

BY: Senator Zirkin

AMENDMENTS TO SENATE BILL 252
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “guidelines;” insert “requiring a court, on the request of any party, to hear certain evidence and find certain facts relating to an award of child support; providing that a certain presumption related to child support guidelines may be rebutted if a court makes a certain finding; requiring a court to base an award of child support on the reasonable needs of the child or children and the relative ability of each parent to provide support if the combined adjusted actual income of the parents exceeds a certain amount;”; in line 6, after “changes;” insert “providing for a delayed effective date;”; in line 14, after “(k)” insert “, 12-202(a),”; and in the same line, strike “12-204(e)” and substitute “12-204(d), (e)”.

AMENDMENT NO. 2

On page 2, after line 14, insert:

“12-202.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, in any proceeding to establish or modify child support, whether pendente lite or permanent, the court shall use the child support guidelines set forth in this subtitle.

(2) (i) There is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines set forth in this subtitle is the correct amount of child support to be awarded.

(ii) ON REQUEST OF ANY PARTY, THE COURT SHALL HEAR EVIDENCE AND FROM THE EVIDENCE FIND THE FACTS RELATING TO THE

(Over)

REASONABLE NEEDS OF THE CHILD FOR SUPPORT AND THE RELATIVE ABILITY OF EACH PARENT TO PROVIDE SUPPORT.

(III) The presumption UNDER THIS PARAGRAPH may be rebutted [by evidence that the application of the guidelines would be] IF, AFTER CONSIDERING THE EVIDENCE, THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT THE APPLICATION OF THE GUIDELINES WOULD NOT MEET OR WOULD EXCEED THE REASONABLE NEEDS OF THE CHILD OR CHILDREN CONSIDERING THE RELATIVE ABILITY OF EACH PARENT TO PROVIDE SUPPORT OR WOULD OTHERWISE BE unjust or inappropriate in a particular case.

[(iii)](IV) In determining whether [the application of the] TO APPLY THE guidelines [would be unjust or inappropriate] in a particular case, the court may consider:

1. the terms of any existing separation or property settlement agreement or court order, including any provisions for payment of mortgages or marital debts, payment of college education expenses, the terms of any use and possession order or right to occupy the family home under an agreement, any direct payments made for the benefit of the children required by agreement or order, or any other financial considerations set out in an existing separation or property settlement agreement or court order; and

2. the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

[(iv)](V) The presumption may not be rebutted solely on the basis of evidence of the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

[(v)](VI) 1. If the court [determines that the application of] CHOOSSES NOT TO APPLY the guidelines [would be unjust or inappropriate] in a particular case, the court shall make a written finding or specific finding on the record stating the reasons for departing from the guidelines.

2. The court's finding shall state:

A. the amount of child support that would have been required under the guidelines;

B. how the order varies from the guidelines;

C. how the finding serves the best interests of the child;
and

D. in cases in which items of value are conveyed instead of a portion of the support presumed under the guidelines, the estimated value of the items conveyed.”;

and after line 15, insert:

“(d) If the combined adjusted actual income exceeds the highest level specified in the schedule in subsection (e) of this section, the court [may use its discretion in setting] SHALL SET the amount of child support BASED ON THE REASONABLE NEEDS OF THE CHILD OR CHILDREN AND THE RELATIVE ABILITY OF EACH PARENT TO PROVIDE SUPPORT.”.

On pages 10 through 19, strike in their entirety the lines beginning with line 30 on page 10 through line 33 on page 19, inclusive.

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AMENDMENT NO. 3

On page 21, in line 11, strike “2010” and substitute “2011”.