

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 legal custody as specified; amending  
3 the definition of income for determination of child support  
4 as specified; amending the calculation for presumptive  
5 child support as specified; amending imputed income of  
6 voluntary unemployed or underemployed parent as specified;  
7 providing definitions; and providing for an effective date.

8

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

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11 **Section 1.** W.S. 20-2-201(d) and by creating a new  
12 subsection (h), 20-2-303(a)(ii), 20-2-304(c) and  
13 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 legal or shared custody unless there is a  
10 preponderance of the evidence that:

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

14  
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 legal custody" means both parents  
22 share the decision making rights, responsibilities and

1 authority relating to the health, education and welfare of  
2 the children;

3  
4 (ii) "Shared custody" means the children  
5 physically reside with each parent for a substantially  
6 equal amount of time;

7  
8 (iii) "Sole custody" or "primary custody" means  
9 awarding custody to one (1) parent and establishes that  
10 parent as the primary care provider of the children and the  
11 one with whom the children shall reside.

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13 **20-2-303. Definitions.**

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15 (a) As used in this article:

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

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

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17 **20-2-304. Presumptive child support.**

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19 (c) The total number of days that each parent shall  
20 have the children in their care shall be calculated. When  
21 each parent keeps the children overnight for more than  
22 forty percent (40%) of the year and both parents contribute  
23 substantially to the expenses of the children in addition

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

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14 **20-2-307. Presumptive child support to be followed;**  
15 **deviations by court.**

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17 (b) A court may deviate from the presumptive child  
18 support established by W.S. 20-2-304 upon a specific  
19 finding that the application of the presumptive child  
20 support would be unjust or inappropriate in that particular  
21 case. In any case where the court has deviated from the  
22 presumptive child support, the reasons therefor shall be  
23 specifically set forth fully in the order or decree. In

1 determining whether to deviate from the presumptive child  
2 support established by W.S. 20-2-304, the court shall  
3 consider the following factors:

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

12

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

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(END)