

# New California child support law SB 343 aims to better reflect parents' financial status

By Ashley W. Edwards

Senate Bill 343 (SB 343) went into effect this past weekend, on Sept. 1. The bill introduces significant changes to child support calculation laws to better capture each parent's financial situation, particularly those with limited income. Here are the major highlights:

## **SB 343 updates to the Guideline Child Support Formula**

Child support is calculated using a mandatory formula set forth in Family Code section 4055. The existing child support calculation provides a table that shows the percentage of the total net disposable income of both parents per month to be allocated for the support of one child for a range of income bands. The income bands have not been updated since the formula was adopted in 1992, *thirty-two years ago*.

The percentage from the table is known as the "K-factor." Under the old law, the highest K-factor (25% for one child) applies to the income band that considers net disposable incomes of both parents ranging from \$801 to \$6,666 per month. For income bands above this, the K-factor gradually declines. The lowest income band, which considers total net disposable income of both parents ranging from \$0 to \$800 per month, is intended to assign a lower percentage of support (20%) to low-income parents.

The first income band (\$0 to \$800 per month) was intended to produce lower amounts for child support for parents with incomes near federal poverty levels. Since then, the federal poverty level and the state minimum wage have more than doubled. Because the formula was never updated, most incomes in California now exceed the lowest income band. Instead, most low-income families fall into the second income band of the K-factor, which has the highest percentage of income assigned to child support (25%). This limitation negates the effectiveness of the low-income adjustment.

SB 343 makes the much-needed change of increasing the threshold for low-income adjustments, making low-income parents eligible to receive a reduction in their child support. The K-factor bands have all been adjusted, with the lowest band increased to the current minimum wage of \$15/hour, or a band range of \$0 - \$2,900 per month of total net disposable income. This change will provide relief to low-income parents while also supporting California's goals of increasing the consistency and timeliness of payments.

## **SB 343 affirms additional income sources and factors in setting child support**

SB 343 expands Family Code section 4058 to confirm additional sources of income that should be included in calculating child support. These additional sources of income

include severance pay, veterans' benefits that are not based on need, and military allowances for housing and food.

The new law also considers that if during a child support proceeding the court learns that a parent is subject to one or more child support orders with parents who are not parties to the instant action, the court may take steps to avoid inequitable distribution of support between children of the different cases.

Further, if a parent's annual gross income is unknown, SB 343 now allows the court to consider the earning capacity of the parent and authorizes the court where the parent's annual gross income is known, to rely on earning capacity in lieu of actual income if doing so is consistent with the best interest of the child.

### **SB 343 requires division of child support add-ons to be based on the parties' relative incomes**

Under Family Code section 4061, additional costs that are included as add-ons to the child support order, such as uncovered medical expenses, childcare, and extracurricular activities, the parties (or the court) had the option to split the costs equally (50% each) or proportionately depending on the parties' relative net incomes. However, in practice most parents would opt to agree to the equal split of add-ons, unaware that there was a second, more equitable option. To ensure that parties are paying more fairly for these costs, the new law makes it mandatory to allocate child support add-ons based on the parties' incomes. In application, the result is that the higher-earning parent will pay a larger share of the expenses, while the lower-earning parent's share will be adjusted down.

### **Childcare costs related to employment are presumed to be a reasonable child support add-on**

SB 343 modifies Family Code 4062 and 4063 regarding the reasonableness of childcare add-on costs necessary for a parent to work. While there was a presumption that uninsured medical costs are a reasonable and necessary additional cost for children, that same presumption did not exist for work-related childcare. Now, there is a rebuttable presumption that childcare costs actually incurred for a parent to work or to obtain education or training for employment skills is a reasonable cost, and a court shall order those costs reimbursed by the other party, unless those costs are specifically included in the guideline calculation itself.

### **A parent has 90 days to request reimbursements from the other parent**

SB 343 amended Family Code section 4063 to give parents additional time to request reimbursement from the other parent for child support add-ons. As discussed, these expenses include reasonable uninsured health care costs, childcare costs related to

work, or costs related to the children's education, special needs, or travel expenses for visitation at the court's discretion.

Under the old law, parents had to submit a request for reimbursement from the other parent within 30 days of incurring the cost. Now, parents have 90 days after accruing or paying the expense to request the reimbursement. The other party is still required to reimburse the paying party within 30 days.

SB 343 introduces significant updates to California's child support laws, aiming to balance financial responsibility between parents. These changes address the current realities of each parent's income and the actual costs of raising children, ensuring a more equitable distribution of support.

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