

2009 Bill 29

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 29

FAMILY LAW AMENDMENT ACT, 2009

MR. DENIS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 29
Mr. Denis

BILL 29

2009

FAMILY LAW AMENDMENT ACT, 2009

(Assented to , 2009)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends SA 2008 c15

1 *The Family Law Amendment Act, 2008* is amended by this Act.

2 Section 3 is amended by repealing the new section 55.51 and substituting the following:

Recalculation without income information

55.51(1) Subject to subsection (4), where a payor or recipient fails to provide the recalculation program with income information as required under section 55.41, the payor or recipient is deemed to have provided updated income information that discloses income in accordance with subsection (2).

(2) For the purposes of this section, the income of the payor or recipient, as the case may be, is the sum of

- (a) the payor's or recipient's income used to determine the current amount of child support payable, whether that income was
 - (i) set out in a court order,
 - (ii) set out in an administrative recalculation of an amount of child support prepared by a provincial

Explanatory Notes

1 Amends chapter 15 of the Statutes of Alberta, 2008.

2 The unproclaimed section 55.51(2) presently reads:

(2) For the purposes of subsection (1), the income of the payor or the recipient, as the case may be, is deemed to be the sum of

(a) the payor's or the recipient's income used to determine the current amount of child support, whether that income was

(i) set out in the payor's or recipient's child support order,

(ii) previously determined by the recalculation program from income information required to be provided in accordance with section 55.41, or

(iii) previously determined by the recalculation program in accordance with this section,

and

(b) 10% of the payor's or recipient's income referred to in clause (a).

child support service of another jurisdiction in Canada,

- (iii) previously determined by the recalculation program from income information required to be provided under section 55.41, or
- (iv) previously determined by the recalculation program in accordance with this section,

and

- (b) the amount equal to the product obtained by multiplying the payor's or recipient's income described in clause (a) by the applicable percentage determined in accordance with subsection (3).

(3) For the purpose of subsection (2)(b), the applicable percentage shall be determined based on the amount of time that has elapsed since the payor's or recipient's income was last determined in accordance with subsection (2)(a), as follows:

- (a) where less than 1 year has elapsed, 10%;
- (b) where a year or more but less than 2 years has elapsed, 13%;
- (c) where 2 years or more but less than 3 years has elapsed, 16%;
- (d) where 3 years or more but less than 4 years has elapsed, 19%;
- (e) where 4 years or more but less than 5 years has elapsed, 22%;
- (f) where 5 years or more has elapsed, 25%.

(4) Where a payor or a recipient fails to provide the recalculation program with income information in respect of a child support order made under the *Divorce Act* (Canada), the Director may apply to the Court on such notice as the Court may direct for an order respecting the determination of the income of the payor or the recipient for the purposes of recalculation.

