

**CHILD SUPPORT AMENDMENTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lorie D. Fowlke**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill clarifies that income for determining child support includes earnings from a full-time job and unearned sources of income.

**Highlighted Provisions:**

This bill:

- clarifies that gross income includes earnings from a full-time job and unearned sources of income combined.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78-45-7.5**, as last amended by Chapter 116, Laws of Utah 2001

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78-45-7.5** is amended to read:

**78-45-7.5. Determination of gross income -- Imputed income.**

(1) As used in the guidelines, "gross income" includes~~[-(a)]~~ prospective income from any source, including earned and nonearned income sources~~[-, except under Subsection (3); and (b) income from]~~ which may include salaries, wages, commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay, pensions, interest, trust income, alimony

30 from previous marriages, annuities, capital gains, Social Security benefits, workers'  
31 compensation benefits, unemployment compensation, income replacement disability insurance  
32 benefits, and payments from "nonmeans-tested" government programs.

33 (2) Income from earned income sources is limited to the equivalent of one full-time  
34 40-hour job. ~~[However, if]~~ If and only if during the time prior to the original support order, the  
35 parent normally and consistently worked more than 40 hours at his job, the court may consider  
36 this extra time as a pattern in calculating the parent's ability to provide child support.

37 (3) ~~[Specifically]~~ Notwithstanding Subsection (1), specifically excluded from gross  
38 income are:

39 (a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment  
40 Program;

41 (b) benefits received under a housing subsidy program, the Job Training Partnership  
42 Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, Food  
43 Stamps, or General Assistance; and

44 (c) other similar means-tested welfare benefits received by a parent.

45 (4) (a) Gross income from self-employment or operation of a business shall be  
46 calculated by subtracting necessary expenses required for self-employment or business  
47 operation from gross receipts. The income and expenses from self-employment or operation of  
48 a business shall be reviewed to determine an appropriate level of gross income available to the  
49 parent to satisfy a child support award. Only those expenses necessary to allow the business to  
50 operate at a reasonable level may be deducted from gross receipts.

51 (b) Gross income determined under this Subsection (4) may differ from the amount of  
52 business income determined for tax purposes.

53 (5) (a) When possible, gross income should first be computed on an annual basis and  
54 then recalculated to determine the average gross monthly income.

55 (b) Each parent shall provide verification of current income. Each parent shall provide  
56 year-to-date pay stubs or employer statements and complete copies of tax returns from at least  
57 the most recent year unless the court finds the verification is not reasonably available.

58 Verification of income from records maintained by the Department of Workforce Services may  
59 be substituted for pay stubs, employer statements, and income tax returns.

60 (c) Historical and current earnings shall be used to determine whether an  
61 underemployment or overemployment situation exists.

62 (6) Gross income includes income imputed to the parent under Subsection (7).

63 (7) (a) Income may not be imputed to a parent unless the parent stipulates to the  
64 amount imputed, the party defaults, or, in contested cases, a hearing is held and a finding made  
65 that the parent is voluntarily unemployed or underemployed.

66 (b) If income is imputed to a parent, the income shall be based upon employment  
67 potential and probable earnings as derived from work history, occupation qualifications, and  
68 prevailing earnings for persons of similar backgrounds in the community, or the median  
69 earning for persons in the same occupation in the same geographical area as found in the  
70 statistics maintained by the Bureau of Labor Statistics.

71 (c) If a parent has no recent work history or their occupation is unknown, income shall  
72 be imputed at least at the federal minimum wage for a 40-hour work week. To impute a greater  
73 income, the judge in a judicial proceeding or the presiding officer in an administrative  
74 proceeding shall enter specific findings of fact as to the evidentiary basis for the imputation.

75 (d) Income may not be imputed if any of the following conditions exist:

76 (i) the reasonable costs of child care for the parents' minor children approach or equal  
77 the amount of income the custodial parent can earn;

78 (ii) a parent is physically or mentally disabled to the extent he cannot earn minimum  
79 wage;

80 (iii) a parent is engaged in career or occupational training to establish basic job skills;  
81 or

82 (iv) unusual emotional or physical needs of a child require the custodial parent's  
83 presence in the home.

84 (8) (a) Gross income may not include the earnings of a minor child who is the subject  
85 of a child support award nor benefits to a minor child in the child's own right such as

86 Supplemental Security Income.

87           (b) Social Security benefits received by a child due to the earnings of a parent shall be  
88 credited as child support to the parent upon whose earning record it is based, by crediting the  
89 amount against the potential obligation of that parent. Other unearned income of a child may  
90 be considered as income to a parent depending upon the circumstances of each case.