

25-7-6.4. Rebuttable presumption of employment at minimum wage.

~~Except as provided in § 25-7-6.26 it~~ It is presumed for the purposes of determination of determining child support that a parent is capable of being employed a minimum of one thousand eight hundred twenty hours per year, and the parent's child support obligation must be calculated at a rate and earning an annual gross income of not less than one thousand eight hundred twenty hours at ~~multiplied by the~~ current state minimum wage.

25-7-6.13. Modification of prior orders of support.

All orders for support entered and in effect prior to July 1, 2022 2026, may be modified in accordance with this chapter without requiring a showing of a change in circumstances from the entry of the order. If an individual incarcerated for more than one hundred eighty days is released from incarceration, the child support obligation in effect at the time of release shall continue in effect until either parent files a petition for modification.

25-7-6.19. Credit for child support arrearages for parent with primary physical custody during period of custody.

Notwithstanding the provisions of § 25-7A-17 or 25-7-7.3, if, by agreement of the parties or court order, the obligor had primary physical custody of the child for more than four consecutive months, the court may credit the obligor for child support arrearages which accumulated during the period the obligor had actual physical custody of the child.

25-7-6.26. Effect of failure to furnish financial information--Imputation of income.

~~If a parent in a child support establishment or modification proceeding fails to furnish income or other financial information, the parent is in default. Income not actually earned by a parent may be imputed to the parent pursuant to this section. Except in cases of physical or mental disability or incarceration for one hundred eighty days or more, it is presumed for the purpose of determining child support in an establishment or modification proceeding that a parent is capable of being employed a minimum of one thousand eight hundred twenty hours per year at the state minimum wage, absent evidence to the contrary. Evidence to rebut this presumption may be presented by either parent.~~

~~Income may be imputed to a parent when the parent is unemployed, underemployed, fails to produce sufficient proof of income, has an unknown employment status, or is a full-time or part-time student, whose education or retraining will result, within a reasonable time, in an economic benefit to the child for whom the support obligation is determined, unless the actual income is greater.~~

~~In all cases where imputed income is appropriate, the amount imputed must be based upon the following:~~

- ~~(1) The parent's residence;~~
- ~~(2) The parent's recent work and earnings history;~~
- ~~(3) The parent's occupational, educational, and professional qualifications;~~
- ~~(4) Existing job opportunities and associated earning levels in the community or the local trade area;~~

~~(5) The parent's age, literacy, health, criminal record, record of seeking work, and other employment barriers;~~

~~(6) The availability of employers willing to hire the parent; and~~

~~(7) Other relevant background factors.~~

~~Income is not imputed to a parent who is physically or mentally disabled to the extent that the parent cannot earn income; who is incarcerated for more than one hundred eighty days; who has made diligent efforts to find and accept suitable work or to return to customary self employment, to no avail; or when the court makes a finding that other circumstances exist that make the imputation inequitable, in which case the imputed income may only be decreased to the extent required to remove such inequity.~~

~~Imputed income may be in addition to actual income and is not required to reflect the same rate of pay as actual income.~~

A parent's income may be imputed, for purposes of child support, if the parent fails to produce sufficient proof of income, or the parent's employment status is unknown, or the parent is unemployed or underemployed. In determining the amount of income to impute to a parent, the court may consider any factor relevant to the parent's ability to earn income including the parent's education, occupational skills, experience, age, health, criminal record and employment opportunities in the geographical area where the parent resides.

The amount imputed may be based on the parent's past income or data on wage rates for various occupations and locations published by the United States Bureau of Labor Statistics or any other federal or state government agency, or job advertisements.

No income may be imputed to a parent who has been sentenced to serve a term of incarceration or confinement of more than one hundred eighty days. Otherwise, unless a parent is disabled, the amount imputed may not be less than the current state minimum wage multiplied by one thousand eight hundred twenty hours.

25-7A-6. Hearing requested by parent--Referee's report--Objections--Order of court--Service--Objection to court's modification.

If a parent served with a notice of support debt under § 25-7A-5 makes a timely request for a hearing, the secretary of social services shall file the notice of support debt, proof of service thereof, and response thereto in the office of the clerk of the circuit court in the county of residence of that parent. The matter shall be set for hearing before a referee who is a member in good standing of the State Bar Association and is appointed by the court, pursuant to statute, and after due notice to all parties by first class mail. The referee shall make a report to the court, recommending the amount of the debt due to the state, if any, and the monthly support obligation of the parent and the arrearage debt due to the obligee or another state who has applied for support enforcement services, the provision of medical support, or genetic testing costs. If genetic testing showing a ninety-nine percent or higher likelihood of paternity, or a Voluntary Acknowledgment of Paternity, are presented as evidence during the hearing, the referee shall make a finding of adjudication of paternity and include such finding in the report to the court.

The referee shall file the report with the court and cause copies thereof to be served by mailing to the parties and the secretary. Any party shall have ten days from the date of service of the report in which to file objections to the report. If a party files an

objection, the other party shall have an additional five days from the date of service of the objections to file additional objections. If no objection is filed, the circuit court may thereafter, and without further notice, enter its order. If any objection is filed, the circuit court shall fix a date for hearing on the report, the hearing to be solely on the record established before the referee. The circuit court may thereafter adopt the referee's report, or may modify it, or may reject and remand it with instructions or for further hearing. The secretary shall serve the parent the court's order by certified mail, return receipt requested, at the parent's last known address, and shall file proof of service.

If the circuit court's order modifies the referee's report and no hearing was held before the court before entry of its order, any party has ten days from the date of service of the order in which to file an objection to that modification. If an objection is filed, the circuit court shall fix a date for hearing on the objection and after the hearing shall enter its order. The secretary shall serve the order by certified mail, return receipt requested, at the parent's last known address, and shall file proof of service.

25-7A-21.1. Order establishment case--Limitation on prior-period support obligations or arrearages.

In any order establishment case, the custodian is ~~limited~~ not entitled to a prior-period support obligation or arrearage ~~not exceeding three years~~ before either the date of application with any Title IV-D agency, the date of filing with a court of competent jurisdiction, or the date of a written demand served personally or by registered or certified mail, return receipt requested, upon the noncustodial parent at the noncustodial parent's last known address, whichever occurs earlier.

25-8-5. Custodian's recovery of support from noncustodian--Period support recoverable.

The custodian may recover support ~~for a period of three years before~~ after the date of application with any Title IV-D agency, the date of filing with a court of competent jurisdiction, or the date of a written demand served personally or by registered or certified mail, return receipt requested, upon the noncustodial parent at the noncustodial parent's last known address, whichever occurs earlier.

NEW SECTION of 25-7A

If a party agrees, the referee may send copies of any notice or report required to be served on the party under § 25-7A-5 or 25-7A-22 by electronic mail, using the email address provided by the party.