

Louisiana Statutes

Revised Statutes

Title 9. Civil code-ancillaries

Book I. OF PERSONS

Code Title V. DIVORCE

Chapter 1. DIVORCE

Part I-A. CHILD SUPPORT

Subpart A. GUIDELINES FOR DETERMINATION OF CHILD SUPPORT

Current through 2009 Legislative Session

§ 9:315. Economic data and principles; definitions

A. Basic principles. The premise of these guidelines as well as the provisions of the Civil Code is that child support is a continuous obligation of both parents, children are entitled to share in the current income of both parents, and children should not be the economic victims of divorce or out-of-wedlock birth. The economic data underlying these guidelines, which adopt the Income Shares Model, and the guideline calculations attempt to simulate the percentage of parental net income that is spent on children in intact families incorporating a consideration of the expenses of the parties, such as federal and state taxes and FICA taxes. While the legislature acknowledges that the expenditures of two-household divorced, separated, or non-formed families are different from intact family households, it is very important that the children of this state not be forced to live in poverty because of family disruption and that they be afforded the same opportunities available to children in intact families, consisting of parents with similar financial means to those of their own parents.

B. Economic data.

(1) The Income Shares approach to child support guidelines incorporates a numerical schedule of support amounts. The schedule provides economic estimates of child-rearing expenditures for various income levels and numbers of children in the household. The schedule is composed of economic data utilizing a table of national averages adjusted to reflect Louisiana's status as a low-income state and to incorporate a self-sufficiency reserve for low-income obligors to form the basic child support obligation.

(2) In intact families, the income of both parents is pooled and spent for the benefit of all household

members, including the children. Each parent's contribution to the combined income of the family represents his relative sharing of household expenses. This same income sharing principle is used to determine how the parents will share a child support award.

C. Definitions. As used in this Part:

(1) "Adjusted gross income" means gross income, minus amounts for preexisting child support or spousal support obligations paid to another who is not a party to the proceedings, or on behalf of a child who is not the subject of the action of the court.

(2) "Combined adjusted gross income" means the combined adjusted gross income of both parties.

(3) "Gross income" means:

(a) The income from any source, including but not limited to salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, recurring monetary gifts, annuities, capital gains, social security benefits, workers' compensation benefits, basic and variable allowances for housing and subsistence from military pay and benefits, unemployment insurance benefits, disaster unemployment assistance received from the United States Department of Labor, disability insurance benefits, and spousal support received from a preexisting spousal support obligation;

(b) Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business, if the reimbursements or payments are significant and reduce the parent's personal living expenses. Such payments include but are not limited to a company car, free housing, or reimbursed meals; and

(c) Gross receipts minus ordinary and necessary expenses required to produce income, for purposes of income from self-employment, rent, royalties, proprietorship of a business, or joint ownership or a partnership or closely held corporation. "Ordinary and necessary expenses" shall not include amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating child support.

(d) As used herein, "gross income" does not include:

(i) Child support received, or benefits received from public assistance programs, including Family Independence Temporary Assistance Plan, supplemental security income, food stamps, and general assistance.

(ii) Per diem allowances which are not subject to federal

income taxation under the provisions of the Internal Revenue Code.

(iii) Extraordinary overtime including but not limited to income attributed to seasonal work regardless of its percentage of gross income when, in the court's discretion, the inclusion thereof would be inequitable to a party.

(iv) Any monetary gift to the domiciliary party when the objective of the gift is to supplement irregular child support payments from the nondomiciliary party.

(v) Any disaster assistance benefits received from the Federal Emergency Management Agency through its Individuals and Households Program or from any other nonprofit organization qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1954, as amended.

(4) "Health insurance premiums" means the actual amount paid by a party for providing health insurance on behalf of the child. It does not include any amount paid by an employer or any amounts paid for coverage of any other persons. If more than one dependent is covered by health insurance which is paid through a lump-sum dependent-coverage premium, and not all of such dependents are the subject of the guidelines calculation, the cost of the coverage shall be prorated among the dependents covered before being applied to the guidelines.

(5) "Income" means:

(a) Actual gross income of a party, if the party is employed to full capacity; or

(b) Potential income of a party, if the party is voluntarily unemployed or underemployed. A party shall not be deemed voluntarily unemployed or underemployed if he or she is absolutely unemployable or incapable of being employed, or if the unemployment or underemployment results through no fault or neglect of the party.

(c) The court may also consider as income the benefits a party derives from expense-sharing or other sources; however, in determining the benefits of expense-sharing, the court shall not consider the income of another spouse, regardless of the legal regime under which the remarriage exists, except to the extent that such income is used directly to reduce the cost of a party's actual expenses.

(6) "Medical support" means health insurance and the payment of the medical expenses of the child.

(7) "Net child care costs" means the reasonable costs of child care incurred by a party due to employment or job search, minus the value of the federal income tax credit for child care.

(8) "Ordinary medical expenses" means unreimbursed

medical expenses less than or equal to two hundred fifty dollars per child per year. Expenses include but are not limited to reasonable and necessary costs for orthodontia, dental treatment, asthma treatment, physical therapy, chronic health problems, and professional counseling or psychiatric therapy for diagnosed mental disorders not covered by medical insurance. The schedule of support in R.S.9:315.19 incorporates ordinary medical expenses.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 1990, No. 117, §1, eff. June 29, 1990; Acts 1991, No. 854, §1; Acts 1993, No. 95, §1; Acts 1997, No. 1155, §5; Acts 2001, No. 1082, §1; Acts 2003, No. 547, §1; Acts 2004, No. 251, §1; Acts 2005, 1st Ex. Sess., No. 59, §1, eff. Dec. 6, 2005; Acts 2006, No. 315, §1, eff. June 13, 2006; Acts 2006, No. 481, §1, eff. Oct. 1, 2006.

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§ 9:315.1.Rebuttable presumption; deviation from guidelines by court; stipulations by parties

A. The guidelines set forth in this Part are to be used in any proceeding to establish or modify child support filed on or after October 1, 1989. There shall be a rebuttable presumption that the amount of child support obtained by use of the guidelines set forth in this Part is the proper amount of child support.

B.(1) The court may deviate from the guidelines set forth in this Part if their application would not be in the best interest of the child or would be inequitable to the parties. The court shall give specific oral or written reasons for the deviation, including a finding as to the amount of support that would have been required under a mechanical application of the guidelines and the particular facts and circumstances that warranted a deviation from the guidelines. The reasons shall be made part of the record of the proceedings.

(2) Notwithstanding the provisions of Paragraph (1), as a direct result of either Hurricane Katrina or Rita, the court may deviate from the guidelines set forth in this Part if the application of the guidelines would not be in the best interest of the child or would be unjust, inequitable, or cause undue hardship to the parties. In determining the amount of the child support, the court may also consider that the parties may have been prevented from timely access to the courts for the exercise of their legal rights. However, the amount of the deviation shall not exceed the consideration the court would have given if the party were able to timely access the court.

C. In determining whether to deviate from the guidelines, the court's considerations may include:

(1) That the combined adjusted gross income of the

parties is not within the amounts shown on the schedule in R.S.9:315.19.

(a) If the combined adjusted gross income of the parties is less than the lowest sum shown on the schedule, the court shall determine an amount of child support based on the facts of the case, except that the amount awarded shall not be less than the minimum child support provided in R.S.9:315.14.

(b) If the combined adjusted gross income of the parties exceeds the highest sum shown on the schedule, the court shall determine an amount of child support as provided in R.S.9:315.13(B)(1) and may order the placement of a portion of the amount in a trust in accordance with R.S.9:315.13.

(2) The legal obligation of a party to support dependents who are not the subject of the action before the court and who are in that party's household.

(3) That in a case involving one or more families, consisting of children none of whom live in the household of the noncustodial or nondomiciliary parent but who have existing child support orders (multiple families), the court may use its discretion in setting the amount of the basic child support obligation, provided it is not below the minimum fixed by R.S.9:315.14, if the existing child support orders reduce the noncustodial or nondomiciliary parent's income below the lowest income level on the schedule contained in R.S.9:315.19.

(4) The extraordinary medical expenses of a party, or extraordinary medical expenses for which a party may be responsible, not otherwise taken into consideration under the guidelines.

(5) An extraordinary community debt of the parties.

(6) The need for immediate and temporary support for a child when a full hearing on the issue of support is pending but cannot be timely held. In such cases, the court at the full hearing shall use the provisions of this Part and may redetermine support without the necessity of a change of circumstances being shown.

(7) The permanent or temporary total disability of a spouse to the extent such disability diminishes his present and future earning capacity, his need to save adequately for uninsurable future medical costs, and other additional costs associated with such disability, such as transportation and mobility costs, medical expenses, and higher insurance premiums.

(8) Any other consideration which would make application of the guidelines not in the best interest of the child or children or inequitable to the parties.

D. The court may review and approve a stipulation

between the parties entered into after the effective date of this Part as to the amount of child support to be paid. If the court does review the stipulation, the court shall consider the guidelines set forth in this Part to review the adequacy of the stipulated amount and may require the parties to provide the court with the income statements and documentation required by R.S.9:315.2.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 1990, No. 117, §1, eff. June 29, 1990; Acts 1992, No. 123, §1, eff. June 1, 1992; Acts 2001, No. 1082, §1; Acts 2005, 1st Ex. Sess., No. 59, §1, eff. Dec. 6, 2005; Acts 2008, No. 579, §1.

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§ 9:315.1.1.Determination of income; evidence

A. When a party alleges that income is being concealed or underreported, the court shall admit evidence relevant to establishing the actual income of the party, including but not limited to the following:

(1) Redirected income. (a) Loans to the obligor by a business in which the obligor has an ownership interest and whether the loans will be repaid. There shall be a presumption that such loans are income of the obligor which may be rebutted if the obligor demonstrates there is a history of similar past loans being made and repaid in a timely manner with market interest rates, or the current loan is at market interest rates and is fully paid in accordance with a commercially reasonable time. The amount by which a commercially reasonable repayment amount exceeds the amount actually repaid shall be treated as income.

(b) Payment made by the obligor or by a business in which the obligor has an ownership interest to a person related by blood or affinity in the form of wages or salary. There shall be a presumption that such payments are income of the obligor, which may be rebutted if the obligor demonstrates there is a history of payments preceding the separation of the parties or the filing of an action to establish or modify child support, or that the payments are fair market value for services actually performed.

(2) Deferred income. Recent reductions in distributions of income, such as salary, bonuses, dividends, or management fees as a percentage of gross income of the business of the obligor. There shall be a presumption that past distributions of income will continue, which may be rebutted if the obligor demonstrates business conditions

justify a reduction in distributions.

(3) Standard of living and assets. The standard of living and assets of the obligor both prior and subsequent to the establishment of a child support order, to establish the actual income if the amount claimed is inconsistent with his lifestyle.

B. When the income of an obligor cannot be sufficiently established, evidence of wage and earnings surveys distributed by government agencies for the purpose of attributing income to the obligor is admissible.

History. Acts 2009, No. 378, §1.

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§ 9:315.2. Calculation of basic child support obligation

A. Each party shall provide to the court a verified income statement showing gross income and adjusted gross income, together with documentation of current and past earnings. Spouses of the parties shall also provide any relevant information with regard to the source of payments of household expenses upon request of the court or the opposing party, provided such request is filed in a reasonable time prior to the hearing. Failure to timely file the request shall not be grounds for a continuance. Suitable documentation of current earnings shall include but not be limited to pay stubs or employer statements. The documentation shall include a copy of the party's most recent federal tax return. A copy of the statement and documentation shall be provided to the other party. When an obligor has an ownership interest in a business, suitable documentation shall include but is not limited to the last three personal and business state and federal income tax returns, including all attachments and all schedules, specifically Schedule K-1 and W-2 forms, 1099 forms, and amendments, the most recent profit and loss statements, balance sheets, financial statements, quarterly sales tax reports, personal and business bank account statements, receipts, and expenses. A copy of all statements and documentation shall be provided to the other party.

B. If a party is voluntarily unemployed or underemployed, his or her gross income shall be determined as set forth in R.S.9:315.11.

C. The parties shall combine the amounts of their adjusted gross incomes. Each party shall then determine by percentage his or her proportionate share of the combined amount. The amount obtained for each party is his or her percentage share of the combined adjusted

gross income.

D. The court shall determine the basic child support obligation amount from the schedule in R.S.9:315.19 by using the combined adjusted gross income of the parties and the number of children involved in the proceeding, but in no event shall the amount of child support be less than the amount provided in R.S.9:315.14.

E. After the basic child support obligation has been established, the total child support obligation shall be determined as hereinafter provided in this Part.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1; Acts 2009, No. 378, §1.

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**§ 9:315.3. Net child care costs; addition to basic
obligation**

Net child care costs shall be added to the basic child support obligation. The net child care costs are determined by applying the Federal Credit for Child and Dependent Care Expenses provided in Internal Revenue Form 2441 to the total or actual child care costs.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1.

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**§ 9:315.4. Health insurance premiums; addition to
basic obligation**

A. In any child support case, the court may order one of the parties to enroll or maintain an insurable child in a health benefits plan, policy, or program. In determining which party should be required to enroll the child or to maintain such insurance on behalf of the child, the court shall consider each party's individual, group, or employee's health insurance program, employment history, and personal income and other resources. The cost of health insurance premiums incurred on behalf of the child shall be added to the basic child support obligation.

B. In any case in which the department is providing support enforcement services, the child support order shall require one or both of the parties to provide medical support for the child.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 1995, No. 236, §1; Acts 2001, No. 1082, §1; Acts 2006, No. 481, §1, eff. Oct. 1, 2006.

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**§ 9:315.5. Extraordinary medical expenses; addition to
basic obligation**

By agreement of the parties or order of the court, extraordinary medical expenses incurred on behalf of the child shall be added to the basic child support obligation. Extraordinary medical expenses are unreimbursed medical expenses which exceed two hundred fifty dollars per child per calendar year.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1; Acts 2004, No. 251, §1; Acts 2008, No. 578, §1.

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**§ 9:315.6. Other extraordinary expenses; addition to
basic obligation**

By agreement of the parties or order of the court, the following expenses incurred on behalf of the child may be added to the basic child support obligation:

- (1) Expenses of tuition, registration, books, and supply fees required for attending a special or private elementary or secondary school to meet the needs of the child.
- (2) Any expenses for transportation of the child from one party to the other.
- (3) Special expenses incurred for child rearing intended to enhance the health, athletic, social, or cultural development of a child, including but not limited to camp, music or art lessons, travel, and school sponsored extracurricular activities.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1; Acts 2008, No. 579, §1.

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§ 9:315.7. Deductions for income of the child

A. Income of the child that can be used to reduce the basic needs of the child may be considered as a deduction from the basic child support obligation.

B. The provisions of this Section shall not apply to income earned by a child while a full-time student, regardless of whether such income was earned during a summer or holiday break.

C. The provisions of this Section shall not apply to benefits received by a child from public assistance programs, including but not limited to Family Independence Temporary Assistance Programs (FITAP), food stamps, or any means-tested program.

D. Notwithstanding the provisions of Subsection C of this Section, 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.

E. In cases where there is a child support arrearage, the court shall grant an evidentiary hearing before any arrearage is reduced based upon any lump sum payments received by the child.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1; Acts 2006, No. 386, §1.

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§ 9:315.8. Calculation of total child support obligation; worksheet

A. The total child support obligation shall be determined by adding together the basic child support obligation amount, the net child care costs, the cost of health insurance premiums, extraordinary medical expenses, and other extraordinary expenses.

B. A deduction, if any, for income of the child shall then be subtracted from the amount calculated in Subsection A. The remaining amount is the total child support obligation.

C. Each party's share of the total child support obligation shall then be determined by multiplying his or her percentage share of combined adjusted gross income times the total child support obligation.

D. The party without legal custody or nondomiciliary party shall owe his or her total child support obligation as a money judgment of child support to the custodial or domiciliary party, minus any court-ordered direct payments made on behalf of the child for work-related net child care costs, health insurance premiums, extraordinary medical expenses, or extraordinary expenses provided as adjustments to the schedule.

E. "Joint Custody" means a joint custody order that is not shared custody as defined in R.S.9:315.9.

(1) In cases of joint custody, the court shall consider the period of time spent by the child with the nondomiciliary party as a basis for adjustment to the amount of child support to be paid during that period of time.

(2) If under a joint custody order, the person ordered to pay child support has physical custody of the child for more than seventy- three days, the court may order a

credit to the child support obligation. A day for the purposes of this Paragraph shall be determined by the court; however, in no instance shall less than four hours of physical custody of the child constitute a day.

(3) In determining the amount of credit to be given, the court shall consider the following:

(a) The amount of time the child spends with the person to whom the credit would be applied. The court shall include in such consideration the continuing expenses of the domiciliary party.

(b) The increase in financial burden placed on the person to whom the credit would be applied and the decrease in financial burden on the person receiving child support.

(c) The best interests of the child and what is equitable between the parties.

(4) The burden of proof is on the person seeking the credit pursuant to this Subsection.

(5) Worksheet A reproduced in R.S.9:315.20, or a substantially similar form adopted by local court rule, shall be used to determine child support in accordance with this Subsection.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 1990, No. 757, §1; Acts 2001, No. 1082, §1; Acts 2004, No. 756, §1.

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§ 9:315.9.Effect of shared custodial arrangement

A.(1) "Shared custody" means a joint custody order in which each parent has physical custody of the child for an approximately equal amount of time.

(2) If the joint custody order provides for shared custody, the basic child support obligation shall first be multiplied by one and one-half and then divided between the parents in proportion to their respective adjusted gross incomes.

(3) Each parent's theoretical child support obligation shall then be cross multiplied by the actual percentage of time the child spends with the other party to determine the basic child support obligation based on the amount of time spent with the other party.

(4) Each parent's proportionate share of work-related net child care costs and extraordinary adjustments to the schedule shall be added to the amount calculated under Paragraph (3) of this Subsection.

(5) Each parent's proportionate share of any direct payments ordered to be made on behalf of the child for net child care costs, the cost of health insurance premiums, extraordinary medical expenses, or other extraordinary expenses shall be deducted from the amount calculated under Paragraph (3) of this Subsection.

(6) The court shall order each parent to pay his proportionate share of all reasonable and necessary uninsured medical expenses under the provisions of R.S.9:315(C)(7) which are under two hundred fifty dollars.

(7) The parent owing the greater amount of child support shall owe to the other parent the difference between the two amounts as a child support obligation. The amount owed shall not be higher than the amount which that

parent would have owed if he or she were a domiciliary parent.

B. Worksheet B reproduced in R.S.9:315.20, or a substantially similar form adopted by local court rule, shall be used to determine child support in accordance with this Subsection.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1, Acts 2002, 1st Ex. Sess., No. 62, §1, eff. June 16, 2002; Acts 2002, 1st Ex. Sess., No. 62, §1; Acts 2004, No. 668, §1, eff. July 5, 2004.

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§ 9:315.10.Effect of split custodial arrangement

A.(1) "Split custody" means that each party is the sole custodial or domiciliary parent of at least one child to whom support is due.

(2) If the custody order provides for split custody, each parent shall compute a total child support obligation for the child or children in the custody of the other parent, based on a calculation pursuant to this Section.

(3) The amount determined under Paragraph (2) of this Subsection shall be a theoretical support obligation owed to each parent.

(4) The parent owing the greater amount of child support shall owe to the other parent the difference between the two amounts as a child support obligation.

B. Worksheet A reproduced in R.S.9:315.20, or a substantially similar form adopted by local court rule, shall be used by each parent to determine child support in accordance with this Section.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1.

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§ 9:315.11. Voluntarily unemployed or underemployed party

A. If a party is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of his or her income earning potential, unless the party is physically or mentally incapacitated, or is caring for a child of the parties under the age of five years. In determining the party's income earning potential, the court may consider the most recently published Louisiana Workforce Commission Wage Survey.

B. The amount of the basic child support obligation calculated in accordance with Subsection A of this Section shall not exceed the amount which the party paying support would have owed had a determination of the other party's income earning potential not been made.

C. A party shall not be deemed voluntarily unemployed or underemployed if he or she has been temporarily unable to find work or has been temporarily forced to take a lower paying job as a direct result of Hurricane Katrina or Rita.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1; Acts 2004, No. 156, §1, eff. June 10, 2004; Acts 2005, 1st Ex. Sess., No. 59, §1, eff. Dec. 6, 2005; Acts 2008, No. 743, §7, eff. July 1, 2008.

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§ 9:315.12. Second jobs and overtime

The court may consider the interests of a subsequent family as a defense in an action to modify an existing child support order when the obligor has taken a second job or works overtime to provide for a subsequent family. However, the obligor bears the burden of proof in establishing that the additional income is used to provide for the subsequent family.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 1995, No. 1121, §1; Acts 1997, No. 568, §1; Acts 1999, No. 153, §1; Acts 2001, No. 1082, §1.

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**§ 9:315.13. Amounts not set forth in or exceeding
schedule**

A. If the combined adjusted gross income of the parties falls between two amounts shown in the schedule contained in R.S.9:315.19, the basic child support obligation shall be based on an extrapolation between the two amounts.

B. If the combined adjusted gross income of the parties exceeds the highest level specified in the schedule contained in R.S.9:315.19, the court:

(1) Shall use its discretion in setting the amount of the basic child support obligation in accordance with the best interest of the child and the circumstances of each parent as provided in Civil Code Article 141, but in no event shall it be less than the highest amount set forth in the schedule; and

(2) May order that a portion of the amount awarded be placed in a spendthrift trust for the educational or medical needs of the child. The trust shall be administered, managed, and invested in accordance with the Louisiana Trust Code. The trust instrument shall name the child as sole beneficiary of the trust, shall name a trustee, shall impose maximum spendthrift restraints, and shall terminate when the child attains twenty-four years of age, unless the parties agree to a later date. The trustee shall furnish security unless the court, in written findings of fact, dispenses with security.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 1995, No. 1121, §1; Acts 1997, No. 1009, §1; Acts 2001, No. 1082, §1; Acts 2008, No. 579, §1.

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§ 9:315.14.Mandatory minimum child support award

In no event shall the court set an award of child support less than one hundred dollars, except in cases involving shared or split custody as provided in R.S.9:315.9 and 315.10. In cases when the obligor has a medically documented disability that limits his ability to meet the mandatory minimum, the court may set an award of less than one hundred dollars.

History. Acts 1991, No. 854, §1; Acts 1999, No. 156, §1; Acts 2001, No. 1082, §1; Acts 2003, No. 1202, §1.

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§ 9:315.15.No change in circumstances intended

The enactment and subsequent amendment of this Part shall not for that reason alone be considered a material change in the circumstances of either party.

History. Acts 1989, 2nd Ex. Sess., No. 9, §1, eff. Oct. 1, 1989; Acts 2001, No. 1082, §1.

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§ 9:315.16. Review of guidelines

A. The guidelines set forth in this Part shall be reviewed by the legislature not less than once every four years. A review of the guidelines shall take place in 2012 and every four years thereafter, and it shall be the responsibility of the office of family support, support enforcement services of the Department of Social Services, and the Louisiana District Attorneys Association, in consultation with the child support review committee provided in Subsection B of this Section, to obtain all information required to comply with the provisions of 42 U.S.C. 667(a) and present the same to the legislature sixty days prior to the beginning of the 2008 Regular Session of the Legislature and every four years thereafter.

B. The child support review committee shall serve without compensation, except for the members of the legislature who shall receive a per diem as provided by law, and shall consist of the following members:

- (1) The reporter of the Louisiana State Law Institute Marriage and Persons Advisory Committee.
- (2) The chairman or designee of the House Committee on Civil Law and Procedure.
- (3) The chairman or designee of Senate Committee on Judiciary A.
- (4) The president or designee of the Louisiana District Judges Association.
- (5) The executive director or a designee of the Louisiana District Attorneys Association.
- (6) The president or designee of the Juvenile and Family

Court Judges Association.

(7) The chairman or designee of the Louisiana State Bar Association, Family Law Section.

(8) The chairman or designee of the Louisiana Chapter of American Academy of Matrimonial Lawyers.

(9) The secretary or a designee of the Department of Social Services.

(10) The chairman or designee of the Louisiana Children's Cabinet.

(11) The president or designee of the Louisiana Hearing Officers' Association.

History. Acts 2001, No. 1082, §1; Acts 2004, No. 249, §1; Acts 2008, No. 578, §1.

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§ 9:315.17. Standard of appellate review

Deviations by the trial court from the guidelines set forth in this Part shall not be disturbed absent a finding of manifest error.

History. Acts 2001, No. 1082, §1.

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§ 9:315.18. Schedule; information

A. The amounts set forth in the schedule in R.S.9:315.19 presume that the custodial or domiciliary party has the right to claim the federal and state tax dependency deductions and any earned income credit. However, the claiming of dependents for federal and state income tax purposes shall be as provided in Subsection B of this Section.

B.(1) The non-domiciliary party whose child support obligation equals or exceeds fifty percent of the total child support obligation shall be entitled to claim the federal and state tax dependency deductions if, after a contradictory motion, the judge finds both of the following:

(a) No arrearages are owed by the obligor.

(b) The right to claim the dependency deductions or, in the case of multiple children, a part thereof, would substantially benefit the non-domiciliary party without significantly harming the domiciliary party.

(2) The child support order shall:

(a) Specify the years in which the party is entitled to claim such deductions.

(b) Require the domiciliary party to timely execute all forms required by the Internal Revenue Service authorizing the non-domiciliary party to claim such deductions.

C. The party who receives the benefit of the exemption for such tax year shall not be considered as having received payment of a thing not due if the dependency deduction allocation is not maintained by the taxing

authorities.

D. Repealed by Acts 2004, No. 668, §2, eff. July 5, 2004.

History. Acts 2001, No. 501, §1; Acts 2001, No. 1082, §1; Acts 2004, No. 668, §§1, 2, eff. July 5, 2004.