

SENATE BILL 2409

By Beavers

AN ACT to amend Tennessee Code Annotated, Title 36,
Chapter 5, relative to child support.

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

SECTION 1. Tennessee Code Annotated, Section 36-5-101(e)(1), is amended by adding the following as a new subdivision:

(l) Notwithstanding any provision of this section or any other law or rule to the contrary, there shall be a rebuttable presumption against retroactive support when one (1) of the child's parents can show that:

(i) The other parent made little or no effort to notify the parent of the child's existence, seek to establish parentage, or involve the parent in the child's life; or

(ii) The other parent actively concealed the existence of the child from the parent.

SECTION 2. Tennessee Code Annotated, Section 36-5-101(f)(1), is amended by deleting the language "twelve percent (12%)" and by substituting instead the language "five and one quarter percent (5.25%)".

SECTION 3. Tennessee Code Annotated, Section 36-5-101, is amended by adding the following as new subsections:

(n) When determining a party's income for purposes of child support calculations:

(1) The court shall consider, at most, the income earned by each parent during the parent's primary full-time employment, such as a job that requires working forty (40) hours per week. Any income earned by a parent for work

performed above and beyond forty (40) hours a week shall not be considered income for the purposes of child support calculation. If a parent does not have primary full-time employment, the court shall consider all income earned by the parent; and

(2) The court shall not consider gifts received by a parent as income.

(o) If a parent is under a court order to pay child support for another child in addition to the child who is the subject of the child support case and the parent is not in arrears in child support for the other child, the court shall deduct one hundred percent (100%) of the amount of support ordered for the other child from the parent's income, for the purposes of determining the parent's child support obligation.

(p) A non-custodial parent shall not be required to pay a higher obligation of child support due to having custody of a child for less time than the custodial parent; provided, however, that the custodial parent may present evidence that the child was available and the custodial parent was willing to transfer custody to the non-custodial parent, but the non-custodial parent refused such custody of the child. If the custodial parent can present the evidence required by this subsection (p), the court may order a higher obligation of child support based upon the non-custodial parent's lack of custodial time with a child.

(q) A parent shall not be obligated to pay, including a pro rata share, for any extraordinary expense that arises outside the child support obligation determined by the court, unless the parent has shared in the decision-making authority that led to the extraordinary expense.

SECTION 4. This act shall take effect July 1, 2014, the public welfare requiring it, and shall apply to child support orders and modifications filed on or after such date.