

HOUSE BILL 48

By Gilmore

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5, Part 1, relative to uninsured medical expenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-101(h), is amended by deleting the subsection in its entirety and substituting instead the following:

(h)

(1)

(A) The court shall direct the acquisition or maintenance of health insurance covering each child of the marriage and shall order either party to pay all or a pro rata share of the health care costs not paid by insurance proceeds. Furthermore, in accordance with the Tennessee child support guidelines:

(i) If uninsured medical expenses are routinely incurred so that a specific monthly amount can be reasonably established, a specific dollar amount shall be added to the court's order or decree establishing the support and maintenance of the children to cover those established expenses; or

(ii) If uninsured medical expenses are not routinely incurred so that a specific monthly amount cannot be reasonably established, the court's order or decree establishing the support and maintenance of the children shall specify that either party pay all, or each party pay a pro rata share, of these expenses.

(B)

(i) For uninsured medical expenses that are not routinely incurred, the court may require a party to obtain a bank account with an attached debit card and order that either party or both parties pay a specific monthly amount to the debit card account to cover any uninsured medical expenses. The custodial parent shall maintain use and possession of the debit card. Deposits to such account shall be limited to the specific amount referred to in subdivision (A) of this section and accessible solely by means of a debit card that shall only be used to pay for uninsured medical expenses for the child, including but not limited to, co-pays and deductibles.

(ii) The court shall set a minimum amount to be deposited in the account, and shall require the custodial parent to maintain the account as required by the financial institution. Any fees incurred for the use of such debit card shall be the sole responsibility of the custodial parent.

(iii) Prior to a court requiring a party to obtain a bank account with an attached debit card pursuant to subdivision (B)(i), the court shall determine whether or not a financial institution is willing to open an account to such party, and notwithstanding the provisions of §§ 45-10-101 through 45-10-118, provide deposit and expenditure records of the account to the parties, the parties' attorneys, the court and the state or the state's IV-D contractor upon order of the court within the time contained in the order. If a

financial institution is not willing to open a bank account with an attached debit card and provide records upon court order without meeting the requirements of §§ 45-10-101 through 45-10-118, the court shall not order a party to obtain such.

(iv) If there is evidence to establish that the custodial parent used the debit card for expenses other than uninsured medical expenses, the other party, the state or the state's IV-D contractor may bring an action to recover such expenses by any legal action permitted by law.

(C) If a party fails to pay the party's pro rata share of the child's uninsured medical expenses, including deposits to a debit card account, as specified in the court's order or decree pursuant to subdivision (h)(1)(A), within thirty (30) days after the court, other party, state or the state's IV-D contractor receives evidence documenting the uninsured portion of the expense, the court, the other party, the non-parent caretaker, the state, or its IV-D contractors may enforce payment of the expense by any legal action permitted by law, regardless of the amount of the uninsured portion that is not paid.

(2) In no event shall eligibility for or receipt of medicaid or TennCare-Medicaid by the custodial parent be considered to meet the need to provide for the child's health care needs in the order, if reasonable and affordable health insurance is available.

(3) In any case in which the court enters an order of support enforced under Title IV-D of the Social Security Act, the court shall enter an order providing for health care coverage to be provided for the child or children.

(4) The provisions of § 36-5-501(a)(3) shall apply with respect to enrollment of a child in the noncustodial parent's employer-based health care plan.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.