

137-050-0760

Rebuttals

(1) The presumed support amount may be rebutted by a finding that sets out the presumed amount, concludes that this amount is unjust or inappropriate, and states the reason the presumed amount is unjust or inappropriate. The rebuttal factors may be applied by adjusting the income of a parent, the costs for the child or the presumed support amount. The rebuttal factors include but are not limited to:

(a) Evidence of the other available resources of the parent;

(b) The reasonable necessities of the parent;

(c) The net income of the parent remaining after withholding required by law or as a condition of employment;

(d) A parent's ability to borrow;

(e) The number and needs of other dependents of a parent;

(f) The special hardships of a parent affecting the parent's ability to pay support, including, but not limited to, any medical circumstances, extraordinary travel costs related to the exercise of parenting time, or requirements of a reunification plan if the child is in state-financed care;

(g) The desirability of the custodial parent remaining in the home as a full-time parent or working less than full-time to fulfill the role of parent and homemaker;

(h) The tax consequences, if any, to both parents resulting from spousal support awarded, the determination of which parent will name the child as a dependent, child tax credits, or the earned income tax credit received by either parent;

(i) The financial advantage afforded a parent's household by the income of a spouse or domestic partner;

(j) The financial advantage afforded a parent's household by benefits of employment including, but not limited to, those provided by a family owned corporation or self-employment, such as housing, food, clothing, health benefits and the like, but only if unable to include those benefits as income under OAR 137-050-0715;

(k) Evidence that a child who is subject to the support order is not living with either parent or is a child attending school as defined in ORS 107.108;

(L) Findings in a judgment, order, decree or settlement agreement that the existing support award is or was made in consideration of other property, debt or financial awards, and those findings remain relevant;

(m) The net income of the parent remaining after payment of mutually incurred financial obligations;

(n) The tax advantage or adverse tax effect of a parent's income or benefits;

(o) The extraordinary or diminished needs of the child, except:

(A) Expenses for extracurricular activities and

(B) Social Security benefits paid to a child because of a child's disability;

(p) The return of capital.

(2) Amounts used to rebut income will be applied prior to determining income shares. Amounts used to rebut costs will be based on the respective income shares of the parties. Amounts used to rebut the presumed support amount will be applied on a dollar-for-dollar basis.

Stat. Auth.: ORS 25.270 – 25.290, 180.345

Stats. Implemented: ORS 25.270 – 25.290

Effective date: July 1, 2010