

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 698  
Judiciary II Committee Substitute Adopted 5/9/89  
Third Edition Engrossed 5/10/89

Short Title: Child Support Guidelines.

(Public)

Sponsors:

Referred to:

March 30, 1989

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT CHILD SUPPORT GUIDELINES BE USED AS A  
REBUTTABLE PRESUMPTION TO ESTABLISH CHILD SUPPORT  
OBLIGATIONS AND TO REQUIRE PERIODIC REVIEW OF THE  
GUIDELINES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4(c) reads as rewritten:

"(c) Payments ordered for the support of a minor child shall be in such amount as to meet the reasonable needs of the child for health, education, and maintenance having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case.

üby applying the presumptive guidelines established pursuant to subsection (cl). Upon request of a party, the court may modify the amount resulting from application of the guidelines if, after considering evidence regarding one or more of the criteria established pursuant to subsection (cl), the court finds by the greater weight of the evidence that application of the guidelines would not meet the reasonable needs of the child as set forth in this subsection. If the court orders an amount other than the amount determined by application of the presumptive guidelines, the court shall make findings of fact as to the criteria that justify varying from the guidelines and the basis for the amount ordered. In all cases when requested by a party the court shall hear evidence

1 and from the evidence find the facts relating to the reasonable needs of the child for  
2 support and the relative ability of each parent to pay support.

3 Payments ordered for the support of a child shall terminate when the child reaches  
4 the age of 18 except:

- 5 (1) If the child is otherwise emancipated, payments shall terminate at that  
6 time;
- 7 (2) If the child is still in primary or secondary school when he reaches age  
8 18, the court in its discretion may order support payments to continue  
9 until he graduates, otherwise ceases to attend school on a regular basis,  
10 or reaches age 20, whichever comes first."

11 Sec. 2. G.S. 50-13.4(c1) reads as rewritten:

12 ~~"(c1) The Conference of Chief District Judges shall prescribe uniform statewide~~  
13 ~~advisory guidelines for the computation of child support obligations of each parent as~~  
14 ~~provided in Chapter 50 or elsewhere in the General Statutes.~~

15 ~~Such advisory guidelines may provide for variation of the amount of support~~  
16 ~~recommended based on one or more of the following:~~

- 17 ~~(1) The special needs of the child, including physical and emotional health~~  
18 ~~needs, educational needs, day care costs, or needs related to the child's~~  
19 ~~age.~~
- 20 ~~(2) Any shared physical custody arrangements or extended or unusual~~  
21 ~~visitation arrangements.~~
- 22 ~~(3) A party's other support obligations to a current or former household,~~  
23 ~~including the payment of alimony.~~
- 24 ~~(4) A party's extremely low or extremely high income, such that~~  
25 ~~application of the guidelines produces an amount that is clearly too~~  
26 ~~high in relation to the party's own needs or the child's needs.~~
- 27 ~~(5) A party's intentional suppression or reduction of income, hidden~~  
28 ~~income, income that should be imputed to a party, or a party's~~  
29 ~~substantial assets.~~
- 30 ~~(6) Any support that a party is providing or will be providing other than~~  
31 ~~by periodic money payments, such as lump sum payments, possession~~  
32 ~~of a residence, payment of a mortgage, payment of medical expenses,~~  
33 ~~or provision of health insurance coverage.~~
- 34 ~~(7) A party's own special needs, such as unusual medical or other~~  
35 ~~necessary expenses.~~
- 36 ~~(8) Any other factor the court finds to be just and proper. Notwithstanding~~  
37 ~~the foregoing, the court shall hear evidence and from the evidence find~~  
38 ~~the facts relating to the reasonable needs of the child for support and~~  
39 ~~the relative ability of each parent to pay support.~~

40 Effective July 1, 1990, the Conference of Chief District Judges shall prescribe  
41 uniform statewide presumptive guidelines for the computation of child support  
42 obligations of each parent as provided in Chapter 50 or elsewhere in the General  
43 Statutes and shall develop criteria for determining when, in a particular case, application  
44 of the guidelines would be unjust or inappropriate. Prior to May 1, 1990 these

1 guidelines and criteria shall be reported to the General Assembly by the Administrative  
2 Office of the Courts by delivering copies to the President Pro Tempore of the Senate  
3 and the Speaker of the House of Representatives. The purpose of the guidelines and  
4 criteria shall be to ensure that payments ordered for the support of a minor child are in  
5 such amount as to meet the reasonable needs of the child for health, education, and  
6 maintenance, having due regard to the estates, earnings, conditions, accustomed  
7 standard of living of the child and the parties, the child care and homemaker  
8 contributions of each party, and other facts of the particular case. The guidelines shall  
9 include a procedure for setting child support, if any, in a joint or shared custody  
10 arrangement which shall reflect the other statutory requirements herein.

11 Periodically, but at least once every four years, the Conference of Chief District  
12 Judges shall review the guidelines to determine whether their application results in  
13 appropriate child support award amounts. The Conference may modify the guidelines  
14 accordingly. The Conference shall give the Department of Human Resources, the  
15 Administrative Office of the Courts, and the general public an opportunity to provide  
16 the Conference with information relevant to the development and review of the  
17 guidelines. Any modifications of the guidelines or criteria shall be reported to the  
18 General Assembly by the Administrative Office of the Courts before they become  
19 effective by delivering copies to the President Pro Tempore of the Senate and the  
20 Speaker of the House of Representatives. The guidelines, when adopted or modified,  
21 shall be provided to the Department of Human Resources and the Administrative Office  
22 of the Courts, which shall disseminate them to the public through local IV-D offices,  
23 clerks of court, and the media.

24 Until July 1, 1990, the advisory guidelines adopted by the Conference of Chief  
25 District Judges pursuant to this subsection as formerly written shall operate as  
26 presumptive guidelines and the factors adopted by the Conference of Chief District  
27 Judges pursuant to this subsection as formerly written shall constitute criteria for  
28 varying from the amount of support determined by the guidelines."

29 Sec. 3. Before October 1, 1989, the child support guidelines and factors for  
30 varying from those guidelines, as adopted by the Conference of Chief District Judges  
31 pursuant to G.S. 50-13.4(c1), shall be disseminated to the public by the Department of  
32 Human Resources and the Administrative Office of the Courts through local IV-D  
33 offices, clerks of court, and the media.

34 Sec. 4. G.S. 14-322(e) reads as rewritten:

35 "(e) Upon conviction for an offense under this section, the court may make such  
36 order as will best provide for the support, as far as may be necessary, of the abandoned  
37 spouse or child, or both, from the property of labor of the defendant. If the court  
38 requires the payment of child support, the amount of the payments shall be determined  
39 as provided in G.S. 50-13.4(c). "

40 Sec. 5. G.S. 15A-1343(b)(4) reads as rewritten:

41 "(4) Satisfy child support and other family obligations as required by the  
42 court. If the court requires the payment of child support, the amount of  
43 the payments shall be determined as provided in G.S. 50-13.4(c)."

44 Sec. 6. G.S. 49-7 reads as rewritten:

1 "§ 49-7. Issues and orders.

2 The court before which the matter may be brought shall determine whether or not  
3 the defendant is a parent of the child on whose behalf the proceeding is instituted. After  
4 this matter has been determined in the affirmative, the court shall proceed to determine  
5 the issue as to whether or not the defendant has neglected or refused to provide adequate  
6 support and maintain the child who is the subject of the proceeding. After this matter  
7 shall have been determined in the affirmative, the court shall fix by order, subject to  
8 notification or increase from time to time, a specific sum of money necessary for the  
9 support and maintenance of the ~~particular child who is the object of the proceedings~~ child,  
10 subject to the limitations of G.S. 50-13.10. ~~The court in fixing this sum shall take into~~  
11 ~~account the circumstances of the case, the financial ability to pay and earning capacity of the~~  
12 ~~defendant, and his or her willingness to cooperate for the welfare of the child.~~ The amount of  
13 child support shall be determined as provided in G.S. 50-13.4(c). The order fixing the  
14 sum shall require the defendant to pay it either as a lump sum or in periodic payments as  
15 the circumstances of the case may appear to the court to require. Compliance by the  
16 defendant with any or all of the further provisions of this Article or the order or orders  
17 of the court requiring additional acts to be performed by the defendant shall not be  
18 construed to relieve the defendant of his or her responsibility to pay the sum fixed or  
19 any modification or increase thereof.

20 The court before whom the matter may be brought, on motion of the State or the  
21 defendant, shall order that the alleged-parent defendant, the known natural parent, and  
22 the child submit to any blood tests and comparisons which have been developed and  
23 adapted for purposes of establishing or disproving parentage and which are reasonably  
24 accessible to the alleged-parent defendant, the known natural parent, and the child. The  
25 results of those blood tests and comparisons, including the statistical likelihood of the  
26 alleged parent's parentage, if available, shall be admitted in evidence when offered by a  
27 duly qualified, licensed practicing physician, duly qualified immunologist, duly  
28 qualified geneticist or other duly qualified person. The evidentiary effect of those blood  
29 tests and comparisons and the manner in which the expenses therefor are to be taxed as  
30 costs shall be as prescribed in G.S. 8-50.1. In addition, if a jury tries the issue of  
31 parentage, they shall be instructed as set out in G.S. 8-50.1. From a finding on the issue  
32 of parentage against the alleged-parent defendant, the alleged-parent defendant has the  
33 same right of appeal as though he or she had been found guilty of the crime of willful  
34 failure to support an illegitimate child."

35 Sec. 7. G.S. 7A-650(c) reads as rewritten:

36 "(c) Whenever legal custody of a juvenile is vested in someone other than his  
37 parent, after due notice to the parent and after a hearing, the judge may order that the  
38 parent pay a reasonable sum that will cover in whole or in part the support of the  
39 juvenile after the order is entered. If the court requires the payment of child support, the  
40 amount of the payments shall be determined as provided in G.S. 50-13.4(c). If the  
41 judge places a juvenile in the custody of a county department of social services and if  
42 the judge finds that the parent is unable to pay the cost of the support required by the  
43 juvenile, the cost shall be paid by the county department of social services in whose  
44 custody the juvenile is placed, provided the juvenile is not receiving care in an

1 institution owned or operated by the State or federal government or any subdivision  
2 thereof."

3           Sec. 8. G.S. 110-132(b) reads as rewritten:

4       "(b) At any time after the filing with the district court of an acknowledgment of  
5 paternity, upon the application of any interested party, the court or any judge thereof  
6 shall cause a summons signed by him or by the clerk or assistant clerk of superior court,  
7 to be issued, requiring the putative father to appear in court at a time and place named  
8 therein, to show cause, if any he has, why the court should not enter an order for the  
9 support of the child by periodic payments, which order may include provision for  
10 reimbursement for medical expenses incident to the pregnancy and the birth of the child,  
11 accrued maintenance and reasonable expense of the action under this subsection on the  
12 acknowledgment of paternity previously filed with said court. The amount of child  
13 support payments so ordered shall be determined as provided in G.S. 50-13.4(c). The  
14 prior judgment as to paternity shall be **res judicata** as to that issue and shall not be  
15 reconsidered by the court."

16           Sec. 9. Section 3 of this act shall become effective upon ratification. The  
17 remainder of the act shall become effective October 1, 1989, and shall apply to child  
18 support orders entered or modified on or after that date.