

2019 Child Support Update

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Family Law Section
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After Keon's arrest on child support charges, he's forced to make choices that will change his life and the lives of those around him forever.

“Child Support: The Comedy”



Statutory Changes

Changes from “shall” to “must”

Hypothesis: The Court of Appeals indicated in 2013 that “shall” does not always have a mandatory connotation.

People v. Back, 412 P.3d 565, 569 (Colo.App. 2013)

Disability/Retirement Income

14-10-115(11)(c) Effective July 1, 2020

“Non-custodial” parent must notify the “custodial parent” within 60 days of receipt of disability payments or federal retirement payments.

“Custodial” parent must apply for dependent benefits within 60 days of notice that “non-custodial” parent receives benefits under this section.

While visiting his daughter Cassie unannounced, Lang is rebuked by his ex-wife and her police detective fiancé for not paying child support. Unable to hold a job because of his criminal record, Lang agrees to join a crew and commit a burglary.



Multiple Children/Different Schedules

14-10-115 (8)(g) Effective July 1, 2020

When two or more children are included in the child support worksheet calculation and the parties have a different number of overnights with two or more of the children, the number of overnights used to determine child support is determined by adding together the number of overnights for each child and then dividing that number by the number of children included in the child support worksheet calculation.

Mandatory Public School Fees

14-10-115(11)(a)(I) Effective July 1, 2020

Public mandatory school fees “must be divided between the parties in proportion to their adjusted gross income.”

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Public School Fees (2)

“Mandatory school fees” are defined at C.R.S. §14-10-115(3)(c.5) as “fees charged by a school or school district, including a charter school, for a child attending public primary or secondary school for activities that are directly related to the educational mission of the school, including but not limited to laboratory fees; book or educational material fees; school computer or automation-related fees, whether paid to the school directly or purchased by a parent; testing fees; and supply or material fees paid to the school. “Mandatory school fees” does not include uniforms, meals, or extracurricular fees.”

Voluntary Unemployment/Underemployment 14-10-115(5)(b)(I), (I.5) Effective July 1, 2019

Not impute income for:

(A) A parent who is physically or mentally incapacitated; ~~or~~ (B) A PARENT WHO is caring for a child under the age of ~~thirty~~ TWENTY-FOUR months for whom the parents owe a joint legal responsibility; or (C) An incarcerated parent sentenced to ~~one year~~ ONE HUNDRED EIGHTY DAYS or more.

Underemployment/Educational Program

14-10-115(5)(b)(III)(C) Effective July 1, 2019

a parent is not deemed “underemployed” if: ...

(C) The parent is enrolled FULL-TIME in an educational OR VOCATIONAL program ~~that~~ OR IS EMPLOYED PART-TIME WHILE ENROLLED IN A PART-TIME EDUCATIONAL OR VOCATIONAL PROGRAM, BASED ON THE INSTITUTION’S ENROLLMENT DEFINITIONS, AND THE PROGRAM is reasonably intended to result in a degree or certification within a reasonable period of time; ~~and that~~ COMPLETING THE PROGRAM will result in a higher income; ~~so long as the educational~~ program is a good faith career choice that is not intended to deprive the child of support; and ~~that~~ THE PARENT’S PARTICIPATION IN THE PROGRAM does not unreasonably reduce the AMOUNT OF CHILD support available to a child.

Factors for Imputation of Income

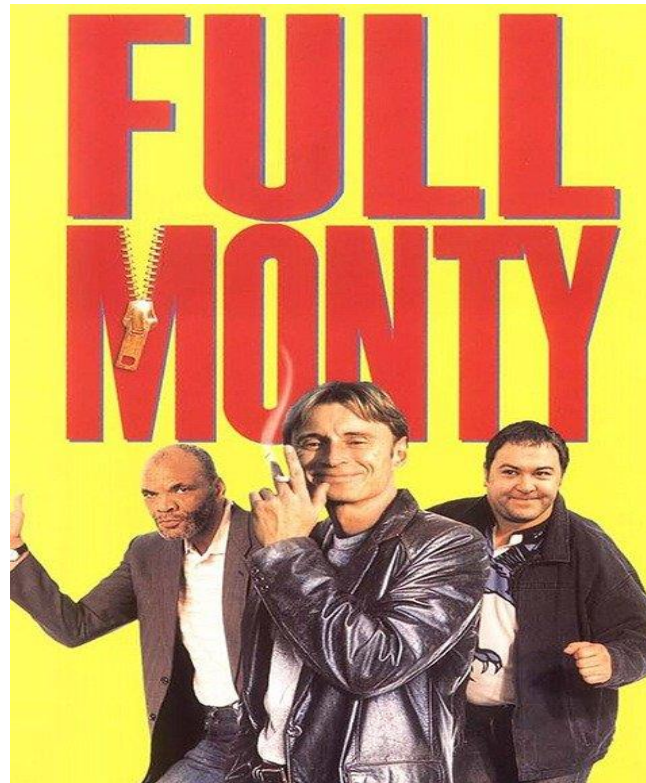
14-10-115(5)(b)(I.5) Effective July 1, 2019

... the specific circumstances of the parent, including consideration of the following information, when available:

(A) The parent's assets; (B) Residence; (C) Employment and earnings history; (D) Job skills; (E) Educational attainment; (F) Literacy; (G) Age; (H) Health; (I) Criminal record; (J) Other employment barriers; (K) Record of seeking work; (L) The local job market; (M) The availability of employers hiring in the community, without changing existing law regarding the burden of proof; (N) Prevailing earnings level in the local community; and (O) Other relevant background factors in the case.

After losing his job at a steel factory, Gaz learns that his ex-wife wants to sue him for unpaid child support.

Desperate for money, Gaz and his friend Dave decide to create their own male striptease act.



Low Income Adjustments (1)

Effective July 1, 2020

C.R.S. 14-1-0115(6)(b): The credit at 75% of the Guidelines for non-joint children begins for incomes at \$1,500, and there is no longer such credit for parents with incomes of less than \$1,500.

C.R.S. 14-10-115(7)(II)(B): If the obligor's gross monthly income is between \$650 and \$1,500, the child support obligation is \$50 for one child, \$70 for two, \$90 for three, \$110 for four, \$130 for five, and \$150 for six. This adjustment still applies only for Worksheet A calculations.

Low Income Adjustments (2)

Effective July 1, 2020

C.R.S. 14-10-115(7)(a)(II)(C): For the obligor with a gross monthly income of between \$650 and \$1,500, the obligor's child support obligation may be adjusted to include a share of the work-related and education related child care costs, health insurance, extraordinary medical expenses, and other extraordinary adjustments, provided the total obligation with adjustments do not exceed 20% of the obligor's gross monthly income.

C.R.S. 14-10-115(7)(a)(II)(D): an obligor with monthly adjusted gross income of \$650 or less must pay \$10 each month, regardless of the number of children and regardless of the number of overnights.

Notice of Support Judgment

14-10-115(5)(b)(I), (I.5) July 1, 2019

A copy of the Verified Entry of Support Judgment must be provided to all parties pursuant to C.R.C.P. 5.

New Case Law

Uninsured Medical Expenses

In re Marriage of Alvis

2019 COA 97 (June 27, 2019).

“Each parent must pay uninsured medical expenses incurred during his or her parenting time, until the total for each child reaches \$250, at which time the parents may seek reimbursement in proportion to their adjusted gross incomes.”

Retroactive Child Support

In re Marriage of Garrett and Heine

2018 COA 154 (Colo. App. Nov. 1, 2018)

“... We further conclude that that statute [14-10-122(5)] allows a court to retroactively enter a child support order against either parent, as of the date of a change in physical care of a child, regardless of the parent’s status as an obligor or obligee under the existing child support statute.”

Potential Issues on the Horizon

Thank you!