

1 S.203

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Domestic relations; divorce and annulment; child support
6 enforcement

7 Statement of purpose: This bill proposes to amend the calculation of available
8 income in determining child support; permit the court to order an obligor to
9 participate in employment, educational, or training-related activities if the
10 court finds that participation in such activities would assist in providing
11 support for a child or in addressing the causes of the default; and to permit a
12 party to file a motion for relief from a default child support order upon a
13 showing that the court used incorrect financial information.

14 An act relating to child support enforcement

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 15 V.S.A. § 653 is amended to read:

17 § 653. DEFINITIONS

18 As used in this subchapter:

19 (1) "Available income" means gross income, less;

1 (A) the amount of spousal support or preexisting child support
2 obligations, including any court-ordered periodic repayment toward arrearages,
3 actually paid;

4 * * *

5 (7) "Self-support reserve" means the needs standard established
6 annually ~~by the commissioner for children and families which shall be an~~
7 ~~amount sufficient to provide a reasonable subsistence compatible with decency~~
8 ~~and health. The needs standard shall take into account the available income of~~
9 ~~the parent responsible for payment of child support, and calculated at~~
10 133 percent of the United States Department of Health and Human Services
11 poverty guideline per year for a single individual.

12 * * *

13 Sec. 2. 15 V.S.A. § 658(d) is amended to read:

14 (d) The court or magistrate may order ~~a parent who is in default of a child~~
15 ~~support order, an obligor~~ to participate in employment, educational, or ~~training~~
16 ~~related~~ training-related activities if the court finds that participation in such
17 activities would assist in providing support for a child, or in addressing the
18 causes of the default. The court may also order the parent to participate in
19 substance abuse or other counseling if the court finds that such counseling may
20 assist the parent to achieve stable employment. Activities ordered under this
21 section shall not be inconsistent with any requirements of a state or federal

1 program in which the parent is participating. For the purpose of this
2 subsection, “employment, educational, or ~~training-related~~ training-related
3 activities” shall mean:

- 4 (1) unsubsidized employment;
- 5 (2) subsidized private sector employment;
- 6 (3) subsidized public sector employment;
- 7 (4) work experience (including work associated with the refurbishing of
8 publicly assisted housing) if sufficient private sector employment is not
9 available;
- 10 (5) on-the-job training;
- 11 (6) job search and job readiness assistance;
- 12 (7) community service programs;
- 13 (8) vocational educational training (not to exceed 12 months with
14 respect to any individual);
- 15 (9) job skills training directly related to employment;
- 16 (10) education directly related to employment, in the case of a recipient
17 who has not received a high school diploma or a certificate of high school
18 equivalency;
- 19 (11) satisfactory attendance at secondary school or in a course of study
20 leading to a certificate of general equivalence, in the case of a recipient who
21 has not completed secondary school or received such a certificate; and

1 (12) the provision of child care services to an individual who is
2 participating in a community service program.

3 Sec. 3. 15 V.S.A. § 662 is amended to read:

4 § 662. INCOME STATEMENTS

5 (a) A party to a proceeding under this subchapter shall file an affidavit of
6 income and assets which shall be in a form prescribed by the court
7 administrator. Upon request of either party, or the court, the other party shall
8 furnish information documenting the affidavit. The court may require a party
9 who fails to comply with this section to pay an economic penalty to the other
10 party.

11 (b) Failure to provide the information required under subsection (a) of this
12 section shall create a presumption that the noncomplying parent's gross
13 income is the greater of:

14 (1) 150 percent of the most recently available annual average covered
15 wage for all employment as calculated by the department of labor; or

16 (2) the gross income indicated by the evidence.

17 (c)(1) Upon a motion filed by either party or the office of child support, the
18 court may relieve a party from a final judgment or child support order upon a
19 showing that the income used in a default child support order was inaccurate.
20 A showing that the court used incorrect financial information shall be

1 considered a mistake for the purposes of Rule 60 of the Vermont Rules of Civil
2 Procedure.

3 (2) The motion in subdivision (1) of this subsection shall be filed within
4 one year of the date of service of the child support order being contested.

5 Sec. 4. EFFECTIVE DATE

6 This act shall take effect on July 1, 2012.