

HOUSE BILL NO. HB0137

Child custody.

Sponsored by: Representative(s) Northrup, Greear and Krone
and Senator(s) Driskill

A BILL

for

1 AN ACT relating to child custody and visitation; providing
2 for an order of joint custody as specified; amending the
3 definition of income for determination of child support as
4 specified; amending the calculation for presumptive child
5 support as specified; providing an accounting of child
6 support proceeds; amending imputed income of voluntary
7 unemployed or underemployed parent as specified; providing
8 definitions; and providing for an effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

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12 **Section 1.** W.S. 20-2-201(d) and by creating a new
13 subsection (h), 20-2-303(a)(ii), 20-2-304(c) and
14 20-2-307(b)(xi)(intro) are amended to read:

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1 **20-2-201. Disposition and maintenance of children in**
2 **decree or order; access to records.**

3
4 (d) The court shall order custody in well defined
5 terms to promote understanding and compliance by the
6 parties. Custody shall be crafted to promote the best
7 interests of the children, ~~and may include any combination~~
8 ~~of joint, shared or sole custody.~~ The court shall enter an
9 order of joint or shared custody unless there is a
10 preponderance of the evidence that:

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12 (i) A sole custody arrangement is in the best
13 interests of the children; or

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15 (ii) The parties no longer reside within fifty
16 (50) miles of each other and sole custody is the only
17 practical arrangement.

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19 (h) For purposes of this section:

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21 (i) "Joint custody" means the physical residence
22 of the children is shared by the parents in a manner that
23 assures that the children have substantially equal time and

1 contact with both parents and both parents share the
2 decision making rights, responsibilities and authority
3 relating to the health, education and welfare of the
4 children;

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6 (ii) "Shared custody" means the children
7 physically reside with each parent for a substantially
8 equal amount of time;

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10 (iii) "Sole custody" or "primary custody" means
11 awarding custody to one (1) parent and establishes that
12 parent as the primary care provider of the children and the
13 one with whom the children shall reside.

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15 **20-2-303. Definitions.**

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17 (a) As used in this article:

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19 (ii) "Income" means any form of payment or
20 return in money or in kind to an individual, regardless of
21 source. Income includes, but is not limited to wages,
22 earnings, salary, commission, compensation as an
23 independent contractor, temporary total disability,

1 permanent partial disability and permanent total disability
2 worker's compensation payments, unemployment compensation,
3 disability, annuity and retirement benefits, tax refunds,
4 and any other payments made by any payor, but shall not
5 include any earnings derived from overtime work unless the
6 court, after considering all overtime earnings derived in
7 the preceding twenty-four (24) month period, determines the
8 overtime earnings can reasonably be expected to continue on
9 a consistent basis. In determining income, all reasonable
10 unreimbursed legitimate business expenses shall be
11 deducted. Means tested sources of income such as Pell
12 grants, aid under the personal opportunities with
13 employment responsibilities (POWER) program, supplemental
14 nutrition assistance program and supplemental security
15 income (SSI) shall not be considered as income. Gross
16 income also means potential income of parents who are
17 voluntarily unemployed or underemployed;

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19 **20-2-304. Presumptive child support.**

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21 (c) ~~When each parent keeps the children overnight for~~
22 ~~more than forty percent (40%) of the year and both parents~~
23 ~~contribute substantially to the expenses of the children in~~

1 ~~addition to the payment of child support, a joint~~
2 ~~presumptive support obligation~~ The total number of days
3 that each parent shall have the children in their care
4 shall be calculated and a joint presumptive support
5 obligation shall be determined by use of the tables. After
6 the joint presumptive child support obligation is derived
7 from column three of the tables, that amount shall be
8 divided between the parents in proportion to the net income
9 of each. The proportionate share of the total obligation of
10 each parent shall then be multiplied by the percentage of
11 time the children spend with the other parent to determine
12 the theoretical support obligation owed to the other
13 parent. The parent owing the greater amount of child
14 support shall pay the difference between the two (2)
15 amounts as the net child support obligation.

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17 **20-2-307. Presumptive child support to be followed;**
18 **deviations by court.**

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20 (b) A court may deviate from the presumptive child
21 support established by W.S. 20-2-304 upon a specific
22 finding that the application of the presumptive child
23 support would be unjust or inappropriate in that particular

1 case. In any case where the court has deviated from the
2 presumptive child support, the reasons therefor shall be
3 specifically set forth fully in the order or decree. In
4 determining whether to deviate from the presumptive child
5 support established by W.S. 20-2-304, the court shall
6 consider the following factors:

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8 (xi) Whether either parent is voluntarily
9 unemployed or underemployed. In such case the child support
10 shall be computed based upon the potential earning capacity
11 (imputed income) of the unemployed or underemployed parent
12 at the prevailing wage and salary levels in the local area
13 in which the parent resides. In making that determination
14 the court shall consider:

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16 **Section 2.** This act is effective July 1, 2015.

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(END)