
13 consideration on or before July 1, 1995.

14 (h)(h) *For the purposes of this section, “cash medical support”*  
15 *means an amount ordered to be paid toward the cost of health*  
16 *insurance provided by a public entity or by another parent through*  
17 *employment or otherwise, or for other medical costs not covered*  
18 *by insurance.*

19 SEC. 4. This act shall become operative on January 1, 2011.