

ARTICLE 3 - CHILD SUPPORT

20-2-301. Purpose.

Where necessary and appropriate, the court shall enter orders, whether temporary or permanent, pursuant to and in compliance with this article for the maintenance of children in actions for divorce, annulment, paternity, support, out-of-home placement and any other action for the maintenance or support of children.

20-2-302. Applicability.

This article applies to all orders for the support or maintenance of children.

20-2-303. Definitions.

(a) As used in this article:

(i) "Age of majority" means as defined in W.S. 14-1-101(a) or 14-2-204(a), whichever is applicable;

(ii) "Income" means any form of payment or return in money or in kind to an individual, regardless of source. Income includes, but is not limited to wages, earnings, salary, commission, compensation as an independent contractor, temporary total disability, permanent partial disability and permanent total disability worker's compensation payments, unemployment compensation, disability, annuity and retirement benefits, and any other payments made by any payor, but shall not include any earnings derived from overtime work unless the court, after considering all overtime earnings derived in the preceding twenty-four (24) month period, determines the overtime earnings can reasonably be expected to continue on a consistent basis. In determining income, all reasonable unreimbursed legitimate business expenses shall be deducted. Means tested sources of income such as Pell grants, aid under the personal opportunities with employment responsibilities (POWER) program, supplemental nutrition assistance program and supplemental security income (SSI) shall not be considered as income. Gross income also means potential income of parents who are voluntarily unemployed or underemployed;

(iii) "Net income" means income as defined in paragraph (ii) of this subsection less personal income taxes, social security deductions, cost of dependent health care coverage for all dependent children, actual payments being made under preexisting support orders for current support of other children, other court-ordered support obligations currently being paid and mandatory pension deductions. Payments towards child support arrearage shall not be deducted to arrive at net income;

(iv) "This article" means W.S. 20-2-301 through 20-2-315.

20-2-304. Presumptive child support.

(a) Child support shall be expressed in a specific dollar amount. The following child support tables shall be used to determine the total child support obligation considering the combined income of both parents. The appropriate table is based upon the number of children for whom the parents share joint legal responsibility and for whom support is being sought. After the combined net income of both parents is determined it shall be used in the first column of the tables to find the appropriate line from which the total child support obligation of both parents can be computed from the third column. The child support obligation computed from the third column of the tables shall be divided between the parents in proportion to the net income of each. The noncustodial parent's share of the joint child support obligation shall be paid to the custodial parent through the clerk as defined by W.S. 20-6-102(a)(x):

(i) One (1) child:

Net Monthly Percentage of

Income of Income

Both Allocated For Base Support Plus

Parents One Child Marginal Percentage

\$846.00 22.0 \$186.00 + 21.3% over \$846.00

\$2,961.00 21.5 \$637.00 + 14.3% over \$2,961.00

\$4,652.00 18.9 \$879.00 + 11.8% over \$4,652.00

\$5,498.00 17.8 \$979.00 + 10.2% over \$5,498.00

\$7,613.00 15.7 \$1,195.00 + 9.3% over \$7,613.00

\$10,151.00 14.1 \$1,431.00 + 7.5% over \$10,151.00

\$12,900.00 12.7 \$1,638.00 + 5.9% of anything

over \$12,900.00

(ii) Two (2) children:

Net Monthly Percentage of

Income of Income

Both Allocated For Base Support Plus

Parents Two Children Marginal Percentage

\$ 846.00 32.9 \$278.00 + 32.8% over \$846.00

\$2,961.00 32.8 \$971.00 + 20.7% over \$2,961.00

\$4,652.00 28.4 \$1,321.00 + 17.4% over \$4,652.00

\$5,498.00 26.7 \$1,468.00 + 15.2% over \$5,498.00

\$7,613.00 23.5 \$1,789.00 + 14.3% over \$7,613.00

\$10,151.00 21.2 \$2,152.00 + 10.4% over \$10,151.00

\$12,900.00 18.9 \$2,438.00 + 9.5% of anything

over \$12,900.00

(iii) Three (3) children:

Net Monthly Percentage of

Income of Income

Both Allocated For Base Support Plus

Parents Three Children Marginal Percentage

\$846.00 40.2 \$340.00 + 39.4% over \$846.00

\$2,961.00 39.6 \$1,173.00 + 23.9% over \$2,961.00

\$4,652.00 33.9 \$1,577.00 + 20.9% over \$4,652.00

\$5,498.00 31.9 \$1,754.00 + 17.9% over \$5,498.00

\$7,613.00 28.0 \$2,132.00 + 16.8% over \$7,613.00

\$10,151.00 25.2 \$2,558.00 + 11.6% over \$10,151.00

\$12,900.00 22.3 \$2,877.00 + 11.6% of anything

over \$12,900.00

(iv) Four (4) children:

Net Monthly Percentage of

Income of Income

Both Allocated For Base Support Plus

Parents Four Children Marginal Percentage

\$846.00 44.9 \$380.00 + 43.9% over \$846.00

\$2,961.00 44.2 \$1,309.00 + 26.8% over \$2,961.00

\$4,652.00 37.9 \$1,763.00 + 22.9% over \$4,652.00

\$5,498.00 35.6 \$1,957.00 + 20.1% over \$5,498.00

\$7,613.00 31.3 \$2,383.00 + 18.5% over \$7,613.00

\$10,151.00 28.1 \$2,852.00 + 13.1% over \$10,151.00

\$12,900.00 24.9 \$3,212.00 + 13.0 % of anything
over \$12,900.00

(v) Five (5) or more children:

Net Monthly Percentage of

Income of Income

Both Allocated For Base Support Plus

Parents Five Children Marginal Percentage

\$846.00 49.4 \$418.00 + 48.3% over \$846.00

\$2,961.00 48.6 \$1,439.00 + 29.6% over \$2,961.00

\$4,652.00 41.7 \$1,940.00 + 24.8% over \$4,652.00

\$5,498.00 39.1 \$2,150.00 + 22.2% over \$5,498.00

\$7,613.00 34.4 \$2,619.00 + 20.4% over \$7,613.00

\$10,151.00 30.9 \$3,137.00 + 14.5% over \$10,151.00

\$12,900.00 27.4 \$3,535.00 + 14.3% of anything

over \$12,900.00

(b) Where the combined income of the custodial parent and the noncustodial parent is less than eight hundred forty-six dollars (\$846.00), the support obligation of the noncustodial parent shall be twenty-two percent (22%) of net income for one (1) child and twenty-five percent (25%) of net income for two (2) or more children, but in no case shall the support obligation be less than fifty dollars (\$50.00) per month for each family unit in which there are children to whom the noncustodial parent owes a duty of support.

(c) When each parent keeps the children overnight for more than forty percent (40%) of the year and both parents contribute substantially to the expenses of the children in addition to the payment of child support, a joint presumptive support obligation shall be determined by use of the tables. After the joint presumptive child support obligation is derived from column three of the tables, that amount shall be divided between the parents in proportion to the net income of each. The proportionate share of the total obligation of each parent shall then be multiplied by the percentage of time the children spend with the other parent to determine the theoretical support obligation owed to the other parent. The parent owing the greater amount of child support shall pay the difference between the two (2) amounts as the net child support obligation.

(d) When each parent has physical custody of at least one (1) of the children, a joint presumptive support obligation for all of the children shall be determined by use of the tables. The joint presumptive support amount shall be divided by the number of children to determine the presumptive support obligation for each child, which amount shall then be allocated to each parent based upon the number of those children in the physical custody of that parent. That sum shall be multiplied by the percentage that the other parent's net income bears to the total net income of both parents. The obligations so determined shall then be offset, with the parent owing the larger amount paying the difference between the two (2) amounts to the other parent as a net child support obligation.

(e) If a proportion of a support obligor's social security or veteran's benefit is paid directly to the custodian of the obligor's dependents who are the subject of the child support order, the total amount of the social security or veteran's benefit, including the amounts paid to the obligor and custodian under the child support order, shall be counted as gross income to the obligor. However, in determining the support amount, the amount of the social security or veteran's benefit sent directly to the custodian shall be subtracted from the obligor's share of presumptive support. If the subtraction of the social security or veteran's benefit sent directly to the custodian results in a negative dollar amount, the support amount shall be set at zero. The child support obligation shall be offset by the amount of the social security or veteran's benefit sent directly to the custodian, beginning from the time the custodian began receiving the social security or veteran's benefit. The obligor or the department of family services may apply to the court to receive a credit against arrears for any social security or veteran's benefits that are paid retroactively to the custodian. For purposes of this subsection, "custodian" means the custodian of dependent children under a child support order and the physical custodian of dependent children who are the subject of a child support order.

20-2-305. Abatements.

(a) Unless otherwise ordered by the court, child support shall abate by one-half (1/2) of the daily support obligation for each day the noncustodial parent has physical custody of the child for whom support is due, provided that the noncustodial parent has custody of the child for fifteen (15) or more consecutive days. The daily support obligation shall be computed by multiplying the monthly child support obligation by twelve (12) and dividing the product by three hundred and sixty-five (365). For the purposes of computing abatement and determining whether the noncustodial parent has met the consecutive day requirement of this subsection, overnight and weekend visits with the custodial parent during the period for which abatement is claimed shall be disregarded.

(b) The noncustodial parent shall file any claim for child support abatement with the clerk of the court within thirty (30) days after the period for which abatement is claimed and shall pay to the clerk the sum of ten dollars (\$10.00). The clerk shall mail a copy of the claim to the custodial parent at the address provided to the clerk by the custodial parent.

(c) The custodial parent shall have the right to object to any claim for abatement made by the noncustodial parent. The custodial parent's right to object shall be limited solely to issues related to the legitimacy or accuracy of the abatement claim. The custodial parent shall file any objection to the abatement claim with the clerk of court within thirty (30) days of the date the clerk mailed the notice of claim for abatement and shall pay to the clerk a fee of ten dollars (\$10.00). The custodial parent may approve the abatement claim prior to the expiration of the thirty (30) day time period for objections by filing notice of immediate approval with the clerk of the court, and no filing fee shall be assessed for filing of such notice of immediate approval. The clerk shall mail a copy of the objection or notice of immediate approval to the noncustodial parent at the address provided to the clerk by that parent.

(d) Claims, objections or responses not timely filed or not accompanied by the requisite fee are barred without further order of the court.

(e) The clerk shall notify the court of claims and objections not barred and of any arrearage owed by the noncustodial parent, and the court shall promptly resolve the differences, with or without a hearing, and prepare and file an appropriate order.

(f) Abatement amounts shall be applied to any current child support due and then to any arrearage balance owed to the custodial parent for past-due child support. If there is no arrearage and no objection was filed within the thirty (30) day period for objections, or if there is no arrearage and a notice of immediate approval was filed prior to the expiration of the thirty (30) day period for objections, the abatement amount shall be reduced from the next scheduled payment of child support.

(g) In all cases in which the custodial parent has filed an objection to a claim for abatement within the thirty (30) day time period, the noncustodial parent shall have the right to respond to the objection. The noncustodial parent's right to respond to the objection shall be limited solely to issues raised in the objection. The noncustodial parent shall file any response with the clerk of

the court within fifteen (15) days of the date the clerk mailed the objection to the noncustodial parent, and no filing fee shall be assessed. The clerk shall mail a copy of the response to the custodial parent at the address provided to the clerk by the custodial parent. The court shall fully consider the abatement claim of the noncustodial parent regardless of whether a response to the objection was filed.

(h) For purposes of this section, "weekend" means any two (2) consecutive days, except if a legal holiday precedes or follows the days constituting a weekend under this section the weekend shall consist of three (3) days.

20-2-306. Revision of presumptive child support.

On or before December 1, 1996, and at least once every four (4) years thereafter, the department of family services shall review the presumptive child support established under this article to ensure that application results in the determination of appropriate child support award amounts.

20-2-307. Presumptive child support to be followed; deviations by court.

(a) The presumptive child support established by W.S. 20-2-304 shall be rebuttably presumed to be the correct amount of child support to be awarded in any proceeding to establish or modify temporary or permanent child support amounts. Every order or decree providing for the support of a child shall set forth the presumptive child support amount and shall state whether the order or decree departs from that amount.

(b) A court may deviate from the presumptive child support established by W.S. 20-2-304 upon a specific finding that the application of the presumptive child support would be unjust or inappropriate in that particular case. In any case where the court has deviated from the presumptive child support, the reasons therefor shall be specifically set forth fully in the order or decree. In determining whether to deviate from the presumptive child support established by W.S. 20-2-304, the court shall consider the following factors:

(i) The age of the child;

(ii) The cost of necessary child day care;

(iii) Any special health care and educational needs of the child;

(iv) The responsibility of either parent for the support of other children, whether court ordered or otherwise;

(v) The value of services contributed by either parent;

(vi) Any expenses reasonably related to the mother's pregnancy and confinement for that child, if the parents were never married or if the parents were divorced prior to the birth of the child;

(vii) The cost of transportation of the child to and from visitation;

(viii) The ability of either or both parents to furnish health, dental and vision insurance through employment benefits;

(ix) The amount of time the child spends with each parent;

(x) Any other necessary expenses for the benefit of the child;

(xi) Whether either parent is voluntarily unemployed or underemployed. In such case the child support shall be computed based upon the potential earning capacity (imputed income) of the unemployed or underemployed parent. In making that determination the court shall consider:

(A) Prior employment experience and history;

(B) Educational level and whether additional education would make the parent more self-sufficient or significantly increase the parent's income;

(C) The presence of children of the marriage in the parent's home and its impact on the earnings of that parent;

(D) Availability of employment for which the parent is qualified;

(E) Prevailing wage rates in the local area;

(F) Special skills or training; and

(G) Whether the parent is realistically able to earn imputed income.

(xii) Whether or not either parent has violated any provision of the divorce decree, including visitation provisions, if deemed relevant by the court; and

(xiii) Other factors deemed relevant by the court.

(c) If the parties fail to agree that the presumptive child support amount under W.S. 20-2-304 is appropriate, the court may order the party seeking to deviate from the presumptive child support amount to pay reasonable attorney fees and court costs to the other party unless, after hearing the evidence and considering the factors contained in subsection (b) of this section, the court deviates from the presumptive support amount.

(d) Agreements regarding child support may be submitted to the court. All such agreements shall be accompanied by a financial affidavit as required by W.S. 20-2-308. The court shall use the presumed child support amounts to review the adequacy of child support agreements negotiated by the parties. If the agreed amount departs from the presumed child support, the parties shall furnish statements of explanation which shall be included with the forms and shall be filed with the court. The court shall review the agreement and inform the parties whether or not additional or corrected information is needed, or that the agreement is approved or disapproved. No

agreement which is less than the presumed child support amount shall be approved if means tested sources of income such as aid under the personal opportunities with employment responsibilities (POWER) program, health care benefits under Title XIX of the Social Security Act, supplemental nutrition assistance program, supplemental security income (SSI) or other similar benefits are being paid on behalf of any of the children.

20-2-308. Financial affidavits required; financial reporting.

(a) No order establishing or modifying a child support obligation shall be entered unless financial affidavits on a form approved by the Wyoming supreme court which fully discloses the financial status of the parties have been filed, or the court has held a hearing and testimony has been received.

(b) Financial affidavits of the parties shall be supported with documentation of both current and past earnings. Suitable documentation of current earnings includes but is not limited to pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period.

(c) The court may require, or the parents may agree, to exchange financial and other appropriate information once a year or less often, by regular mail, for the purpose of analyzing the propriety of modification of court ordered child support.

(d) All financial affidavits and records required by law to be attached to the affidavit shall constitute a confidential file and are subject to inspection by persons other than the parties, their attorneys or the department of family services to the extent necessary to enforce the Child Support Enforcement Act and the Uniform Interstate Family Support Act only by court order.

20-2-309. Contents of orders; change of address or employment; income withholding entered; payment.

(a) All orders shall include the:

(i) Names of the parties;

(ii) Repealed By Laws 2011, Ch. 121, 2.

(iii) Repealed By Laws 2004, Chapter 72, 2.

(iv) Right of either party or, when appropriate, the department of family services to petition to enforce an order pursuant to W.S. 20-2-201 through 20-2-204, 20-2-310 and 20-2-311(d).

(b) All child support orders shall be accompanied by a confidential statement that contains the names, addresses, dates of birth, places of birth and social security numbers of each party and each child to whom the order relates and the names and addresses of each party's employer.

Except as provided in subsection (h) of this section, the confidential statement may be inspected by:

(i) The parties and their attorneys;

(ii) The department of family services to the extent necessary to enforce the Child Support Enforcement Act and the Uniform Interstate Family Support Act; and

(iii) Other persons or entities, if permitted by court order.

(c) The court shall order each party to notify the clerk of court in writing within fifteen (15) days of any change in address or employment.

(d) In any subsequent enforcement action brought under this chapter in which the parties were previously ordered to provide the clerk of the court with their current residential, mailing and employer's address, the court, upon sufficient showing to the satisfaction of the court that a diligent effort has been made to ascertain the location of a party, shall deem state due process requirements for notice and service of process to be met upon delivery of written notice to the most recent residential or employer address of that party filed with the clerk of the district court and the state case registry pursuant to the requirements of this section provided:

(i) An affidavit attesting to the diligent effort to locate the party is filed with the court at the time of filing the subsequent enforcement action; and

(ii) Delivery of the written notice to the most recent residential or employer address of the party is made by personal service or by certified mail.

(e) Upon entry of any order for the support of a child under this section the court shall also enter an income withholding order as provided by W.S. 20-6-204.

(f) All child support payments shall be paid to the clerk as defined by W.S. 20-6-102(a)(x).

(g) For purposes of this section, "party" does not include the department of family services.

(h) The confidential statement required pursuant to subsection (b) of this section shall not be inspected or further released except as provided in this subsection if the court has issued a confidentiality order pursuant to W.S. 35-21-112 or any other court order allowing a party to maintain confidentiality of addresses, city or state of residence or other information identifying the residence of the victim of domestic abuse. The court may release the confidential statement required under subsection (b) of this section to the department of family services to the extent necessary to enforce the Child Support Enforcement Act and the Uniform Interstate Family Support Act, provided:

(i) The department releases information protected by a confidentiality order only to governmental agencies or courts of competent jurisdiction and does not release information

protected by the confidentiality order to the opposing party or attorneys representing or employed by the opposing party;

(ii) The department shall exclude or redact information protected by a confidentiality order from information provided under this subsection to the greatest extent possible in conformance with the Child Support Enforcement Act and the Uniform Interstate Family Support Act;

(iii) The department shall provide written notice to parties receiving information protected by a confidentiality order from the department stating that the information is protected by a confidentiality order and shall only be disseminated by the receiving party to the extent necessary to comply with the Child Support Enforcement Act and the Uniform Interstate Family Support Act.

20-2-310. Enforcement of child support.

(a) In any proceeding to enforce the decree concerning the maintenance of children, any required notice or pleading shall be served as provided by the Wyoming Rules of Civil Procedure.

(b) A court may, upon appropriate motion, require a parent to appear before the court and show just cause why the parent should not be held in contempt and, upon a showing that the parent has willfully violated a child support order, make such order or orders as the court deems necessary and appropriate.

(c) In any case in which child support has been ordered to be paid to the clerk, any periodic payment or installment under the provisions of an order concerning maintenance is, on the date it is due, a judgment by operation of law.

(d) If an able-bodied obligor is unemployed and otherwise unable to fulfill his court-ordered child support obligation, the court may order the obligor to participate in the personal opportunities with employment responsibilities (POWER) work program administered by the department of workforce services, excluding the benefit portion of that program, without regard to the program eligibility requirements under title 42 or the department rules and regulations promulgated thereunder.

(e) The court in order to enforce and require future compliance with an order, may find that the parent is in contempt of court, award attorney fees, costs and any other relief as the court may deem necessary under the circumstances.

20-2-311. Adjustment of child support orders.

(a) Any party, or the department of family services in the case of child support orders being enforced by the department, may petition for a review and adjustment of any child support order that was entered more than six (6) months prior to the petition or which has not been adjusted within six (6) months from the date of filing of the petition for review and adjustment. The petition shall allege that, in applying the presumptive child support established by this article, the support amount will change by twenty percent (20%) or more per month from the amount of the

existing order. The court shall require the parents to complete a verified financial statement on forms approved by the Wyoming supreme court, and shall apply the presumptive child support set out in this article in conducting the review and adjustment. If, upon applying the presumptive child support to the circumstances of the parents or child at the time of the review, the court finds that the support amount would change by twenty percent (20%) or more per month from the amount of the existing order, the court shall consider there to be a change of circumstances sufficient to justify the modification of the support order. The provisions of this section do not preclude a party or assignee from bringing an action for modification of a support order, based upon a substantial change of circumstances, at any time. Every three (3) years, upon the request of either parent or, if there is a current assignment of support rights in effect, upon the request of the department, the court, with respect to a support order being enforced under this article and taking into account the best interests of the child involved, shall review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to this article. Any adjustment under the three (3) year cycle shall be made without a requirement for a showing of a change in circumstances. The commencement of aid under the personal opportunities with employment responsibilities (POWER) program, medical benefits under Title XIX of the Social Security Act, supplemental nutrition assistance program and supplemental security income (SSI) shall be considered a substantial change of circumstances requiring modification of child support.

(b) Notwithstanding any other provision of law, if the parties fail to agree that the presumptive child support amount under W.S. 20-2-304 is appropriate, the court may order the party seeking to deviate from the presumptive child support amount to pay a reasonable attorney fee and court costs to the other party unless, after hearing the evidence and considering the factors contained in W.S. 20-2-307(b), the court deviates from the presumptive support amount.

(c) In addition to the petition authorized under subsection (a) of this section, the court on its own motion, or the department without petitioning the court, may increase monthly child support payments to include amounts for arrearages or may decrease the monthly child support payment in cases of emergencies or if the arrearages are paid. Any action by the department to increase monthly child support payments under this subsection shall allow the obligor a reasonable opportunity to contest the action in accordance with the Wyoming Administrative Procedure Act and rules and regulations adopted by the department.

(d) An order for child support is not subject to retroactive modification except:

(i) Upon agreement of the parties; or

(ii) The order may be modified with respect to any period during which a petition for modification is pending, but only from the date notice of that petition was served upon the obligee as provided by the Wyoming Rules of Civil Procedure, if the obligor or the department is the petitioner, or to the obligor, if the obligee or the department is the petitioner.

20-2-312. Redirection of child support.

Upon affidavit by the current custodian or the department filed with the clerk of the district court, or by operation of law when public funds have been expended on behalf of a minor child,

that the care and control of the child resides in a party other than the obligee under a child support order, the child support shall, by operation of law, be redirected to the person or agency who has the care and control of the child and shall be subject to assignment by the person having the care and control of the child pursuant to W.S. 20-6-106. The department, upon proof by affidavit filed with the clerk of district court or upon verified information it has received pursuant to W.S. 20-6-106 that the child support is subject to an assignment, may redirect the child support to the person or agency in whose favor the assignment is made.

20-2-313. Cessation of child support.

(a) An on-going child support obligation terminates when the:

(i) Parents marry or remarry each other;

(ii) Child dies;

(iii) Child is legally emancipated; or

(iv) Child attains the age of majority.

(b) After the remarriage of the parents to each other, the court may eliminate all child support arrearage existing between the parents except those assigned to the state of Wyoming.

20-2-314. Court may appoint trustees to manage amount set aside for children.

Upon application by any party, the court may order any amount set apart for the children to be paid to a trustee or trustees appointed by the court, upon trust to invest the same and to apply the income thereof to the support of the children in such manner as the court directs. This section does not apply to periodic payments designated as child support by a court order.

20-2-315. Court may require security for child support payments.

(a) Upon the issuance of any order or entering of a decree under this chapter which provides for child support payments, or any time thereafter following notice and opportunity for hearing, the court may, for good cause shown, require the obligor to provide security of nonexempt property that the court deems satisfactory to secure payment of child support.

(b) The court, upon petition and following notice and hearing, shall no longer require the order for security if the court determines:

(i) Good cause no longer exists to require security to assure payment upon the obligation to pay child support; and

(ii) There is no overdue support outstanding.

(c) Once the child support obligation has terminated and arrearages satisfied, the security shall be released.

20-2-316. Adjustment of child support for a disabled adult child.

(a) A noncustodial parent may petition for an adjustment of child support for a child who has reached the age of majority but qualifies under W.S. 14-2-204(a)(i) to continue to receive support from the noncustodial parent. The court shall allow the adjustment in cases where the noncustodial parent proves by a preponderance of the evidence that an adjustment of the child support order is in the best interest of the child who has reached the age of majority.

(b) A noncustodial parent petitioning the court for an adjustment under this section shall adhere to the requirements of W.S. 20-2-311.