

## HB0348S02 compared with HB0348S01

~~text~~ shows text that was in HB0348S01 but was deleted in HB0348S02.

text shows text that was not in HB0348S01 but was inserted into HB0348S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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~~ provides for the court to consider whether a parent was a stay-at-home parent when determining imputed income.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

None

##### Utah Code Sections Affected:

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

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

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

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

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

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

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

(b) Gross income determined under this subsection may differ from the amount of

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business income determined for tax purposes.

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

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

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

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

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

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

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

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

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

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

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

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

~~ff~~ or ~~ff~~

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(iv) unusual emotional or physical needs of a child require the custodial parent's presence in the home ~~{[.]; or~~

~~— (v) a parent has primarily};~~

(e) In determining whether to impute income, the court may consider whether a parent has been a stay-at-home parent for the purpose of providing {primary} care for a child during the course of the marriage {, and one of the following exist:

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

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

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

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

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