

DIVISION OF WELFARE AND SUPPORTIVE SERVICES PUBLIC HEARING TO SOLICIT COMMENTS ON PROPOSED REGULATION IN ACCORDANCE WITH ASSEMBLY BILL 278 OF THE 2017 LEGISLATIVE SESSION.

The public hearing to solicit comments on proposed regulation was brought to order by Administrator, Steve Fisher, at 1:04 p.m. on Tuesday, August 20, 2019. This meeting was video-conferenced between the Legislative Counsel Building, 401 South Carson St, Hearing Room 2135, Carson City, NV and the Grant Sawyer State Office Building, 555 East Washington Avenue, Hearing Room 4412, Las Vegas, NV. The meeting was also accessible via teleconference.

STAFF PRESENT:

Nova Murray, Deputy Administrator, Division of Welfare and Supportive Services (DWSS)
Cathy Kaplan, Chief of Child Support Enforcement, DWSS
David Castagnola, Social Service Specialist III, DWSS
Joy Tomlinson, Administrative Assistant IV, DWSS
Rebecca Lindelow, Family Services Supervisor, DWSS
Kiersten Gallagher, Social Services Manager, DWSS
Ryan Sunga, Deputy Attorney General

GUESTS PRESENT – NORTH:

Jenni Cartwright
Glen Baker
Kristopher Daniel
Salvador Mendoza Pulido
Kim Surratt, Family Law Section of the State Bar of Nevada

GUESTS PRESENT – SOUTH:

Senator Keith Pickard
Dawn Throne, Family Law Section of the State Bar of Nevada
Sonya Toma
Joshua Cowart
Carol Strom
Ann Barringer

GUESTS PRESENT VIA TELEPHONE:

None

Agenda Item #1 – Public hearing presentation on proposed amendments to NAC Chapter 425 in LCB File No. R183-18.

The public hearing to solicit comments on proposed regulation was brought to order by Administrator, Steve Fisher at 1:04 pm. Mr. Fisher introduced Nova Murray to present the regulations.

Ms. Murray introduced the proposed regulations. See Exhibit A. Ms. Murray read the following changes to NAC 425:

- This regulation establishes the child support guidelines that will be used to calculate child support in this State upon the effective date of this regulation.
- Defines “gross income” for the purposes of calculating child support.
- Defines an “obligee” as a person who is entitled to receive child support.
- Defines an “obligor” as a person who incurs a legal obligation to provide child support.
- Requires any child support order to be based on an obligor’s earnings, income and other evidence of ability to pay.
- Authorizes the parties to a child support proceeding to stipulate to an amount of child support that does not comply with the child support guidelines established in this regulation and sets forth the requirements that such a stipulation must satisfy in order to be binding.
- Provides that a court may reject such a stipulation if it is a product of coercion or the amount of child support does not meet the needs of the child.
- Requires the monthly gross income of each obligor to be determined by stipulation of the parties or the court.
- Authorizes the court to impute income to an obligor who is underemployed or unemployed without good cause and requires the court to take into consideration the specific circumstances of the obligor. Requires the court to make an equitable division of the reasonable costs of child care.
- Requires every child support order that is issued or modified in this State to include a provision specifying that medical support is required to be provided for the child and any details relating to such a requirement.
- Establishes the schedule for determining the base child support obligation of an obligor based on the number of children who will receive support and the monthly gross income of the obligor.
- Requires child support to be established using a low-income schedule based on the federal poverty guidelines if the court determines that the total economic circumstances of an obligor limit his or her ability to pay the base child support obligation determined.
- Authorizes the court to establish an appropriate child support obligation if the monthly gross income of an obligor is below the lowest level set forth in the low-income schedule.
- Authorizes the court to adjust any child support obligation in accordance with the specific needs of the child and the economic circumstances of the parties.
- Provides that the incarceration or involuntary institutionalization of an obligor for a period of 180 consecutive days or more, or the release from such incarceration or involuntary institutionalization, constitutes a substantial change in circumstances that warrants the review and, if appropriate, adjustment of a child support order.
- Prohibits incarceration or involuntary institutionalization from being treated as voluntary unemployment.
- Establishes provisions relating to the automatic termination of a child support obligation if a child support order pertains to: (1) only one child; or (2) more than one child but allocates a specific amount of the total child support obligation to each child.
- Provides that if a child support order pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child, a person who wishes to modify the order when a child reaches 18 years of age or, if the child is still in high school, graduates from high school or reaches 19 years of age, whichever comes first, the person must file a motion to modify the order or submit a stipulation between the parties to the court.

- Sets forth a notice that must be included in any child support order that pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child.
- Requires any modification or adjustment of a child support order to be based upon a change in circumstances unless otherwise authorized by law or regulation.

1. Anticipated effects on the business which NAC 425 regulates:

- A. *Adverse effects*: No adverse effects on any businesses are anticipated.
- B. *Beneficial*: Do not anticipate regulations affecting any businesses.
- C. *Immediate*: No immediate effects on any businesses are anticipated.
- D. *Long-term*: No long-term effects on any businesses are anticipated.

2. Anticipated effects on the public:

- A. *Adverse*: No adverse effects on the public are anticipated.
- B. *Beneficial*: It is anticipated that child support obligations will be more realistic for parents ordered to pay support thereby increasing the likelihood of consistent payments for parents receiving child support.
- C. *Immediate*: Child support obligations court ordered on or after the proposed effective date will be based on the proposed guidelines. Existing child support obligations eligible for modification on or after the proposed effective date will be based on the proposed guidelines.
- D. *Long-term*: It is anticipated that child support case participants will benefit from the revised guidelines for the duration of their children’s minority.

3. There are no estimated costs to the Division of Welfare and Supportive Services.

The currently effective regulations do not assess a fee and these programs have not paid any certification fees previously.

The proposed regulations do not overlap or duplicate any other Nevada state regulations

Agenda Item #2 – Public Comment on proposed amendments to NAC Chapter 425 in LCB File No. R183-18.

Mr. Fisher called for public comment in the north. Public comment was heard from Jenni Cartwright. Ms. Cartwright thanked the Child Support Guidelines Committee and DWSS for all their hard work on these regulations. Ms. Cartwright stated she believes the new regulations are fair and removes the burdens on paying parents while still meeting the needs of the children. She stated that imputed income is a step in the right direction as it is spelled out in the regulations. Ms. Cartwright stated she was disappointed that Section 21.3 prevents the new regulations from going into effect right away and not allowing people to use the new regulations as a reason to have their child support reviewed. She also stated that she was disappointed in Section 23 and the fact that the regulation will not go into effect until 90 days after the regulations are filed with the Secretary of State. Ms. Cartwright stated she was not sure why the additional 90 days were necessary when Section 21.3 prohibits individuals from going back to court right away. Ms. Cartwright stated she hopes there can be an offset for joint custody situations in the future, as there are paying parents who are held to the same

calculations as physical custodians. She stated she hopes the committee will take another look at the report that sparked the formation of the committee.

Ms. Murray responded to Ms. Cartwright's comment about the 90 days mentioned in the regulations. Ms. Murray stated the 90 days was to allow training for staff, judges, and attorneys to apply the regulations correctly.

Ms. Cartwright stated there is a delay when a modification for child support is filed and when the parties appear before a judge that would take care of the training time.

Public Comment was heard from Glen Baker. Mr. Baker stated he was here to speak for joint custodians. He stated his most pressing issue with the old formula is that joint custodians are paying the statutory cap. He supports the new formula as he believes it will support the children and build incentive for the other parent to seek better employment. He stated that in Humboldt County the obligees are not working but remarry miners making \$100,000 and the District Attorney in Humboldt County will not consider that income when establishing child support orders. Mr. Baker stated his problem is the total adherence to the CSPIA. He stated this causes fighting among the parents which does not support the children. Mr. Baker stated there should be recognition for joint custodians because they do not get any credit. Mr. Baker stated Section 21.3 keeps paying custodians from benefiting from the new regulations which causes the children to miss out. Mr. Baker stated his biggest concern with the adoption of the new regulations is that there will be an influx of motions for custody. He stated he does not want children being taken away from good paying parents. Mr. Baker also stated that he does not trust the District Attorney's office to do the right thing. He stated he has been lied to by the child support office and the District Attorney.

Public Comment was heard by Kristopher Daniel. Mr. Daniel stated he was recently laid off from his employment and he has a \$1800 a month child support payment. He stated he paid it for the last couple of months but cannot pay it anymore. Mr. Daniel stated he took the first job he could get so he could support his children. He stated he is in arrears over a lie. Mr. Daniel stated he is in the system as a deadbeat dad and has 20 days to prove that he paid \$1800 a month since November of last year. He stated in joint custody situations it is so easy for one parent to take advantage of the other parent. Mr. Daniel stated his ex-wife works 5 hours a week. Mr. Daniel stated that for his joint custodians, they share the same expenses and time. He stated he went into the Humboldt County Child Support Office to ask them to take money out of his paycheck and had to fill out a form that basically asked him if he was a deadbeat parent. Mr. Daniel stated he was living off \$400 to \$500 a month even though he shares the same expenses for clothes, food, musical instruments, etc. His ex-wife works 5 hours a week and lives with someone who makes \$100,000 a year. He stated as a joint custodian the other party has to realize that they have the same responsibility that he does. Mr. Daniel stated he just wanted fairness under the law.

Mr. Fisher called for public comment in Las Vegas. Public comment was heard from Alexander Falconi. Mr. Falconi stated he does not receive or pay child support. He stated his comments were based on communications to their organization from various viewers as well as Glen Baker and his colleagues. Mr. Falconi stated he would recommend the burden of proof be raised on the presumption that these formulas are not consistent to the clear and convincing evidence standard. He stated he recommended the same for a finding of imputation of income.

Public comment was heard from Carol Strom. Ms. Strom stated she had some suggestions for the committee to consider the Boston Massachusetts Child Care and Higher Education Reform. Ms.

Strom stated that Massachusetts has provided a solution to everything people have complained about toady. The Reform makes it so joint custody is 85% timeshare or 15%. Each home is the same income and the income is based on the IRS. The person with the best insurance places the child on their insurance and Medicaid would be supplemental. Ms. Strom stated she thinks this Reform would take away all the fighting. She also stated there are no income caps. Ms. Strom also mentioned that in Oregon there is no cash TANF because Oregon offers childcare. She stated that unemployment is rooted in the lack of access to good and affordable childcare. Ms. Strom suggested the committee consider the Boston Massachusetts Child Care and Higher Education Reform. She also stated that Massachusetts counts childcare in their formula and that way they have an enforceable dollar amount. Ms. Strom suggested a new fun and fit program that would provide childcare on school campuses to help bring the cost of childcare down. She also suggested that the party's names be kept off the internet and change names to initials. Ms. Strom stated Family Court should use the IRS to figure out what a party's income is or use the party's credit report.

Public comment was heard from Joshua Cowart. Mr. Cowart stated he is a non-custodial parent even though he has joint physical custody. Mr. Cowart stated Section 4a discusses the overtime pay and ask that this be clarified to show when overtime should be used. He stated he has a hearing coming up and they are using overtime, bonuses, and income to calculate his child support. Mr. Cowart stated overtime is not guaranteed and it comes in when it comes in. He stated to calculate his child support off of unguaranteed income hurts him and hurts his son. Mr. Cowart stated in Section 4.1c it allows for Federal disability to be used as child support. He stated for federal disability the government allows money for that individual but that he does not see why that money should be taken from the individual. Mr. Cowart stated in Section 19.1 that "automatic" should be added to this section as page two of the regulations states the child support will automatically terminate when the child turns 18. Mr. Cowart stated his court date that is coming up will not reflect these new regulations and since his son is 15 years old, he will never have an opportunity to benefit from the new regulations. He stated he would encourage the new regulations to allow anyone to benefit from the changes in the new regulations.

Mr. Fisher called for public comment over the telephone: no public comment.

Agenda Item #3 – consideration and adoption of proposed amendments to NAC Chapter 425 in LCB File No. R183-18.

Mr. Fisher adopted the regulations on behalf of the Director of Health and Human Services. He thanked everyone for attending the hearing and for their public comment.

Agenda Item #4 – Public Comment

Mr. Fisher called for public comment and heard from Jenni Cartwright. Ms. Cartwright stated her child support obligation recently was doubled. She stated she hopes she will get the opportunity to go back to court and take advantage of the new regulations. She stated she hopes the committee will work with her and the others that have testified. Ms. Cartwright stated they are the parents that are keeping everything going. She stated the system should support them not work against them.

Public comment was heard from Kim Surratt. Ms. Surratt this is an ongoing process and the committee will continue. She stated this is the first round and this was their effort as a major overhaul of the statutes. She encouraged the public to come back and testify so the committee can consider

additional ideas. She stated that when the public does not show up to the committee meetings, they do not have anything to go off. Ms. Surratt stated the committee did struggle with how to deal with certain issues. Ms. Surratt encouraged the public to come back for the full committee meetings and bring language or ideas.

Public comment was heard from Glen Baker. Mr. Baker stated that the regulations state the adoption of the new regulations is not sufficient grounds to file for a modification. He stated the language leaves it open that even after three years nothing is stopping a judge or hearing master from saying that there is no change in circumstances and therefore not modify the order in accordance with the new regulations. He stated there is no incentive for a district attorney or hearing master to modify an order in accordance with the new regulations. Mr. Baker stated he looked at arrears collections in Humboldt County. In 2014 Humboldt County was around 50% and by 2019 it jumped to 72%. He stated that he thinks Humboldt County started manufacturing arrears to bring their numbers up and to get more money for the county. Mr. Baker stated he was concerned about the notification of the upcoming meetings and that he wants to be notified so he can attend the meeting of the committee. Mr. Baker thanked DWSS and the committee for all their work on the new regulations.

Public comment was heard from Mr. Daniel. Mr. Daniel stated he has a child support modification coming up soon and if he does not get his child support calculated under the new regulations, he is done for three years. He stated that everyone should be able to benefit from the new regulations right away. Mr. Daniel stated that the custodial party should be held to the same standard as the non-custodial party. He stated he has overtime built into his schedule but the overtime is not guaranteed. Mr. Daniel asked the committee and DWSS to remember the non-custodial parents as well. He asked that they make the regulations fair for both sides.

Mr. Fisher called for public comment in Las Vegas. Public comment was heard from Senator Keith Pickard. Senator Pickard stated this is an ongoing process. He stated the public testimony shows the need for this ongoing process. He stated the committee struggled with the many concerns that were brought up. Senator Pickard stated different cases vary and that is why they tried to build some discretion into the rules. He stated it is hard to consider different aspects. Senator Pickard stated that if there are changes or modifications that make sense that the committee is happy to consider them. He stated an attorney can help if individuals feel that they are being mistreated by the system. Senator Pickard thanked the committee and DWSS for all their time and effort.

Public comment was heard from Sonya Toma. Ms. Toma stated she works for the Legal Aid for Southern Nevada. She asked if DWSS or the committee is planning on creating an online calculator. Ms. Toma stated it would be very difficult for a lay person to calculate their child support and it would be hard for the Legal Aid Center to do the calculations without providing legal advice, which they are not allowed to do. She stated she has done a survey of other states and they do have an online calculator. Ms. Toma stated an online calculator would benefit everyone.

Ms. Murray stated that DWSS is considering an online calculator.

Public comment was heard from Joshua Cowart. Mr. Cowart stated the parties should not have to spend their savings or child's college fund on Family Court. He stated any parent should be able to walk into Family Court and get a fair and just decision from the judges with no attorney needed.

Public comment was heard from Carol Strom. Ms. Strom stated she has spent a lot of time at Family Court. She stated Massachusetts has already created a calculator on their website. She stated the court should have a person electronically submit their information to the courts. Ms. Strom stated that she

does not believe attorneys should be involved at all. Ms. Strom stated that people must wait a very long time to get a temporary order. She stated that income should be verified by the IRS. Ms. Strom stated that what happens in Family Court is not law and it is just an opportunity for people to abuse other people. She stated the different courts do not know what is going on in the other courtrooms. Ms. Strom asked that DWSS consider the Boston Massachusetts Reform.

Ms. Murray called for public comment over the telephone: no public comment.

Agenda Item #5 – Adjournment

Mr. Fisher adjourned the meeting at 2:07 pm.

Exhibit A

**REVISED PROPOSED REGULATION OF THE ADMINISTRATOR OF THE DIVISION
OF WELFARE AND SUPPORTIVE SERVICES OF THE**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LCB File No. R183-18

July 3, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-23, NRS 425.620.

A REGULATION relating to child support; establishing the child support guidelines that will be used to calculate child support in this State upon the effective date of this regulation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing federal law and regulations require each state to establish child support guidelines and to review such guidelines at least once every 4 years to ensure that the application of such guidelines results in appropriate awards of child support. (42 U.S.C. § 667(a); 45 C.F.R. § 302.56(e)) Existing federal regulations also establish minimum standards for such guidelines. (45 C.F.R. § 302.56(c)) Existing Nevada law establishes the general formula used to calculate child support and sets forth several other related provisions. (NRS 125B.070-125B.085, 125B.095) Existing Nevada law also requires: (1) the Committee to Review Child Support Guidelines to review the existing child support guidelines established in this State and provide any recommendations for revisions to the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services; and (2) the Administrator, after reviewing and considering such recommendations, to adopt regulations establishing the child support guidelines in this State. (NRS 425.620) The regulations adopted by the Administrator will replace the guidelines currently set forth in existing law.

This regulation establishes the child support guidelines that will be used to calculate child support in this State upon the effective date of this regulation. **Section 4** of this regulation defines “gross income” for the purposes of calculating child support. **Section 5** of this regulation defines an “obligee” as a person who is entitled to receive child support, and **section 6** of this regulation defines an “obligor” as a person who incurs a legal obligation to provide child support. **Section 8** of this regulation requires any child support order to be based on an obligor’s earnings, income and other evidence of ability to pay.

Section 9 of this regulation authorizes the parties to a child support proceeding to stipulate to an amount of child support that does not comply with the child support guidelines established in this regulation and sets forth the requirements that such a stipulation must satisfy in order to be binding. **Section 9** also provides that a court may reject such a stipulation if it is a product of coercion or the amount of child support does not meet the needs of the child.

Section 11 of this regulation requires the monthly gross income of each obligor to be determined by stipulation of the parties or the court. **Section 12** of this regulation authorizes the court to impute income to an obligor who is underemployed or unemployed without good cause and requires the court to take into consideration the specific circumstances of the obligor.

Section 13 of this regulation requires the court to make an equitable division of the reasonable costs of child care, and **section 14** of this regulation requires every child support order that is issued or modified in this State to include a provision specifying that medical support is required to be provided for the child and any details relating to such a requirement.

Section 15 of this regulation establishes the schedule for determining the base child support obligation of an obligor based on the number of children who will receive support and the monthly gross income of the obligor. **Section 16** of this regulation requires child support to be established using a low-income schedule based on the federal poverty guidelines if the court determines that the total economic circumstances of an obligor limit his or her ability to pay the base child support obligation determined pursuant to **section 15**. **Section 16** also authorizes the court to establish an appropriate child support obligation if the monthly gross income of an obligor is below the lowest level set forth in the low-income schedule. **Section 17** of this regulation authorizes the court to adjust any child support obligation in accordance with the specific needs of the child and the economic circumstances of the parties.

Section 18 of this regulation provides that the incarceration or involuntary institutionalization of an obligor for a period of 180 consecutive days or more, or the release from such incarceration or involuntary institutionalization, constitutes a substantial change in circumstances that warrants the review and, if appropriate, adjustment of a child support order. **Section 18** also prohibits incarceration or involuntary institutionalization from being treated as voluntary unemployment.

Section 19 of this regulation establishes provisions relating to the automatic termination of a child support obligation if a child support order pertains to: (1) only one child; or (2) more than one child but allocates a specific amount of the total child support obligation to each child. **Section 19** provides that if a child support order pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child, a person who wishes to modify the order when a child reaches 18 years of age or, if the child is still in high school, graduates from high school or reaches 19 years of age, whichever comes first, the person must file a motion to modify the order or submit a stipulation between the parties to the court. **Section 20** of this regulation sets forth a notice that must be included in any child support order that pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child.

Section 21 of this regulation requires any modification or adjustment of a child support order to be based upon a change in circumstances unless otherwise authorized by law or regulation.

Section 1. Chapter 425 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 21, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Child support obligation” means the amount of child support that is required to be paid by an obligor.*

Sec. 4. 1. *“Gross income” includes, without limitation:*

(a) Salary and wages, including, without limitation, money earned from overtime pay if such overtime pay is substantial, consistent and can be accurately determined.

(b) Interest and investment income, not including the principal.

(c) Social security disability benefits and old-age insurance benefits under federal law.

(d) Any periodic payment from a pension, retirement plan or annuity which is considered remuneration for employment.

(e) Net proceeds resulting from workers’ compensation or other personal injury awards intended to replace income.

(f) Unemployment insurance.

(g) Income continuation benefits.

(h) Voluntary contributions to a deferred compensation plan, employee contributions to an employee benefit or profit-sharing plan, and voluntary employee contributions to any pension

or retirement account, regardless of whether the account provides for tax deferral or avoidance.

(i) Military allowances and veterans' benefits.

(j) Compensation for lost wages.

(k) Undistributed income of a business entity in which a party has an ownership interest sufficient to individually exercise control over or access the earnings of the business, unless the income is included as an asset for the purposes of imputing income pursuant to section 12 of this regulation. As used in this paragraph:

(1) "Reasonable allowance for economic depreciation" means the amount of depreciation on assets computed using the straight-line method and useful lives as determined under federal income tax laws and regulations.

(2) "Undistributed income" means federal taxable income of a business entity plus depreciation claimed on the federal income tax return of the business less a reasonable allowance for economic depreciation.

(l) Child care subsidy payments if a party is a child care provider.

(m) Alimony.

(n) Except as otherwise provided in subsection 2, all other income of a party, regardless of whether such income is taxable.

2. The term does not include:

(a) Child support received.

(b) Foster care or kinship care payments.

(c) Benefits received under the federal Supplemental Nutrition Assistance Program.

(d) Cash benefits paid by a county.

(e) Supplemental security income benefits and state supplemental payments.

(f) Except as otherwise provided in paragraph (l) of subsection 1, payments made for social services or any other public assistance benefits.

(g) Compensation for losses, including, without limitation, both general and special damages, from personal injury awards not intended to replace income.

3. This section must not be construed to limit income withholding or the assignment of workers' compensation benefits for the collection of child support.

Sec. 5. "Obligee" means a person who is entitled to receive payments for the support of one or more children pursuant to an order.

Sec. 6. "Obligor" means a person who incurs a legal obligation to provide support for one or more children pursuant to an order. If the parties have joint physical custody of at least one child, each party is an obligor.

Sec. 7. "Order" has the meaning ascribed to "order for the support of a child" in NRS 125B.145.

Sec. 8. 1. Any order must be based on the obligor's earnings, income and other evidence of ability to pay.

2. It is presumed that the basic needs of a child are met by a child support obligation established pursuant to the guidelines set forth in sections 2 to 21, inclusive, of this regulation, however, this presumption may be rebutted by evidence proving that the needs of a particular child are not met or are exceeded by such a child support obligation.

3. If the court establishes a child support obligation that is greater or less than the child support obligation that would be established pursuant to the guidelines set forth in sections 2 to 21, inclusive, of this regulation, the court must:

- (a) Set forth findings of fact as to the basis for the deviation from the guidelines; and*
- (b) Provide in the findings of fact the child support obligation that would have been established pursuant to the guidelines.*

Sec. 9. 1. *In lieu of having a child support obligation determined pursuant to the guidelines set forth in sections 2 to 21, inclusive, of this regulation, the parties may stipulate to a child support obligation that does not comply with such guidelines. To be binding, such a stipulation must be in writing and:*

- (a) Set forth the current monthly gross income of each party;*
- (b) Specify what the child support obligation would be under the guidelines;*
- (c) Provide notice to both parties that, if either party seeks a review of the stipulated child support obligation for any authorized reason, the court will calculate the child support obligation in accordance with the child support guidelines in effect at the time of the review;*
- (d) Contain a certification by the obligee that he or she is not currently receiving public assistance and has not applied for public assistance;*
- (e) Certify that the basic needs of the child are met or exceeded by the stipulated child support obligation; and*
- (f) Be approved and adopted as an order of the court.*

2. Notwithstanding the provisions of subsection 1, a court may reject a stipulation if the court determines that the stipulation is a product of coercion or the child support obligation does not meet the needs of the child.

Sec. 10. 1. *If the parties do not stipulate to a child support obligation pursuant to section 9 of this regulation, the court must determine the child support obligation in accordance with the guidelines set forth in sections 2 to 21, inclusive, of this regulation.*

2. *If a party has primary physical custody of a child, he or she is deemed to be the obligee and the other party is deemed to be the obligor, and the child support obligation of the obligor must be determined.*

3. *If the parties have joint physical custody of a child, the child support obligation of each party must be determined. After each party's respective child support obligation is determined, the child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.*

4. *If the parties have two or more children and each party has joint physical custody of at least one, but not all, of the children, the total child support obligation of each party must be determined based on the number of children to whom each party owes a child support obligation. After each party's respective child support obligation is determined, the child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.*

Sec. 11. 1. *The monthly gross income of each obligor must be determined by:*

(a) Stipulation of the parties; or

(b) The court, after considering all financial or other information relevant to the earning capacity of the obligor.

2. *In determining the monthly gross income of each obligor, the court may direct either party to furnish financial information or other records, including, without limitation, any income tax returns.*

Sec. 12. 1. *If after taking evidence, the court determines that an obligor is underemployed or unemployed without good cause, the court may impute income to the obligor.*

2. If the court imputes income, the court must take into consideration, to the extent known, the specific circumstances of the obligor, including, without limitation:

(a) The obligor's:

(1) Assets;

(2) Residence;

(3) Employment and earnings history;

(4) Job skills;

(5) Educational attainment;

(6) Literacy;

(7) Age;

(8) Health;

(9) Criminal record and other employment barriers; and

(10) Record of seeking work;

(b) The local job market;

(c) The availability of employers willing to hire the obligor;

(d) The prevailing earnings level in the local community; and

(e) Any other relevant background factors in the case.

Sec. 13. *The court must consider the reasonable costs of child care paid by either or both parties and make an equitable division thereof.*

Sec. 14. *1. Every order issued or modified in this State must include a provision specifying:*

(a) That medical support is required to be provided for the child; and

(b) Any details relating to that requirement.

2. *As used in this section, “medical support” includes, without limitation, the payment of a premium for accessible medical, vision or dental coverage under a plan of insurance, including, without limitation, a public plan such as Medicaid or a reduced-fee plan such as the Children’s Health Insurance Program, that is reasonable in cost. For the purpose of this subsection:*

(a) Coverage under a plan of insurance is “accessible” if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

(b) The payment of a premium for coverage under a plan of insurance is “reasonable in cost” if:

(1) The cost:

(I) To each party who is responsible for providing medical support is not more than 5 percent of the monthly gross income of the party; or

(II) Of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the monthly gross income of the party; and

(2) The court assesses the plan of insurance, including the copayments, deductible and maximum out-of-pocket costs, and determines that the plan is reasonable in cost.

Sec. 15. *Except as otherwise provided in section 16 of this regulation, the base child support obligation of an obligor must be determined according to the following schedule:*

1. For one child, the sum of:

(a) For the first \$6,000 of an obligor’s monthly gross income, 16 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 8 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than \$10,000, 4 percent of such a portion.

2. For two children, the sum of:

(a) For the first \$6,000 of an obligor's monthly gross income, 22 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 11 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than \$10,000, 6 percent of such a portion.

3. For three children, the sum of:

(a) For the first \$6,000 of an obligor's monthly gross income, 26 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 13 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than \$10,000, 6 percent of such a portion.

4. For four children, the sum of:

(a) For the first \$6,000 of an obligor's monthly gross income, 28 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, 14 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than \$10,000, 7 percent of such a portion.

5. For each additional child, the sum of:

(a) For the first \$6,000 of an obligor's monthly gross income, an additional 2 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than \$6,000 and equal to or less than \$10,000, an additional 1 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than \$10,000, an additional 0.5 percent of such a portion.

Sec. 16. *1. If the court determines that the total economic circumstances of an obligor limit his or her ability to pay a child support obligation in the amount determined pursuant to section 15 of this regulation, the child support obligation must be established by using a low-income schedule which is based on the current federal poverty guidelines, as determined by the Secretary of Health and Human Services, and which is published annually in the Federal Register.*

2. If the monthly gross income of an obligor is below the lowest level set forth in the low-income schedule, the court may establish an appropriate child support obligation based on the total economic circumstances of the obligor, balancing his or her need for self-support with the obligation to support his or her child.

3. The low-income schedule must be published by the Administrative Office of the Courts on or before March 31 of each year.

Sec. 17. *1. Any child support obligation may be adjusted by the court in accordance with the specific needs of the child and the economic circumstances of the parties based upon the following factors and specific findings of fact:*

(a) Any special educational needs of the child;

(b) The legal responsibility of the parties for the support of others;

- (c) The value of services contributed by either party;*
- (d) Any public assistance paid to support the child;*
- (e) The cost of transportation of the child to and from visitation;*
- (f) The relative income of both households, so long as the adjustment does not exceed the total obligation of the other party;*
- (g) Any other necessary expenses for the benefit of the child; and*
- (h) The obligor's ability to pay.*

2. The court may include benefits received by a child pursuant to 42 U.S.C. § 402(d) based on a parent's entitlement to federal disability or old-age insurance benefits pursuant to 42 U.S.C. §§ 401 to 433, inclusive, in the parent's gross income and adjust an obligor's child support obligation by subtracting the amount of the child's benefit. In no case may this adjustment require an obligee to reimburse an obligor for any portion of the child's benefit.

Sec. 18. *1. If an obligor is incarcerated or involuntarily institutionalized for a period of 180 consecutive days or more, or is released from such incarceration or involuntary institutionalization, such an occurrence is considered to be a substantial change in circumstances that warrants the review and, if appropriate, the adjustment of an order based on the obligor's ability to pay. A party or the enforcing authority may petition the court to request a hearing for review.*

2. Incarceration or involuntary institutionalization must not be treated as voluntary unemployment and income must not be imputed to an obligor who is incarcerated or involuntarily institutionalized.

3. *The court may verify that an obligor has the means to pay more or less than the child support obligation established in the order during the period that he or she is incarcerated or involuntarily institutionalized.*

4. *If a child support obligation is reduced during the period that an obligor is incarcerated or involuntarily institutionalized, beginning on the first day of the month following the release of the obligor, the child support obligation must be set by using the lowest monthly income in the low-income schedule established pursuant to section 16 of this regulation or, if a higher child support obligation was ordered by the court during the period of incarceration or involuntary institutionalization, to the higher of the two. This subsection must not be construed to preclude an obligor from seeking a modification of an order based on a change in circumstances or another authorized reason.*

5. *This section must not be construed to prohibit a party or the enforcing authority from petitioning the court for a determination of a child support obligation or any arrearage.*

6. *As used in this section, “incarcerated or involuntarily institutionalized” includes, without limitation:*

(a) Imprisonment in a federal or state prison or a county jail; and

(b) Involuntary commitment to a facility for the detention of children or a mental health facility.

Sec. 19. 1. *Except as otherwise provided by law, if an order pertains to only one child, the child support obligation terminates when the child reaches 18 years of age or, if the child is still in high school, when the child graduates from high school or reaches 19 years of age, whichever comes first.*

2. Except as otherwise provided by law, if an order pertains to more than one child and allocates a specific amount of the total child support obligation to each child, the child support obligation for a particular child is terminated beginning on the first day of the month following the date on which the child reaches 18 years of age or, if the child is still in high school, the first day of the month following the date on which the child graduates from high school or reaches 19 years of age, whichever comes first.

3. If an order pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child:

(a) If a party wishes to modify the order when a child reaches 18 years of age or, if the child is still in high school, graduates from high school or reaches 19 years of age, whichever comes first, the party must file a motion to modify the order with the court or submit a stipulation between the parties to the court.

(b) If a motion to modify the order is filed with the court, any modification of the child support obligation:

(1) Must be in compliance with the child support guidelines in existence at the time of the modification for the remaining children to whom the order pertains; and

(2) Unless the parties agree otherwise in a stipulation, will be effective as of the date the motion to modify the order was filed with the court.

Sec. 20. *Any order that pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child must include the following notice:*

NOTICE: *If you want to adjust the amount of child support established in this order, you MUST file a motion to modify the order with or submit a stipulation to the court. If a motion*

to modify the order is not filed or a stipulation is not submitted, the child support obligation established in this order will continue until such time as all children who are the subject of this order reach 18 years of age or, if the youngest child who is subject to this order is still in high school when he or she reaches 18 years of age, when the child graduates from high school or reaches 19 years of age, whichever comes first. Unless the parties agree otherwise in a stipulation, any modification made pursuant to a motion to modify the order will be effective as of the date the motion was filed.

Sec. 21. *1. Except as otherwise authorized by law or sections 2 to 21, inclusive, of this regulation, after a court has established a child support obligation, any subsequent modification or adjustment of the child support obligation must be based upon a change in circumstances.*

2. The receipt of public assistance by a child or an obligee constitutes a change in circumstances that will allow the review and, if appropriate, modification of the child support obligation in accordance with the child support guidelines in effect at the time of the review.

3. The adoption of or any revision to sections 2 to 21, inclusive, of this regulation must not, in and of itself, be considered a change in circumstances sufficient to justify the modification of any existing order or money judgment.

Sec. 22. *1. The provisions of section 18 of this regulation apply to any order for the support of a child that is issued or modified in this State on or after the effective date of this regulation.*

2. As used in this section, “order for the support of a child” has the meaning ascribed to it in NRS 125B.145.

Sec. 23. This regulation becomes effective on the first day of the first month following 90 days after the date on which this regulation is filed by the Legislative Counsel with the Secretary of State.

DRAFT

**Child Support Obligation of Low-Income Payers
at 75% to 150% of the 2018 Federal Poverty Guidelines**

Monthly Income Up To	One Child		Two Children		Three Children		Four Children		Five Children	
	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount
\$759	10.56%	\$80	14.52%	\$110	17.16%	\$130	18.48%	\$140	19.80%	\$150
\$786	10.75%	\$85	14.79%	\$116	17.48%	\$137	18.82%	\$148	20.16%	\$158
\$813	10.95%	\$89	15.05%	\$122	17.79%	\$145	19.16%	\$156	20.53%	\$167
\$840	11.14%	\$94	15.32%	\$129	18.11%	\$152	19.50%	\$164	20.89%	\$176
\$867	11.34%	\$98	15.59%	\$135	18.42%	\$160	19.84%	\$172	21.26%	\$184
\$894	11.53%	\$103	15.86%	\$142	18.74%	\$168	20.18%	\$180	21.62%	\$193
\$921	11.73%	\$108	16.12%	\$149	19.05%	\$176	20.52%	\$189	21.99%	\$203
\$948	11.92%	\$113	16.39%	\$155	19.37%	\$184	20.86%	\$198	22.35%	\$212
\$976	12.11%	\$118	16.66%	\$162	19.69%	\$192	21.20%	\$207	22.71%	\$222
\$1,003	12.31%	\$123	16.92%	\$170	20.00%	\$201	21.54%	\$216	23.08%	\$231
\$1,030	12.50%	\$129	17.19%	\$177	20.32%	\$209	21.88%	\$225	23.44%	\$241
\$1,057	12.70%	\$134	17.46%	\$185	20.63%	\$218	22.22%	\$235	23.81%	\$252
\$1,084	12.89%	\$140	17.73%	\$192	20.95%	\$227	22.56%	\$245	24.17%	\$262
\$1,111	13.09%	\$145	17.99%	\$200	21.26%	\$236	22.90%	\$254	24.54%	\$273
\$1,138	13.28%	\$151	18.26%	\$208	21.58%	\$246	23.24%	\$265	24.90%	\$283
\$1,165	13.47%	\$157	18.53%	\$216	21.90%	\$255	23.58%	\$275	25.26%	\$294
\$1,192	13.67%	\$163	18.79%	\$224	22.21%	\$265	23.92%	\$285	25.63%	\$306
\$1,219	13.86%	\$169	19.06%	\$232	22.53%	\$275	24.26%	\$296	25.99%	\$317
\$1,247	14.06%	\$175	19.33%	\$241	22.84%	\$285	24.60%	\$307	26.36%	\$329
\$1,274	14.25%	\$182	19.60%	\$250	23.16%	\$295	24.94%	\$318	26.72%	\$340
\$1,301	14.45%	\$188	19.86%	\$258	23.47%	\$305	25.28%	\$329	27.09%	\$352
\$1,328	14.64%	\$194	20.13%	\$267	23.79%	\$316	25.62%	\$340	27.45%	\$364
\$1,355	14.83%	\$201	20.40%	\$276	24.11%	\$327	25.96%	\$352	27.81%	\$377
\$1,382	15.03%	\$208	20.66%	\$286	24.42%	\$338	26.30%	\$363	28.18%	\$389
\$1,409	15.22%	\$215	20.93%	\$295	24.74%	\$349	26.64%	\$375	28.54%	\$402
\$1,436	15.42%	\$221	21.20%	\$304	25.05%	\$360	26.98%	\$387	28.91%	\$415
\$1,463	15.61%	\$228	21.47%	\$314	25.37%	\$371	27.32%	\$400	29.27%	\$428
\$1,490	15.81%	\$236	21.73%	\$324	25.68%	\$383	27.66%	\$412	29.64%	\$442
\$1,518	16.00%	\$243	22.00%	\$334	26.00%	\$395	28.00%	\$425	30.00%	\$455

Calculations:

The income in the first row is 75% of the monthly poverty level income for a one person household.

Child support amount in the first row is 66% of the amount calculated by applying the Nevada rate to the monthly income.

The income amount for the last row is 150% of the monthly poverty level income for a one person household.

2018 Federal Poverty Guidelines

Household Size	Annual Income	Monthly Income
1	\$12,140	\$1,012
2	\$16,460	\$1,372
3	\$20,780	\$1,732
4	\$25,100	\$2,092
5	\$29,420	\$2,452
6	\$33,740	\$2,812
7	\$38,060	\$3,172
8	\$42,380	\$3,532

Nevada Rates

One Child	16%
Two Children	22%
Three Children	26%
Four Children	28%
Five Children	30%

For families/households with more than 8 persons, add \$4,320 for each additional person.

<https://www.federalregister.gov/documents/2018/01/18/2018-00814/annual-update-of-the-hhs-poverty-guidelines>