

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 529
SENATE BILL 698

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 (c1). 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 (c1), 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 and from the evidence find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to pay support.

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

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

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

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

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

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

Effective July 1, 1990, the Conference of Chief District Judges shall prescribe uniform statewide presumptive guidelines for the computation of child support obligations of each parent as provided in Chapter 50 or elsewhere in the General Statutes and shall develop criteria for determining when, in a particular case, application of the guidelines would be unjust or inappropriate. Prior to May 1, 1990 these guidelines and criteria shall be reported to the General Assembly by the Administrative Office of the Courts by delivering copies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The purpose of the guidelines and criteria shall be to ensure that payments ordered for the support of a minor child are 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. The guidelines shall include a procedure for setting child support, if any, in a joint or shared custody arrangement which shall reflect the other statutory requirements herein.

Periodically, but at least once every four years, the Conference of Chief District Judges shall review the guidelines to determine whether their application results in appropriate child support award amounts. The Conference may modify the guidelines accordingly. The Conference shall give the Department of Human Resources, the

Administrative Office of the Courts, and the general public an opportunity to provide the Conference with information relevant to the development and review of the guidelines. Any modifications of the guidelines or criteria shall be reported to the General Assembly by the Administrative Office of the Courts before they become effective by delivering copies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The guidelines, when adopted or modified, shall be provided to the Department of Human Resources and the Administrative Office of the Courts, which shall disseminate them to the public through local IV-D offices, clerks of court, and the media.

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

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

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

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

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

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

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

"§ 49-7. Issues and orders.

The court before which the matter may be brought shall determine whether or not the defendant is a parent of the child on whose behalf the proceeding is instituted. After this matter has been determined in the affirmative, the court shall proceed to determine the issue as to whether or not the defendant has neglected or refused to provide adequate support and maintain the child who is the subject of the proceeding. After this matter shall have been determined in the affirmative, the court shall fix by order, subject to notification or increase from time to time, a specific sum of money necessary for the support and maintenance of the ~~particular child who is the object of the proceedings~~ child, subject to the limitations of G.S. 50-13.10. ~~The court in fixing this sum shall take into account the circumstances of the case, the financial ability to pay and earning capacity of the defendant, and his or her willingness to cooperate for the welfare of the child.~~ The amount of child support shall be determined as provided in G.S. 50-13.4(c). The order fixing the sum shall require the defendant to pay it either as a lump sum or in

periodic payments as the circumstances of the case may appear to the court to require. Compliance by the defendant with any or all of the further provisions of this Article or the order or orders of the court requiring additional acts to be performed by the defendant shall not be construed to relieve the defendant of his or her responsibility to pay the sum fixed or any modification or increase thereof.

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

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

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

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

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

prior judgment as to paternity shall be **res judicata** as to that issue and shall not be reconsidered by the court."

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

In the General Assembly read three times and ratified this the 30th day of June, 1989.