

**Committee Action:**  
**Do Pass** \_\_\_\_\_  
**Amend & Do Pass** \_\_\_\_\_  
**Other** \_\_\_\_\_

---

---

**Assembly Committee on Judiciary**

This measure may be considered for action during today's work session.

April 7, 2015

**ASSEMBLY BILL 98**

**Revises provisions governing child custody, child support and visitation. (BDR 11-49)**

**Sponsored by:** Assemblyman Ellison  
**Date Heard:** April 1, 2015  
**Fiscal Impact:** Effect on Local Government: No.  
Effect on the State: No.

This bill clarifies that the presumption regarding joint legal custody and joint physical custody of a minor child. The measure creates a new formula for a court to determine the amount of child support in cases involving joint physical custody, which takes into account the monthly household income of each parent.

**Amendments:** An amendment was proposed by Assemblyman Ellison and Jessica S. Hanson-Anderson, Anderson Keuscher, PLLC. The amendment includes the clarification of the definitions of joint and physical custody, changes certain calculations for child support, and requires the court to apply certain deviation factors to determine the child support obligation.

**In response to AB98:**

- I. NRS 125.150- no change to existing law**
- II. NRS 125.490- no change to existing law**
- III. Chapter 125C- Add below definitions**

“Primary Physical Custody” means a custodial arrangement where a parent has the physical custody and control of the child or children more than 60% of the time.

“Joint Physical Custody” means a custodial arrangement where each parent has physical custody and control of the child or children at least 40% of the time.

- IV. NRS 125B.070- Make highlighted changes**

**Amount of payment: Definitions; adjustment of presumptive maximum amount based on change in Consumer Price Index.**

1. As used in this section and [NRS 125B.080](#), unless the context otherwise requires:

(a) “Gross monthly income” means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) “Obligation for support” means the sum certain dollar amount determined according to the following schedule:

- (1) For one child, 18 percent;
- (2) For two children, 25 percent;
- (3) For three children, 29 percent;
- (4) For four children, 31 percent; and
- (5) For each additional child, an additional 2 percent,

↪ of a parent’s gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection 2 for an obligation for support determined pursuant to subparagraphs (1) to (9), inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to [subsections 6 and 9](#) of [NRS 125B.080](#).

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is:

\$0	-	\$4,235	\$670
4,236	-	6,351	817
6,352	-	8,467	964
8,468	-	10,585	1151
10,586	-	12,701	1338
12,702	-	14,816	1543
14,817	-	No Limit	1748

If a parent's gross monthly income is equal to or greater than \$14,817, the presumptive maximum amount the parent may be required to pay pursuant to paragraph (b) of subsection 1 is \$1748.

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Office of Court Administrator shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each district court of the adjusted amounts.

4. As used in this section, "Office of Court Administrator" means the Office of Court Administrator created pursuant to [NRS 1.320](#).

5. To calculate child support in cases where one parent has primary physical custody of a minor child or children, as defined in NRS 125C\_\_\_\_\_, the formula set forth in subsection 1 (b), subject to the presumptive maximum amount per child set forth in subsection 2, shall then be applied to the noncustodial parent's gross monthly income; the resulting amount shall be the noncustodial parent's monthly child support obligation unless the court sets forth findings of fact as the basis for a different amount pursuant to subsections 6 and 9 of NRS 125B.080.

6. To calculate child support in cases where the parents share joint physical custody of a minor child or children, as defined in NRS 125C\_\_\_\_\_, the formula set forth in subsection 1 (b), subject to the presumptive maximum amount per child set forth in subsection 2, shall then be applied to each parent's gross monthly income; the lower wage earning parent's child support obligation shall be subtracted from the higher wage earning parent's child support obligation; the resulting amount shall be the higher wage earning parent's monthly child support obligation unless the court sets forth findings of fact as the basis for a different amount pursuant to subsections 6 and 9 of NRS 125B.080.

(Added to NRS by [1987, 2267](#); A [1991, 1334](#); [2001, 1865](#); [2003, 101, 342](#))

## V. NRS 125B.080- Make highlighted changes

**NRS 125B.080 Amount of payment: Determination.** Except as otherwise provided in [NRS 425.450](#):

1. A court of this State shall apply the appropriate formula set forth in [NRS 125B.070](#) to:

(a) Determine the required support in any case involving the support of children.

(b) Any request filed after July 1, 1987, to change the amount of the required support of children.

2. If the parties agree as to the amount of support required, the parties shall certify that the amount of support is consistent with the appropriate formula set forth in [NRS 125B.070](#). If the amount of support deviates from the formula, the parties must stipulate sufficient facts in accordance with subsection 9 which justify the deviation to the court, and the court shall make a written finding thereon. Any inaccuracy or falsification of financial information which results in an inappropriate award of support is grounds for a motion to modify or adjust the award.

3. If the parties disagree as to the amount of the gross monthly income of either party, the court shall determine the amount and may direct either party to furnish financial information or other records, including income tax returns for the preceding 3 years. Once a court has established an obligation for support by reference to a formula set forth in [NRS 125B.070](#), any subsequent modification or adjustment of that support, except for any modification or adjustment made pursuant to subsection 3 of [NRS 125B.070](#) or [NRS 425.450](#) or as a result of a review conducted pursuant to subsection 1 of [NRS 125B.145](#), must be based upon changed circumstances.

4. Notwithstanding the formulas set forth in [NRS 125B.070](#), the minimum amount of support that may be awarded by a court in any case is \$100 per month per child, unless the court makes a written finding that the obligor is unable to pay the minimum amount. Willful underemployment or unemployment is not a sufficient cause to deviate from the awarding of at least the minimum amount.

5. It is presumed that the basic needs of a child are met by the formulas set forth in [NRS 125B.070](#). This presumption may be rebutted by evidence proving that the needs of a particular child are not met by the applicable formula.

6. If the amount of the awarded support for a child is greater or less than the amount which would be established under the applicable formula, the court shall:

(a) Set forth findings of fact as to the basis for the deviation from the formula; and

(b) Provide in the findings of fact the amount of support that would have been established under the applicable formula.

7. Expenses for health care which are not reimbursed, including expenses for medical, surgical, dental, orthodontic and optical expenses, must be borne equally

by both parents in the absence of extraordinary circumstances.

8. If a parent who has an obligation for support is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity.

9. The court shall consider the following factors when adjusting the amount of support of a child upon specific findings of fact:

- (a) The cost of health insurance;
- (b) The cost of child care;
- (c) Any special educational needs of the child;
- (d) The age of the child;
- (e) The legal responsibility of the parents for the support of others;
- (f) The value of services contributed by either parent;
- (g) Any public assistance paid to support the child;
- (h) Any expenses reasonably related to the mother's pregnancy and confinement;
- (i) The cost of transportation of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the court which ordered the support and the noncustodial parent remained;
- (j) The amount of time the child spends with each parent;
- (k) Any other necessary expenses for the benefit of the child;
- (l) The relative income of both parents, including the contributions made to payment of household expenses by an adult cohabitant;
- (m) The child's standard of living in each household; and
- (n) The specific circumstances of any child who has not graduated from high school and remains subject to a child support order despite reaching the age of majority.

10. The court shall apply the deviation factors set forth in subsection 9 in order to establish a child support obligation that is adequate to the child's needs and fair to both parents based on the circumstances of the case.

(Added to NRS by [1987, 2267](#); A [1989, 859](#); [1991, 1334](#); [1993, 486](#); [1997, 2295](#); [2001, 1866](#))