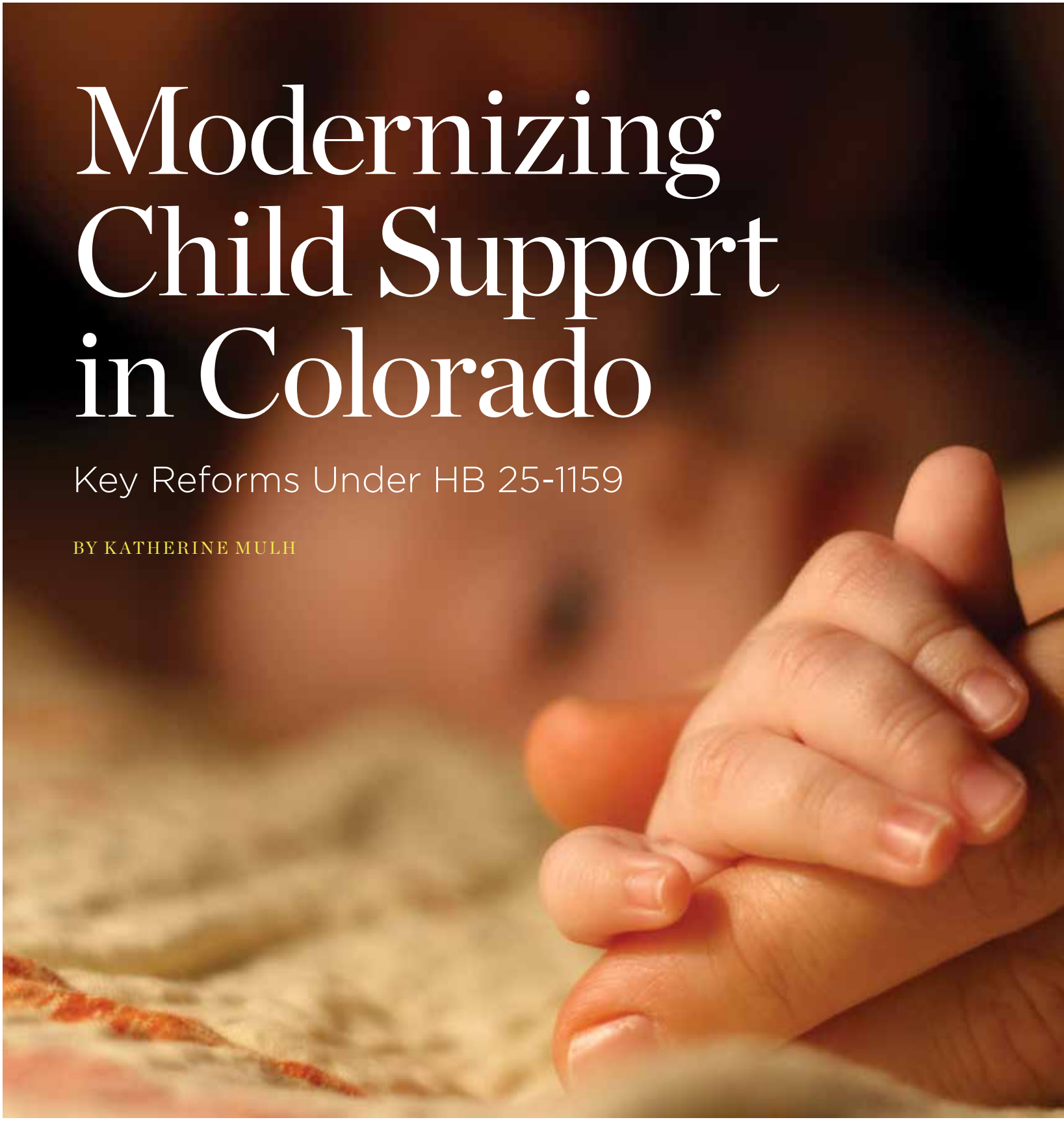

Modernizing Child Support in Colorado

Key Reforms Under HB 25-1159

BY KATHERINE MULH

This article explains the recent revisions to Colorado's child support statute under HB 25-1159.

HB 25-1159 represents the most significant overhaul of Colorado's child support statute, CRS § 14-10-115, in more than a decade. Effective on staggered dates across 2025 and 2026, this legislation modernized Colorado's child support framework by incorporating updated economic data, addressing long-recognized inequities affecting low-income parents, and reducing unintended "cliff effects" associated with parenting time below 93 overnights. The bill also aligned state law with current federal and Internal Revenue Service (IRS) guidance regarding tax credits, clarified the treatment of medical expenses, and simplified several aspects of worksheet calculations. This article provides a practical, practitioner-focused analysis of the statutory revisions, highlighting key substantive changes, implementation considerations, and strategic implications for attorneys, judicial officers, and financial professionals to consider. By examining both the policy goals and the real-world impact of the statutory revisions, the article aims to equip family law practitioners with the tools needed to navigate Colorado's revised child support landscape and to advocate for support orders that are more predictable, equitable, and reflective of contemporary family economics.

Updates Effective on May 31, 2025

Revisions to the statute regarding extraordinary and ordinary medical expenses, as well as provisions addressing tax implications of child support, became effective on May 31, 2025.

Extraordinary and Ordinary Medical Expenses

As any practitioner is aware, complications regarding extraordinary medical expenses and the reimbursement process often arise in family law cases. For many families, the previous iteration of the statute was unworkable because it lacked clarity on how parties should reimburse each other and what happens when one parent fails to request reimbursement in a timely manner.

HB 25-1159 provided more flexibility for handling extraordinary medical expenses by expanding what can be included, eliminating the threshold for reimbursement, and clarifying how these expenses are allocated.

Under CRS § 14-10-115(10)(h)(II), extraordinary medical expenses now include, but are not limited to, copayments, deductibles, and uninsured out-of-pocket expenses for reasonable costs for professional medical care, prescription medication, medical equipment, orthodontia, dental treatment, asthma treatments, physical therapy, vision care, professional counseling or psychiatric therapy for behavioral or mental health disorders, and any uninsured health problem.[1] For children (and adults) with disabilities, extraordinary medical expenses may include medically necessary equipment, vehicle modifications, recommended therapeutic activities, and reasonable respite care.[2]

Previously, the statute required each parent to cover extraordinary medical expenses up to $250 before requesting reimbursement. This functioned as a "deductible" before the expense would be allocated between the parties for reimbursement.[3] In practice, this was difficult to track and guarantee that each party was meeting that threshold before requesting reimbursement. HB 25-1159 eliminated the $250 threshold under CRS § 14-10-115, so as of May 31, 2025, both parties may now request reimbursement without needing to meet the statute's "deductible." This ensures that both parents are sharing in their children's extraordinary medical costs in a more transparent way, removes the obligation of tracking each party's progress toward $250 per child, and provides a more equitable result to the parent earning a lower income by providing reimbursement without prerequisites.

In addition to removing the $250 threshold, HB 25-1159 also allowed extraordinary medical expenses to be added as an adjustment to the child support calculation if the expense is consistent and expected to continue. Extraordinary medical expenses that are not ongoing and consistent, or that are otherwise not added to the child support worksheet calculation, are subject to reimbursement among the parties proportionate to income.[4] Inclusion of these ongoing costs is necessary in many cases where children have additional medical needs that must be met regardless of which parent they live with. Recognition of these costs inside and outside of the worksheet is important to ensure that both parents share in these costs, and accounts for circumstances where a child's needs may be changing and costs may vary.

Ordinary medical expenses include minor costs incurred while caring for a child, such as over-the-counter medication, bandages, or regular hygiene and health products. These are typically not subject to allocation between the parties. However, under the revised statute, if one of these items is recommended by the child's (or adult's) treatment provider to treat or manage the child's (or adult's) chronic conditions, then it can be allocated between the parties like extraordinary medical expenses.[5]

For example, a child might need medication for recurring allergy symptoms. If this is an ongoing cost, the parties may include the cost on the child support worksheet to ensure both parties are responsible for the cost on a monthly basis. For a cost such as an over-the-counter medication, the parties' incomes may impact whether they decide to include the cost on the worksheet or reimburse each other on a monthly basis. It might make sense to include a more expensive prescription (e.g., an inhaler or EpiPen) on the worksheet. This gives families with children requiring significant monthly medical costs more flexible options to ensure that both parents share in their child's medical costs.

HB 25-1159's primary revisions regarding medical expenses changed the language from "uninsured" to "extraordinary" and clarified that reimbursement is only for expenses not already accounted for on the child support worksheet. While elimination of the $250 threshold simplified tracking of expenses, the provisions for the reimbursement process, discussed below, still lack clarity and were not addressed as part of HB 25-1159.

CRS § 14-10-115(10)(h)(III)(A) provides that a party seeking reimbursement for extraordinary medical expenses not included as an adjustment to the child support worksheet must provide proof of the expense to the reimbursing party within a reasonable time after incurring the expense.[6] The statute does not define "reasonable time" for purposes of this provision. On one hand, this promotes flexibility for parents, especially when they may not receive bills until months after the cost is processed through insurance. On the other hand, lack of guidance on what a "reasonable time" is may result in parties providing invoices much later than what the other party considers reasonable. The statute addresses this issue in part by requiring proof of the expense to the reimbursing party by July 1 of the year following the calendar year in which the expense was incurred; otherwise, absent extraordinary circumstances, request for reimbursement is waived.[7] Although the statute also lacks guidance on what are considered extraordinary circumstances, the July 1 deadline provides some clarity on what is considered a reasonable time to provide a request for reimbursement.

For example, if a child gets braces in November 2025, it may take some time for the cost to be processed by the orthodontist's office and Parent A's insurance. Once Parent A receives an invoice with their out-of-pocket cost, they are responsible for a portion of the cost pro rata to their income, and they must provide the invoice to Parent B within a reasonable time to be reimbursed for Parent B's portion of the cost. Suppose Parent A accidentally throws out the invoice after paying and forgets to notify or provide documentation to Parent B. Parent A does not realize they were not reimbursed until August 2026 when scheduling annual appointments. Absent a showing of extraordinary circumstances, Parent A has waived their right to request reimbursement.

Another issue that often arises is enforcement. This section of the statute was also not updated by the most recent statutory revisions but is included in this discussion as a reminder to practitioners as they navigate the new law regarding reimbursable expenses. If the reimbursing party fails to respond and reimburse the expenses or reach a payment arrangement with the requesting party within 49 days after the request was received, the requesting party may file a motion for judgment of extraordinary medical expenses for that calendar year.[8] The motion must include the amount of the expense incurred, the amount sought from the other party pursuant to CRS § 14-10-115(10)(h)(I), and when and how the request for reimbursement was made.[9] If the reimbursing party wishes to respond, they must include any objection to the costs requested or proposed payment arrangements.[10]

From a practical standpoint, awareness of these statutory mechanisms and timelines is important not only for advising clients of their options, but also for crafting parenting plans that reflect the parties' agreement on sharing expenses and reimbursement procedures should they need more specificity or shorter deadlines than the statute provides.

These updates create a predictable framework, building on existing provisions, for sharing expenses and enforcing reimbursement of extraordinary medical expenses that are not included on the child support worksheet.

Alignment With 26 CFR § 1.152-4

Practitioners should be aware of tax implications that may arise in family law cases and the pitfalls that could impact clients. When in doubt, practitioners should advise clients to seek professional tax advice.

Parties often disagree about which parent should be permitted to claim the child for income tax purposes, particularly where the parties exercise equal parenting time and are unaware of the IRS's definition of a "custodial parent."

Both 26 USC § 152 and 26 CFR § 1.152-4 provide direction to divorced or separated individuals and the specific tax rules that may apply under those circumstances. The IRS provides that the "custodial parent" typically has the right to claim the children for tax purposes.[11] Under 26 CFR § 1.152-4, the custodial parent is

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either the parent with more overnights or, if the overnights are equal between the parties, the parent with the higher adjusted gross income.[12] This regulation also requires the custodial parent to sign a release of the right to claim the child if that right is allocated to the noncustodial parent.[13]

CRS § 14-10-115(12) previously only allowed the court to consider the parties' proportionate costs when allocating the right to claim the child for tax purposes:

> Unless agreed upon by the parties, the court shall allocate the right to claim dependent children for income tax purposes between the parties. These rights shall be allocated between the parties in proportion to their contributions to the costs of raising the children. A parent shall not be entitled to claim a child as a dependent if he or she has not paid all court-ordered child support for that tax year or if claiming the child as a dependent would not result in any tax benefit.

HB 25-1159 added factors for the court to consider when allocating the income tax dependency exemption and the resulting tax benefit.[14] These factors are mandatory, so if the parties cannot reach an agreement regarding allocation of the right to claim the child, the court is required to consider:

- the financial resources of each party;
- any negative impacts on a party's ability to provide for the needs of the child if the party is not awarded the allocation of exemption;
- whether one or both parties would each receive a tax benefit from the right to claim the child for tax purposes pursuant to 26 USC § 152(e); and
- the impact of the allocation of exemption on either party's ability to claim a premium tax credit or a premium subsidy pursuant to 42 USC §§ 18001 et seq., as amended by 42 USC §§ 1305 et seq., and any other federal guidance or regulations issued pursuant to these federal acts.[15]

Additionally, CRS § 14-10-115(12)(a) explicitly authorizes the court to direct a party with whom the child has parenting time for more than 50% of the calendar year to execute a declaration releasing that party's claim to the child as a dependent pursuant to 26 USC § 152(e), aligning the statute with the IRS requirement.

CRS § 14-10-115(12)(c) permits the court to place reasonable conditions on a party's right to claim an allocation of exemption, including a condition that the party must remain compliant with child support payments. However, it is unclear how this provision will function with 26 CFR § 1.152-4(e), which explicitly requires that the written declaration be an unconditional release and states that a declaration is not unconditional if conditioned on the requirement of payment of child support. Practitioners should be aware of this issue in advising their clients of what restrictions can be placed on the other parent who wishes to claim the child. A circumstance could occur where one party wrongfully claims the child on their taxes, believing that the other party's failure to comply with child support permits them to claim the child.

In light of these changes, it is pertinent for parents to understand which parent is the "custodial" parent for IRS purposes and ensure that the required declaration is completed by the custodial parent and attached to the noncustodial parent's tax return. The current iteration of this form is Form 8332. In high-conflict cases where parents have limited communication, it is prudent to devise a system that facilitates the exchange of documents between the parties while minimizing conflict.

For example, two parents may exercise an equal number of overnights on an annual basis. To determine which parent is the custodial parent for tax purposes, their respective incomes must be considered. If Parent A earns an annual income of $50,000 and Parent B earns an annual income of $75,000, then Parent B is considered the custodial parent for tax purposes. If the current orders require the parties to alternate who claims the child for tax purposes, then in years that Parent A claims the child, Parent B must execute Form 8332 and provide the form to Parent A. Parent A must attach Form 8332 to their tax return for that year.

Family law practitioners are usually not tax experts. Regardless, it is vital to understand

these changes to the statute and the interaction with federal tax law to ensure that clients and their families receive accurate information tailored to their particular situation.

Updates Effective on February 1, 2026

Revisions to the statute regarding retroactive child support became effective on February 1, 2026. These updates modernized the law to account for the changing composition of Colorado families.

Factors for Determining Retroactive Child Support

Retroactive child support is the amount paid for the support of the child during the period before the month the child support obligation begins. CRS § 19-4-116 addresses the factors the court must consider when ordering retroactive child support.[16]

Before February 1, 2026, the only factors enumerated in CRS § 19-4-116 in determining the amount of retroactive child support were:

- the needs of the child;
- the standard of living and circumstances of the parents;
- the relative financial means of the parents;
- the earning ability of the parents;
- the need and capacity of the child for education, including higher education;
- the age of the child;
- the financial resources and the earning ability of the child;
- the responsibility of the parents for the support of others;
- the value of services contributed by the parent with whom the child resides the majority of the time;
- the standard of living the child would have enjoyed had the parents been married; and
- the child support guidelines in CRS § 14-10-115.

Effective February 1, 2026, CRS § 19-4-116(6)(g) is reworded from "the financial resources and the earning ability of the child" to "the financial resources of the child." This reflects the rationale that a child's right to child support should not be negatively impacted by their own employment. CRS § 19-4-116(6)(j) is reworded from "the standard of living the child would have enjoyed had the parents been married" to "the standard of living the child would have enjoyed had the parents been an intact family." This change represents the change in social norms and increased prevalence of parents who are not married.

In addition to this revised language, under CRS § 19-4-116(6)(l)–(q), the court must consider the following when awarding retroactive child support:

- the ability of the obligor to pay court-ordered current child support in addition to a potential judgment for retroactive child support;
- efforts the parents have made to contact each other and communicate the needs of the child, including requests for financial support;
- any evidence regarding a parent's attempt to avoid service;
- support provided by the obligor, including, but not limited to, money, supplies, food, clothing, and gifts; and
- evidence of efforts to restrict access to the child from the other parent; and evidence that the parents had a financial agreement during the retroactive time period.[17]

Ordering retroactive support pursuant to this statute is at the discretion of the court or Colorado Child Support Services, but where those entities order retroactive support, analysis of these factors is mandatory. These factors ensure that the court will prioritize cooperation between the parties in reaching financial agreements, communicating about the child's needs, promoting access to the other parent, and participating in the court proceedings in good faith. These factors are helpful in cases where the parties could not reach agreement on temporary support and one party paid a disproportionate share of expenses in raising their child.

Updates Effective on March 1, 2026

Amendments effective on March 1, 2026, expanded the child support schedule, introduced a self-support reserve for lower income parents, and eliminated the threshold for overnights needed to receive parenting time credit.

Adjustments to Child Support Guidelines

In addition to the updates below, the child support schedule has been expanded to include monthly incomes up to $40,000, adjusted to reflect the cost of living adjustments in Colorado and economic conditions prevalent throughout the state, and modernized to include calculations based on the Betson-Rothbarth study.[18]

Self-Support Reserve and Low-Income Obligors

Colorado's Child Support Commission recognized the need to include a "self-support reserve" (SSR) in response to increases in the cost of living and the costs associated with raising children. The SSR is considered the minimum amount a person must be able to retain to meet their basic needs while also providing for their children.

According to CRS § 14-10-115(3)(g.5), an SSR is "an amount equal to the state hourly minimum wage multiplied by 29 hours per week, multiplied by 50 weeks per year, divided by 12 months."[19] For example, using the minimum wage rate in Colorado for 2026 ($15.17 per hour), the SSR in 2026 is $1,833.04.[20]

The SSR is designed to help the person who is paying the child support, the obligor, ensure they have sufficient funds for their own expenses while maintaining stability and consistency with payments and providing support to their child. This addition recognizes the need to take an obligor's basic needs into account when determining child support. Importantly, because the SSR calculation considers the minimum wage rate set by Colorado, the SSR will automatically adjust without the need for new legislation and will increase as the state minimum wage increases. This also promotes consistency across jurisdictions in Colorado since the minimum wage rate varies by county and parents may reside within different counties with different minimum wage thresholds.

CRS § 14-101-115(7)(a)(III)–(V) demonstrates how the SSR is considered in the child support guidelines. If an obligor's adjusted gross income is less than or equal to $650 per month, then the minimum child support order of $10 per month is ordered.[21] This is regardless of the income of the obligee or the number of children subject to the order. If an obligor's

adjusted gross income is more than $650 per month but less than or equal to the SSR, the obligor's basic child support obligation is reduced to $50 per month for one child, $70 per month for two children, $90 per month for three children, $110 per month for four children, $130 per month for five children, and $150 for six or more children.[22] If an obligor's adjusted gross income is above the SSR but less than Colorado's minimum hourly wage multiplied by 40 hours, multiplied by 52 weeks, divided by 12 months, then CRS § 14-101-115(7)(a)(V) applies. If this applies, then a certain percentage above the SSR is allocated to child support. This is calculated by subtracting the SSR from the obligor's income and then multiplying this difference by 80% for one child, 85% for two children, 89% for three children, 92% for four children, 94% for five children, and 95% for six or more children.[23]

The introduction of the SSR and the phase-in approach for low-income obligors recognizes the need to ensure that the obligor has sufficient funds for their own expenses while maintaining stability and consistency with child support payments in the best interest of the child.

Addressing the "Cliff Effect"

For years, family law practitioners and clients alike have expressed concern about the "cliff effect." This refers to the threshold of 93 overnights to move from Worksheet A to Worksheet B in calculating child support. Under Worksheet B, there was a parenting time credit using a formula that applied when each parent had the child for at least 93 overnights. In some situations, for those not receiving this credit (due to using Worksheet A), this scenario created urgency around increasing parenting time in order to limit an obligor's child support payments. Until March 1, 2026, if a party exercised fewer than 93 overnights, then child support would be calculated on Worksheet A. If both parties exercised at least 93 overnights, Worksheet B would be used. As a result, parties using Worksheet A did not receive parenting time credit or recognition of costs for overnights.

For example, under the previous version of the law, if mother's income was $5,000 per month, father's income was $6,500 per month, and the parties were subject to Worksheet A, then father's child support obligation was $756.24 whether father exercised zero overnights or 92 overnights. If father exercised 93 overnights and the parties move to Worksheet B, then father's child support obligation became $623 and decreased for each additional night he exercised. This potentially created a focus around overnights and the resulting child support payment rather than the best interests of the child.

As of March 1, 2026, there is only one worksheet, which uses a graduated curve to credit overnights without needing to reach 93 overnights to receive credit.[24] If a party exercises zero overnights, they receive 0% credit. If a party exercises 365 overnights, they receive 100% credit. If a party exercises 91 days, roughly 25% of the annual overnights, they receive 13% credit. Importantly, the software platforms used by most practitioners were proactively updated to incorporate these changes, ensuring continuity for users when the new worksheet went into effect.[25]

This modification addresses the "cliff effect" by recognizing that a party exercising fewer than 93 overnights still incurs expenses associated with caring for their child, including the costs of providing bedroom furnishings, meals during their parenting time, toys and books, hygiene supplies, and other basic necessities. Now, parties receive credit based on the number of overnights they exercise without needing to meet a threshold.

Conclusion

HB 25-1159 is the biggest overhaul of Colorado's child support framework in over a decade. It incorporates updated data, reduces inequities for low-income parents, expands the guidelines, recognizes the true costs of parenting with fewer than 93 overnights, aligns with the IRS's direction on tax credits, and streamlines medical expense handling. These changes produce more predictable, realistic, and enforceable child support orders that better reflect the realities of modern Colorado families. CL

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NOTES

1. CRS § 14-10-115(10)(h)(II).
2. *Id.*
3. *See In re Alvis*, 446 P.3d 963 (Colo.App. 2019).
4. CRS § 14-10-115(10)(h)(I).
5. CRS § 14-10-115(10)(h)(II).
6. CRS § 14-10-115(10)(h)(III)(A).
7. *Id.*
8. CRS § 14-10-115(10)(h)(III)(B).
9. *Id.*
10. *Id.*
11. 26 CFR § 1.152-4(a).
12. 26 CFR § 1.152-4(d).
13. 26 CFR § 1.152-4(b).
14. CRS § 14-10-115(12)(a), (b).
15. *Id.*
16. CRS § 19-4-116(6)(a)–(q).
17. CRS § 19-4-116(6)(l)–(q).
18. CRS § 14-10-115(7)(b), effective March 1, 2026. The Betson-Rothbarth study examined the national average costs of raising children. *See* Colorado Department of Human Services, *2023 Child Support Commission Final Report* 18, https://childsupport.colorado.gov/sites/default/files/2024-05/2023%20Child%20Support%20Commission%20Quadriennial%20Review%20Report.pdf.
19. CRS § 14-10-115(3)(g.5).
20. Colorado Department of Labor and Employment, "Annual Minimum Wages," https://cdle.colorado.gov/dlss.
21. CRS § 14-101-115(7)(a)(III)(A).
22. CRS § 14-101-115(7)(a)(III)(B).
23. CRS § 14-101-115(7)(a)(V).
24. CRS § 14-10-115(8)(b).
25. Math4Law, "Child Support and Maintenance," https://www.math4law.com/colorado-child-support.