

House Bill 145 (AS PASSED HOUSE AND SENATE)

By: Representative Lindsey of the 54th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to child
2 support in final verdict or decree, guidelines for determining amount of child support award,
3 and the duration of support, so as to revise a definition; to correct cross-references and clarify
4 certain provisions of the Code section; to revise and clarify provisions relating to the low
5 income deviation; to provide for related matters; to provide for an effective date; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 19-6-15 of the Official Code of Georgia Annotated, relating to child support
10 in final verdict or decree, guidelines for determining amount of child support award, and the
11 duration of support, is amended by revising paragraph (17) of subsection (a) as follows:

12 "(17) 'Parenting time deviation' means a deviation ~~from~~ allowed for the noncustodial
13 ~~parent's portion of the basic child support obligation~~ parent based upon the noncustodial
14 parent's court ordered visitation with the child. For further reference see subsections (g)
15 and (i) of this Code section."

16 **SECTION 2.**

17 Said Code section is further amended by revising paragraph (8) of subsection (b) as follows:

18 "(8) In accordance with subsection (i) of this Code section, deviations subtracted from
19 or increased to the presumptive amount of child support are applied, if applicable, and if
20 supported by the required findings of fact and application of the best interest of the child
21 standard. The proposed deviations shall be entered on the Child Support Schedule E –
22 Deviations. In the court's or the jury's discretion, deviations may include, but are not
23 limited to, the following:

24 (A) High income;

25 (B) Low income;

- 26 (C) Other health related insurance;
 27 (D) Life insurance;
 28 (E) Child and dependent care tax credit;
 29 ~~(F)~~(F) Travel expenses;
 30 ~~(G)~~(G) Alimony;
 31 ~~(H)~~(H) Mortgage;
 32 ~~(I)~~(I) Permanency plan or foster care plan;
 33 ~~(J)~~(J) Extraordinary expenses;
 34 ~~(K)~~(K) Parenting time; and
 35 ~~(L)~~(L) Nonspecific deviations;"

36 **SECTION 3.**

37 Said Code section is further amended by revising paragraph (4) of subsection (c) as follows:

38 "(4) In all cases, the parties shall submit to the court their worksheets and schedules and
 39 the presence or absence of other factors to be considered by the court pursuant to the
 40 provisions of this Code section. The child support worksheet and, if there are any
 41 deviations, Schedule E shall be attached to the final court order or judgment; provided,
 42 however, that any order entered pursuant to Code Section 19-13-4 shall not be required
 43 to have such worksheet and schedule attached thereto."

44 **SECTION 4.**

45 Said Code section is further amended by revising subparagraph (i)(2)(B) as follows:

46 "(B) *LOW INCOME*. For purposes of this subparagraph, 'low-income person' means a
 47 parent whose annual gross income is at or below \$1,850.00 per month:

48 ~~(i) If the noncustodial parent is a low-income person and requests a deviation on such~~
 49 ~~basis, the court or the jury shall determine if the noncustodial parent will be~~
 50 ~~financially able to pay the child support order and maintain at least a minimum~~
 51 ~~standard of living by calculating a self-support reserve as set forth in division (ii) of~~
 52 ~~this subparagraph. The court or the jury shall take into account all nonexcluded~~
 53 ~~sources of income available to each parent and all reasonable expenses of each parent,~~
 54 ~~ensuring that such expenses are actually paid by the parent and are clearly justified~~
 55 ~~expenses. The court or the jury shall also consider the financial impact that a~~
 56 ~~reduction in the amount of child support paid to the custodial parent would have on~~
 57 ~~the custodial parent's household. Under no circumstances shall the amount of child~~
 58 ~~support awarded to the custodial parent impair the ability of the custodial parent to~~
 59 ~~maintain minimally adequate housing, food, and clothing and provide for other basic~~
 60 ~~necessities for the child being supported by the court order.~~

61 ~~(ii) To calculate the self-support reserve for the noncustodial parent, the court or the~~
62 ~~jury shall deduct \$900.00 from the noncustodial parent's adjusted income. If the~~
63 ~~resulting amount is less than the noncustodial parent's pro rata responsibility of the~~
64 ~~presumptive amount of child support, the court or the jury may deviate from the~~
65 ~~amount of support provided for in the child support obligation table to the resulting~~
66 ~~amount. If the child support award amount would be less than \$75.00, then the~~
67 ~~minimum child support order amount shall be \$75.00.~~

68 ~~(iii) If the custodial parent is a low-income person, the court or the jury shall subtract~~
69 ~~\$900.00 from the custodial parent's adjusted income. If the resulting amount is less~~
70 ~~than the custodial parent's pro rata responsibility of the presumptive amount of child~~
71 ~~support, the court or the jury shall not deviate from the amount of support required to~~
72 ~~be paid by the noncustodial parent as provided for in the child support obligation~~
73 ~~table.~~

74 ~~(iv) The self-support reserve calculation described in this subparagraph shall apply~~
75 ~~only to the current child support amount and shall not prohibit an additional amount~~
76 ~~being ordered to reduce an obligor's arrears.~~

77 ~~(v) The court shall make a written finding in its order or the jury shall find by special~~
78 ~~interrogatory that the low-income deviation from the presumptive amount of child~~
79 ~~support is clearly justified based upon the considerations and calculations described~~
80 ~~in this subparagraph.~~

81 (i) If the noncustodial parent requests a low-income deviation, such parent shall
82 demonstrate no earning capacity or that his or her pro rata share of the presumptive
83 amount of child support would create an extreme economic hardship for such parent.
84 A noncustodial parent whose sole source of income is supplemental security income
85 received under Title XVI of the federal Social Security Act shall be considered to
86 have no earning capacity.

87 (ii) In considering a noncustodial parent's request for a low-income deviation, the
88 court or the jury shall examine all attributable and excluded sources of income, assets,
89 and benefits available to the noncustodial parent and may consider all reasonable
90 expenses of the noncustodial parent, ensuring that such expenses are actually paid by
91 the noncustodial parent and are clearly justified expenses.

92 (iii) In considering a noncustodial parent's request for a low-income deviation, the
93 court or the jury shall then weigh the income and all attributable and excluded sources
94 of income, assets, and benefits and all reasonable expenses of each parent, the relative
95 hardship that a reduction in the amount of child support paid to the custodial parent
96 would have on the custodial parent's household, the needs of each parent, the needs

97 of the child for whom child support is being determined, and the ability of the
 98 noncustodial parent to pay child support.
 99 (iv) Following a review of such noncustodial parent's gross income and expenses, and
 100 taking into account each parent's adjusted child support obligation and the relative
 101 hardships on the parents and the child, the court or the jury may consider a downward
 102 deviation to attain an appropriate award of child support which is consistent with the
 103 best interest of the child.
 104 (v) For the purpose of calculating a low-income deviation, the noncustodial parent's
 105 minimum child support for one child shall be not less than \$100.00 per month, and
 106 such amount shall be increased by at least \$50.00 for each additional child for the
 107 same case for which child support is being ordered.
 108 (vi) A low-income deviation granted pursuant to this subparagraph shall apply only
 109 to the current child support amount and shall not prohibit an additional amount being
 110 ordered to reduce a noncustodial parent's arrears.
 111 (vii) If a low-income deviation is granted pursuant to this subparagraph, such
 112 deviation shall not prohibit the court or jury from granting an increase or decrease to
 113 the presumptive amount of child support by the use of any other specific or
 114 nonspecific deviation."

115 SECTION 5.

116 Said Code section is further amended by revising division (i)(2)(K)(ii) as follows:

117 "(ii) If the court or the jury determines that a parenting time deviation is applicable,
 118 then such deviation shall be ~~applied to the noncustodial parent's basic child support~~
 119 ~~obligation~~ included with all other deviations and be treated as a deduction."

120 SECTION 6.

121 Said Code section is further amended by revising paragraph (1) of subsection (m) as follows:

122 "(1) The child support worksheet ~~is~~ shall be used to record information necessary to
 123 determine and calculate child support. Schedules and worksheets shall be prepared by
 124 the parties for purposes of calculating the amount of child support. Information from the
 125 schedules shall be entered on the child support worksheet. The child support worksheet
 126 and, if there are any deviations, Schedule E shall be attached to the final court order or
 127 judgment; provided, however, that any order entered pursuant to Code Section 19-13-4
 128 shall not be required to have such worksheet and schedule attached thereto."

129 SECTION 7.

130 This Act shall become effective on September 1, 2009.

131

SECTION 8.

132 All laws and parts of laws in conflict with this Act are repealed.