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SB-469 Child support guidelines: low-income adjustments. (2017-2018)

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Senate Bill No. 469

CHAPTER 730

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

[Approved by Governor October 12, 2017. Filed with Secretary of State October 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 469, Skinner. Child support guidelines: low-income adjustments.

Existing law imposes a general obligation on both parents of a minor child to support their child in the manner suitable to the child's circumstances. Existing law establishes the statewide uniform guidelines for calculating court-ordered child support, based on the income of both parents and the time each parent spends with the child. Existing law establishes a rebuttable presumption that an obligor with a net disposable income, as defined, of a specified amount per month is entitled to a low-income adjustment to his or her child support obligation. Until January 1, 2018, the net disposable income threshold is \$1,500 per month, and is requested to be adjusted annually for cost-of-living increases. Existing law requires the Judicial Council to determine the adjustment amount based on the change in the annual California Consumer Price Index, as specified. Effective January 1, 2018, the net disposable income threshold is \$1,000 per month and is not requested to be annually adjusted for cost-of-living increases.

This bill would extend the January 1, 2018, date of repeal to January 1, 2021, for the version of existing law that is currently operative, thereby maintaining the net disposable income threshold at \$1,500 per month, adjusted annually for cost-of-living increases, until January 1, 2021, and would change the operative date of the successor version of that law to January 1, 2021.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4055 of the Family Code, as amended by Section 61 of Chapter 76 of the Statutes of 2013, is amended to read:

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

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

(A) CS = child support amount.

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

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

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

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

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

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

Total Net Disposable Income Per Month	K
\$0–800	$0.20 + \text{TN}/16,000$
\$801–6,666	0.25
\$6,667–10,000	$0.10 + 1,000/\text{TN}$
Over \$10,000	$0.12 + 800/\text{TN}$

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

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

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

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

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

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand five hundred dollars (\$1,500), adjusted annually for cost-of-living increases, there is a rebuttable presumption that the obligor is entitled to a low-income adjustment. The Judicial Council shall annually determine the amount of the net disposable income adjustment based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the California Department of Industrial Relations, Division of Labor Statistics and Research. The presumption may be rebutted by evidence showing that the application of the low-income adjustment would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of

which is 1,500, adjusted annually for cost-of-living increases, minus the obligor's net disposable income per month, and the denominator of which is 1,500, adjusted annually for cost-of-living increases.

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

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

(d) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 2. Section 4055 of the Family Code, as amended by Section 62 of Chapter 76 of the Statutes of 2013, is amended to read:

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

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

(A) CS = child support amount.

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

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

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

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

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

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

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

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

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

2 children	1.6
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8 children	2.813
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(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

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

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

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

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

(d) This section shall become operative on January 1, 2021.