

SUPREME COURT OF ARKANSAS

IN RE AMENDMENT TO
ADMINISTRATIVE ORDER NO. 10

Opinion Delivered February 3, 2011

PER CURIAM

The Supreme Court Committee on Child Support recommended amendments to Administrative Order Number 10 that were published for comment on November 11, 2010. *In re Supreme Court Child Support Committee's Proposed Amendments to Admin. Order No. 10*, 2010 Ark. 441 (per curiam). Today, we adopt the amendment to section (II) that adds a provision to include a percentage of a future bonus in the definition of "income." This change overrules the result reached in *Kelly v. Kelly*, 341 Ark. 596, 19 S.W.3d 1 (2000).

We decline to adopt the proposed changes to section (III)(g) and refer them back to the committee for further consideration.

The amendment is effective March 1, 2011, and section (II) of Administrative Order Number 10 is republished as set out below.

We thank everyone who reviewed the proposed changes and submitted comments. We again express our gratitude to the members of the Child Support Committee for their work.

Administrative Order Number 10 – Child Support Guidelines

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Section II. Definition of income.

a. Income means any form of payment, periodic or otherwise, due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest less proper deductions for:

1. Federal and state income tax;
2. Withholding for Social Security (FICA), Medicare, and railroad retirement;
3. Medical insurance paid for dependent children; and
4. Presently paid support for other dependents by court order, regardless of the date of entry of the order or orders.

Cases reflect that the definition of "income" is "intentionally broad and designed to encompass the widest range of sources consistent with this State's policy to interpret 'income' broadly for the benefit of the child." *Evans v. Tillery*, 361 Ark. 63, 204 S.W.3d 547(2005); *Ford v. Ford*, 347 Ark. 485, 65 S.W.3d 432 (2002); *McWhorter v. McWhorter*, 346 Ark. 475, 58 S.W.3d 840 (2001); and *Davis v. Office of Child Support Enforcement*, 341 Ark. 349, 20 S.W.3d 273 (2000).

b. In order to further this State's policy to interpret "income" broadly for the benefit of the child, a support order may include as its basis a percentage of a bonus to be received

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in the future. This child-support obligation shall terminate when the underlying child-support obligation terminates. When a payor's income includes a bonus amount, use the following percentages of the payor's net bonus to set and establish the amount of support:

One dependent: 15%

Two dependents: 21%

Three dependents: 25%

Four dependents: 28%

Five dependents: 30%

Six dependents: 32%

The child support attributable to a bonus amount shall be in addition to the periodic child-support obligation. Defining income to include a percentage of a bonus changes Arkansas case law. The effect is specifically to overrule the result reached in *Kelly v. Kelly*, 341 Ark. 596, 19 S.W.3d 1 (2000).