

CHILD SUPPORT

Chapter 125B of the Nevada Revised Statutes, entitled “Obligation of Support,” provides statutory guidance for child support. NRS 125B.020, provides, “The parents of a child have a duty to provide the child necessary maintenance, health care, education and support.” In order to determine the child support obligation, the physical custody designation must be made.

Primary Physical Custody:

Primary physical custody exists when one parent has the child more than 60% (219 days) of the calculated over a one (1) year period. If one (1) parent has primary physical custody of the child, NRS 125B.070, sets forth the child support formula to be used in determining when one parent is designated the primary physical custody of the child.

Steps:

1. Determine Gross Monthly Income (Gmi) of the Non-custodial Parent:

“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.

GROSS MONTHLY INCOME:

_____ X Hourly Wage	= _____ = Number of Hours Worked Per Week	_____ X Weekly Income	52 weeks =	_____ ÷ Annual Income	12 months =	_____ = Gross Monthly Income
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OR

_____ ÷ Annual Income	12 Months =	_____ = Gross Monthly Income
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2. Determine Child Support Obligation:

\$ _____ X GMI	= _____ = Formula Percentage	\$ _____ OR \$100.00 per month Monthly Child Support per child
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Higher Amount Applies: \$ _____

“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 (4), inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080.

Per NRS 125B.080(4), 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.

NRS 125.080(8), provides "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."

Joint Physical Custody:

A joint physical custody arrangement exists when each parent has the child at least 40% (146 days) of the time calculated over a one (1) year period.

Steps:

1. Determine Each Parent's Gross Monthly Income:

PARENT 1 GROSS MONTHLY INCOME:

_____ X Hourly Wage	_____ = Number of Hours Worked Per Week	_____ X Weekly Income	52 weeks=	_____ ÷ Annual Income	12 months=	_____ / Gross Monthly Income
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OR

_____ ÷ Annual Income	12 Months=	_____ / Gross Monthly Income
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PARENT 2 GROSS MONTHLY INCOME:

_____ X Hourly Wage	_____ = Number of Hours Worked Per Week	_____ X Weekly Income	52 weeks=	_____ ÷ Annual Income	12 months=	_____ / Gross Monthly Income
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OR

_____ ÷ Annual Income	12 Months=	_____ / Gross Monthly Income
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2. Determine Each Parent's Child Support Obligation:

\$ _____ X PARENT 1 GMI	_____ = Formula Percentage	\$ _____ OR \$100.00 per month Monthly Child Support per child (Higher Amount Applies)
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\$ _____ X PARENT 2 GMI	_____ = Formula Percentage	\$ _____ OR \$100.00 per month Monthly Child Support per child (Higher Amount Applies)
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3. Subtract the Lower Earning Parent's Amount of Child Support from the Higher Earning Parent's Amount.

\$ _____ — Higher Earning Parent Monthly Child Support	\$ _____ = Lower Earning Parent Monthly Child Support	\$ _____ Child Support Obligation	Paid by Higher Earning Parent to Lower Earning Parent
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Next Steps (To Apply to Both Child Support Scenarios):

1. Apply the Presumptive Maximum Amount.

See Presumptive Maximum Amounts of Child Support Table.

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.

2. Deviations.

The factors set forth in NRS 125B.080(9) outline the factors the Court must consider when adjusting the amount of child support. However, per NRS 125B.080(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."

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; and
- (l) The relative income of both parents.

Please note, per NRS 125B.080(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.

UNREIMBURSED HEALTH CARE EXPENSES

Pursuant to NRS125B.080(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. Frequently, parents adopt the “30/30 Rule:” If a parent pays a health care expense for a child that is not paid by insurance, that parent must send proof of the expense to the other parent within 30 days of incurring the expense. The other parent then has 30 days to reimburse the paying parent $\frac{1}{2}$ the cost.