

HOUSE RESEARCH

Bill Summary

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Overview

This bill provides that certain expenses of independent contractors in the motor carrier industry (e.g., over the road truck drivers who contract out their services or equipment) be considered ordinary and necessary business expenses, and thus deducted from gross income, when calculating child support. It also provides that up to, but no more than, 50 percent of a payment due to an independent contractor in the motor carrier industry be withheld to pay child support.

Background

When child support payments are set for an independent contractor, the court must first determine net income for child support purposes. Net income for child support purposes is gross income less ordinary and necessary business expenses and certain other deductions. It is not necessarily the same as taxable income.

Once child support is ordered, it is usually collected by income withholding. Under the Federal Consumer Credit Protection Act, the maximum amount that can be withheld from an employee's paycheck for child support in most circumstances is 50 percent of net income. Independent contractors are not covered under the act.

- 1 Determining income for certain truck drivers.** Requires that the court include certain listed expenses as ordinary and necessary business expenses when determining the income of an independent contractor in the motor carrier industry.
Provides that the independent contractors still maintain the burden of proving those expenses.
- 2 Withholding income for certain truck drivers.** Paragraph (a) requires that up to, but no more than, 50 percent of a payment due to an independent contractor be withheld for child support.
Paragraph (b) provides that this section is not intended to limit or reduce duly owing child support arrears. Provides that obligors are still required to bring a motion to reduce child support

if they think their income does not comport with the support ordered.

Paragraph (c) provides that the 50 percent provision relates to withholding only and not to determining the proper amount of support. Also provides that this section does not prohibit the use of any other means to enforce support or collect arrears.