

AMENDED IN SENATE JUNE 18, 2012
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, *repeal, and add* Section 4055 of the Family Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 2393, as amended, Davis. 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, *until January 1, 2018*, increase the net disposable income threshold to \$1,500 per month and require this threshold to be adjusted annually for ~~cost-of-living~~ *cost-of-living* increases. The bill would require the Judicial Council, on March 1, 2013, and annually ~~thereafter~~, *until January 1, 2018*, to determine the adjustment amount based on the change in the annual California Consumer Price Index, as specified.

Vote: majority. Appropriation: no. Fiscal committee: 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, $K = (1 + 0.20) \times 0.25$,
32 or 0.30. If H% equals 80 percent and the total monthly net
33 disposable income of the parents is \$1,000, $K = (2 - 0.80) \times 0.25$,
34 or 0.30.

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

36		
37	2 children	1.6
38	3 children	2

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

8

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

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

28 (7) In all cases in which the net disposable income per month
29 of the obligor is less than one thousand five hundred dollars
30 (\$1,500), adjusted annually for cost-of-living increases, there shall
31 be a rebuttable presumption that the obligor is entitled to a
32 low-income adjustment. On March 1, 2013, and annually thereafter,
33 the Judicial Council shall determine the amount of the net
34 disposable income adjustment based on the change in the annual
35 California Consumer Price Index for All Urban Consumers,
36 published by the California Department of Industrial Relations,
37 Division of Labor Statistics. The presumption may be rebutted by
38 evidence showing that the application of the low-income
39 adjustment would be unjust and inappropriate in the particular
40 case. In determining whether the presumption is rebutted, the court

1 shall consider the principles provided in Section 4053, and the
 2 impact of the contemplated adjustment on the respective net
 3 incomes of the obligor and the obligee. The low-income adjustment
 4 shall reduce the child support amount otherwise determined under
 5 this section by an amount that is no greater than the amount
 6 calculated by multiplying the child support amount otherwise
 7 determined under this section by a fraction, the numerator of which
 8 is 1,500 minus the obligor's net disposable income per month, and
 9 the denominator of which is 1,500.

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

19 (c) If a court uses a computer to calculate the child support
 20 order, the computer program shall not automatically default
 21 affirmatively or negatively on whether a low-income adjustment
 22 is to be applied. If the low-income adjustment is applied, the
 23 computer program shall not provide the amount of the low-income
 24 adjustment. Instead, the computer program shall ask the user
 25 whether or not to apply the low-income adjustment, and if
 26 answered affirmatively, the computer program shall provide the
 27 range of the adjustment permitted by paragraph (7) of subdivision
 28 (b).

29 (d) *This section shall remain in effect only until January 1, 2018,*
 30 *and as of that date is repealed, unless a later enacted statute, that*
 31 *is enacted before January 1, 2018, deletes or extends that date.*

32 *SEC. 2. Section 4055 is added to the Family Code, to read:*

33 *4055. (a) The statewide uniform guideline for determining*
 34 *child support orders is as follows: $CS = K [HN - (H\%)(TN)]$.*

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

36 *(A) CS = child support amount.*

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

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

1 (D) $H\%$ = approximate percentage of time that the high earner
 2 has or will have primary physical responsibility for the children
 3 compared to the other parent. In cases in which parents have
 4 different time-sharing arrangements for different children, $H\%$
 5 equals the average of the approximate percentages of time the
 6 high earner parent spends with each child.

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

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

9 (3) K (amount of both parents' income allocated for child
 10 support) equals one plus $H\%$ (if $H\%$ is less than or equal to 50
 11 percent) or two minus $H\%$ (if $H\%$ is greater than 50 percent) times
 12 the following fraction:

13		
14	Total Net Disposable	
15	Income Per Month	K
16	\$0–800	$0.20 + TN/16,000$
17	\$801–6,666	0.25
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19	Over \$10,000	$0.12 + 800/TN$

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 21 For example, if $H\%$ equals 20 percent and the total monthly net
 22 disposable income of the parents is \$1,000, $K = (1 + 0.20) \times 0.25$,
 23 or 0.30. If $H\%$ equals 80 percent and the total monthly net
 24 disposable income of the parents is \$1,000, $K = (2 - 0.80) \times 0.25$,
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26 (4) For more than one child, multiply CS by:

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32	6 children	2.625
33	7 children	2.75
34	8 children	2.813
35	9 children	2.844
36	10 children	2.86

37
 38 (5) If the amount calculated under the formula results in a
 39 positive number, the higher earner shall pay that amount to the
 40 lower earner. If the amount calculated under the formula results

1 *in a negative number, the lower earner shall pay the absolute value*
2 *of that amount to the higher earner.*

3 *(6) In any default proceeding where proof is by affidavit*
4 *pursuant to Section 2336, or in any proceeding for child support*
5 *in which a party fails to appear after being duly noticed, H% shall*
6 *be set at zero in the formula if the noncustodial parent is the higher*
7 *earner or at 100 if the custodial parent is the higher earner, where*
8 *there is no evidence presented demonstrating the percentage of*
9 *time that the noncustodial parent has primary physical*
10 *responsibility for the children. H% shall not be set as described*
11 *above if the moving party in a default proceeding is the*
12 *noncustodial parent or if the party who fails to appear after being*
13 *duly noticed is the custodial parent. A statement by the party who*
14 *is not in default as to the percentage of time that the noncustodial*
15 *parent has primary physical responsibility for the children shall*
16 *be deemed sufficient evidence.*

17 *(7) In all cases in which the net disposable income per month*
18 *of the obligor is less than one thousand dollars (\$1,000), there*
19 *shall be a rebuttable presumption that the obligor is entitled to a*
20 *low-income adjustment. The presumption may be rebutted by*
21 *evidence showing that the application of the low-income adjustment*
22 *would be unjust and inappropriate in the particular case. In*
23 *determining whether the presumption is rebutted, the court shall*
24 *consider the principles provided in Section 4053, and the impact*
25 *of the contemplated adjustment on the respective net incomes of*
26 *the obligor and the obligee. The low-income adjustment shall*
27 *reduce the child support amount otherwise determined under this*
28 *section by an amount that is no greater than the amount calculated*
29 *by multiplying the child support amount otherwise determined*
30 *under this section by a fraction, the numerator of which is 1,000*
31 *minus the obligor's net disposable income per month, and the*
32 *denominator of which is 1,000.*

33 *(8) Unless the court orders otherwise, the order for child support*
34 *shall allocate the support amount so that the amount of support*
35 *for the youngest child is the amount of support for one child, and*
36 *the amount for the next youngest child is the difference between*
37 *that amount and the amount for two children, with similar*
38 *allocations for additional children. However, this paragraph does*
39 *not apply to cases in which there are different time-sharing*

1 *arrangements for different children or where the court determines*
2 *that the allocation would be inappropriate in the particular case.*

3 *(c) If a court uses a computer to calculate the child support*
4 *order, the computer program shall not automatically default*
5 *affirmatively or negatively on whether a low-income adjustment*
6 *is to be applied. If the low-income adjustment is applied, the*
7 *computer program shall not provide the amount of the low-income*
8 *adjustment. Instead, the computer program shall ask the user*
9 *whether or not to apply the low-income adjustment, and if*
10 *answered affirmatively, the computer program shall provide the*
11 *range of the adjustment permitted by paragraph (7) of subdivision*
12 *(b).*

13 *(d) This section shall become operative on January 1, 2018.*