

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2393

Introduced by Assembly Member Davis

February 24, 2012

~~An act to amend Section 13879.80 of the Penal Code, relating to law enforcement. An act to amend Section 4055 of the Family Code, relating to child support.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2393, as amended, Davis. ~~Law enforcement: drug-endangered children.~~ *Family law: child support formula.*

Under existing law, the parents of a minor child are responsible for supporting the child. Existing law establishes statewide uniform guidelines for calculating court-ordered child support. These guidelines provide that if an obligor's net disposable monthly income is less than \$1,000, there is a rebuttable presumption that the obligor is entitled to a low-income adjustment that reduces the child support amount. Under existing law, this presumption may be rebutted by evidence that applying the low-income adjustment would be unjust and inappropriate.

This bill would increase the net disposable income threshold to \$1,500 per month and require this threshold to be adjusted annually for cost of living increases. The bill would require the Judicial Council, on March 1, 2013, and annually thereafter, to determine the adjustment amount based on the change in the annual California Consumer Price Index, as specified.

~~Existing law encourages every law enforcement and social services agency to develop, adopt, and implement written policies and standards~~

for their response to narcotics crime scenes where a child is present or where there is evidence that a child lives, by January 1, 2005.

~~This bill would make a technical, nonsubstantive change to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
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:

3 4055. (a) The statewide uniform guideline for determining
4 child support orders is as follows: $CS = K [HN - (H\%)(TN)]$.

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

6 (A) CS = child support amount.

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

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

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

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

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

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

22		
23	Total Net Disposable	
24	Income Per Month	K
25	\$0–800	$0.20 + TN/16,000$
26	\$801–6,666	0.25
27	\$6,667–10,000	$0.10 + 1,000/TN$
28	Over \$10,000	$0.12 + 800/TN$
29		

30 For example, if H% equals 20 percent and the total monthly net
31 disposable income of the parents is \$1,000, $K = (1 + 0.20) \times 0.25$,

1 or 0.30. If H% equals 80 percent and the total monthly net
2 disposable income of the parents is \$1,000, $K = (2 - 0.80) \times 0.25$,
3 or 0.30.

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

5		
6	2 children	1.6
7	3 children	2
8	4 children	2.3
9	5 children	2.5
10	6 children	2.625
11	7 children	2.75
12	8 children	2.813
13	9 children	2.844
14	10 children	2.86

15
16 (5) If the amount calculated under the formula results in a
17 positive number, the higher earner shall pay that amount to the
18 lower earner. If the amount calculated under the formula results
19 in a negative number, the lower earner shall pay the absolute value
20 of that amount to the higher earner.

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

35 (7) In all cases in which the net disposable income per month
36 of the obligor is less than one thousand *five hundred* dollars
37 ~~(\$1,000)~~ *(\$1,500), adjusted annually for cost of living increases,*
38 there shall be a rebuttable presumption that the obligor is entitled
39 to a low-income adjustment. *On March 1, 2013, and annually*
40 *thereafter, the Judicial Council shall determine the amount of the*

1 *net disposable income adjustment based on the change in the*
2 *annual California Consumer Price Index for All Urban Consumers,*
3 *published by the California Department of Industrial Relations,*
4 *Division of Labor Statistics.* The presumption may be rebutted by
5 evidence showing that the application of the low-income
6 adjustment would be unjust and inappropriate in the particular
7 case. In determining whether the presumption is rebutted, the court
8 shall consider the principles provided in Section 4053, and the
9 impact of the contemplated adjustment on the respective net
10 incomes of the obligor and the obligee. The low-income adjustment
11 shall reduce the child support amount otherwise determined under
12 this section by an amount that is no greater than the amount
13 calculated by multiplying the child support amount otherwise
14 determined under this section by a fraction, the numerator of which
15 is ~~1,000~~ 1,500 minus the obligor's net disposable income per
16 month, and the denominator of which is ~~1,000~~ 1,500.

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

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

36 ~~SECTION 1. Section 13879.80 of the Penal Code is amended~~
37 ~~to read:~~

38 ~~13879.80. (a) Every law enforcement and social services~~
39 ~~agency in this state is encouraged to develop, adopt, and implement~~
40 ~~written policies and standards for their response to narcotics crime~~

1 ~~scenes where a child is either immediately present or where there~~
2 ~~is evidence that a child lives, by January 1, 2005. These policies~~
3 ~~shall reflect the fact that exposing a child to the manufacturing,~~
4 ~~trafficking, and the use of narcotics is criminal conduct, and that~~
5 ~~a response coordinated by law enforcement and social services~~
6 ~~agencies is essential to the child's health and welfare.~~

7 ~~(b) The needs of a drug endangered child are best served with~~
8 ~~written policies encouraging the arrest of an individual for child~~
9 ~~endangerment where there is probable cause that an offense has~~
10 ~~been committed coordinated with an appropriate investigation of~~
11 ~~the child's welfare by child protective agencies. Protocols that~~
12 ~~encourage a dependency investigation contemporaneous with a~~
13 ~~law enforcement investigation at a narcotics crime scene, when~~
14 ~~appropriate, are consistent with a child's best interest.~~