

**Representative Keven J. Stratton** proposes the following substitute bill:

**CHILD SUPPORT AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the Utah Child Support Act.

**Highlighted Provisions:**

This bill:

- ▶ describes conditions where income can and cannot be imputed to a parent.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-12-203**, as last amended by Laws of Utah 2012, Chapter 41

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

Section 1. Section **78B-12-203** is amended to read:

**78B-12-203. Determination of gross income -- Imputed income.**

(1) As used in the guidelines, "gross income" includes prospective income from any source, including earned and nonearned income sources which may include salaries, wages,



26 commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay,  
27 pensions, interest, trust income, alimony from previous marriages, annuities, capital gains,  
28 Social Security benefits, workers' compensation benefits, unemployment compensation,  
29 income replacement disability insurance benefits, and payments from "nonmeans-tested"  
30 government programs.

31 (2) Income from earned income sources is limited to the equivalent of one full-time  
32 40-hour job. If and only if during the time prior to the original support order, the parent  
33 normally and consistently worked more than 40 hours at the parent's job, the court may  
34 consider this extra time as a pattern in calculating the parent's ability to provide child support.

35 (3) Notwithstanding Subsection (1), specifically excluded from gross income are:

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

38 (b) benefits received under a housing subsidy program, the Job Training Partnership  
39 Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, SNAP  
40 benefits, or General Assistance; and

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

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

48 (b) Gross income determined under this subsection may differ from the amount of  
49 business income determined for tax purposes.

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

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

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

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

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

60 (7) (a) Income may not be imputed to a parent unless the parent stipulates to the  
61 amount imputed, the parent defaults, or, in contested cases, a hearing is held and the judge in a  
62 judicial proceeding or the presiding officer in an administrative proceeding enters findings of  
63 fact as to the evidentiary basis for the imputation.

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

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

73 (d) Income may not be imputed if any of the following conditions exist and the  
74 condition is not of a temporary nature:

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

77 (ii) a parent is physically or mentally unable to earn minimum wage;

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

79 [or]

80 (iv) unusual emotional or physical needs of a child require the custodial parent's  
81 presence in the home[-]; or

82 (v) a parent has primarily been a stay-at-home parent for the purpose of providing  
83 primary care for a child during the course of the marriage, and one of the following exist:

84 (A) a parent has no recent full time work history, the marriage lasted 10 years or more,  
85 and a judicial proceeding has not determined that the stay-at-home parent was at fault under  
86 Subsection 30-3-5(8)(c); or

87 (B) the parents agree not to impute income to the stay-at-home parent.

88           (8) If Subsection (7)(d)(v)(A) or (B) is met and a stay-at-home parent applies for  
89 assistance under Title 35A, Chapter 3, Employment Support Program, income may be  
90 automatically imputed at the federal minimum wage for a 40-hour work week to that parent. A  
91 payor parent's alimony obligation may not be reduced by the imputation.

92           [~~(8)~~] (9) (a) Gross income may not include the earnings of a minor child who is the  
93 subject of a child support award nor benefits to a minor child in the child's own right such as  
94 Supplemental Security Income.

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