

**ARIZONA CHILD SUPPORT GUIDELINES
ADOPTED BY
THE ARIZONA SUPREME COURT
FOR
ACTIONS FILED AFTER OCTOBER 31, 1996**

BACKGROUND: The Arizona Child Support Guidelines follow the Income Shares Model. The model was developed by the Child Support Guidelines Project of the National Center for State Courts. The total child support amount approximates the amount that would have been spent on the child(ren) if the parents and child(ren) were living together. Each parent contributes his/her proportionate share of the total child support amount.

Information regarding development of the guidelines, including economic data and assumptions upon which the Schedule of Basic Child Support Obligations is based, is contained in the June 29, 1995, report of Policy Studies, Inc., titled *Economic Basis for Updated Child Support Schedule - State of Arizona*.

1. Purposes

- a. To establish a standard of support for children consistent with the reasonable needs of children and the ability of parents to pay.
- b. To make child support orders consistent for persons in similar circumstances.
- c. To give parents and courts guidance in establishing child support orders and to promote settlements.
- d. To comply with state law (Arizona Revised Statutes Section 25-320) and federal law (42 United States Code Section 651 et seq., 45 Code of Federal Regulations Section 302.56) and any amendments thereto.

2. Premises

- a. These guidelines apply to all natural children, whether born in or out of wedlock, and to all adopted children.
- b. The child support obligation has priority over all other financial obligations; the existence of non-support-related financial obligations is generally not a reason for deviating from the guidelines.
- c. The fact that a custodial parent receives child support does not mean that he or she may not also be entitled to spousal maintenance.

If the court is establishing both child support and spousal maintenance, the court shall determine the appropriate amount of spousal maintenance first.

The receipt or payment of spousal maintenance shall be treated in accordance with sections 4.a and 5.a. The addition to or adjustment from gross income under these sections shall apply for the duration of the spousal maintenance award.

- d. A parent's legal duty is to support his or her natural or adopted children. The "support" of other persons such as stepchildren or parents is deemed voluntary and is not a reason for

an adjustment in the amount of support determined under the guidelines.

- e. Duration of support is governed by Arizona Revised Statutes Sections 25-501 and 25-320, except as provided in Arizona Revised Statutes Section 25-648.
- f. Monthly figures are used to calculate the support obligation. Any adjustments to the child support amount shall be annualized so that each month's support obligation is increased or decreased in an equal amount, instead of the obligation for particular months being abated, increased or decreased.

EXAMPLE: At a child support hearing in a paternity action a custodial parent requests an adjustment for child care costs (Section 8.b.1.). The parent incurs child care costs of \$150 per month but only for nine months of the year. The adjustment for child care costs must be annualized as follows: Multiply the \$150 monthly cost times the nine months that the cost is actually paid each year, for an annual total of \$1,350. Divide this total by 12 months to arrive at an annualized monthly adjustment of \$112.50 that may be added to the Basic Child Support Obligation when determining the child support order.

- g. When determining the Basic Child Support Obligation under Section 7, the amount derived from the Schedule of Basic Child Support Obligations shall not be less than the amount indicated on the Schedule:
 - 1. For six children where there are more than six children.
 - 2. For the Combined Adjusted Gross Income of \$15,000 where the actual Combined Adjusted Gross Income of the parents is greater than \$15,000.

3. Presumption

In any action to establish or modify child custody, and in any action to establish child support or past support or to modify child support, whether temporary or permanent, local or interstate, the amount resulting from application of these guidelines shall be the amount of child support ordered. These include, without limitation, all actions or proceedings brought under title 25 of the Arizona Revised Statutes (including maternity and paternity) and juvenile court actions in which a child support order is established or modified. However, if application of the guidelines would be inappropriate or unjust in a particular case, the court shall deviate from the guidelines in accordance with Section 17.

4. Determination of the Gross Income of the Parents

NOTE: Terms such as "Gross Income" and "Adjusted Gross Income" as used in these guidelines do not have the same meaning as when they are used for tax purposes.

- a. Gross income includes income from any source, and may include, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits (subject to Section 24), worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and spousal maintenance. Cash value shall be assigned to in-kind or other non-cash benefits. Seasonal or fluctuating income shall be annualized. Income from any source which is not continuing or recurring in nature need not necessarily be deemed gross income for child support purposes. It is generally not expected that a parent will earn income greater than what would be earned from full-time employment.

- b. Gross income does not include sums received as child support or benefits received from means-tested public assistance programs including, but not limited to, aid to families with dependent children, supplemental security income, food stamps and general assistance.
- c. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income means gross receipts minus ordinary and necessary expenses required to produce income. Ordinary and necessary expenses do not include amounts determined by the court to be inappropriate for determining gross income for purposes of child support.
- d. Expense reimbursements or benefits received by a parent in the course of employment or self-employment or operation of a business shall be counted as income if they are significant and reduce personal living expenses.
- e. If a parent is unemployed or working below full earning capacity, the court may consider the reasons. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a parent up to his or her earning capacity. In accordance with Arizona Revised Statutes Section 25-320, income of at least minimum wage shall be attributed to a parent ordered to pay child support. If income is attributed to the parent receiving child support, appropriate child care expenses may also be attributed.

The court may decline to attribute income to either parent. Examples of cases in which it may be inappropriate to attribute income include, but are not limited to, the following circumstances:

- 1. A parent is physically or mentally disabled,
 - 2. A parent is engaged in reasonable career or occupational training to establish basic skills or reasonably calculated to enhance earning capacity,
 - 3. Unusual emotional or physical needs of a natural or adopted child require that parent's presence in the home, or
 - 4. The parent is a current recipient of aid to families with dependent children.
- f. Only income of persons having a legal duty of support shall be treated as income under the guidelines. For example, income of a parent's new spouse is not treated as income of that parent.
 - g. The court shall not take into account the impact of the disposition of marital property except as provided in Arizona Revised Statutes Section 25-320.A.6. ("...excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.") or to the extent that such property generates income to a parent.
 - h. The Schedule of Basic Child Support Obligations is based on net income and converted to gross income for ease of application. The impact of income taxes has been considered in the Schedule.

5. Adjustments to Gross Income

- a. The amount of court-ordered spousal maintenance actually paid and the amount of court-ordered child support of other children actually paid by the noncustodial parent or contributed by the custodial parent shall be deducted from the gross income of the paying or contributing parent. "Other children" means natural or adopted children who are not the subject of this particular child support determination.
- b. Support of natural or adopted children not covered by a court order may be considered as an adjustment factor. Any adjustment will be made to gross income and the amount of any adjustment will be determined by a simplified application of the guidelines to determine the basic amount of support that would be ordered for the other children in question.

EXAMPLE: A parent having gross monthly income of \$2,000 supports an adopted minor child not subject of the support case before the court and for whom no support order exists. Locate \$2,000 in the Combined Adjusted Gross Income column of the Schedule. Select the support figure in the column for one child, \$379. The parent's income may be reduced by \$379, resulting in an Adjusted Gross Income of \$1,621.

6. Determining the Adjusted Gross Income of the Parents

Adjusted Gross Income is gross income minus the adjustments provided in Section 5 of these guidelines. The Adjusted Gross Income for each parent shall be established. These amounts shall be added together. The sum is the Combined Adjusted Gross Income.

7. Determining the Basic Child Support Obligation

Locate the income closest to the parents' Combined Adjusted Income figure on the Schedule of Basic Child Support Obligations and select the column for the number of children involved. This number is the Basic Child Support Obligation.

8. Determining the Total Child Support Obligation

To determine the Total Child Support Obligation, the court:

- a. Shall add to the Basic Child Support Obligation the cost of the children's medical insurance coverage. In determining the amount to be added, only the amount of the insurance cost attributable to the children subject of the support order shall be included. If coverage is applicable to other persons, the total cost shall be prorated by the number of persons covered.

EXAMPLE: Through an employment-related insurance plan, a parent provides medical insurance that covers the parent, one child subject of the support case and two other children. Under the plan, the cost of an employee's individual insurance coverage would be \$50. This parent instead pays a total of \$170 for the "family option" that provides coverage

for the employee and any number of dependents. Calculate the adjustment for medical insurance as follows: Subtract the \$50 cost of individual coverage from the \$170 paid for the "family option" to find the cost of dependent coverage. The \$120 remainder then is divided by three--the number of covered dependents. The resulting \$40 is added to the Basic Child Support Obligation as the cost of medical insurance coverage for the one child.

If an adjustment is made for the cost of the children's medical insurance coverage and that cost is paid by the parent ordered to pay child support, the amount of the adjustment added under this Section shall be subtracted from that parent's proportionate share of the Total Child Support Obligation, as determined under Section 9, to arrive at the child support order.

An order for child support shall assign responsibility for providing medical insurance for the children who are the subject of the child support order. If medical insurance of comparable benefits and cost is available to both parents, the court should assign the responsibility to the parent having primary physical custody. The court shall also specify the percentage that each parent shall pay for any medical costs of the children which are not covered by insurance.

Both parents should use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

b. May add to the Basic Child Support Obligation amounts for any of the following:

1. Child Care Costs:

Child care expenses that would be appropriate to the parents' financial abilities and to the lifestyle of the child(ren) if the parents and child(ren) were living together.

Expenses for child care shall be annualized in accordance with Section 2.f.

A parent paying for child care may be eligible for a credit from federal tax liability for dependent children. Before adding child care costs to the Basic Child Support Obligation, the court may adjust this cost in order to apportion the benefit that the dependent tax credit will have to the parent incurring the child care costs. An adjustment of twenty-five percent may be deducted from total annual child care costs, up to maximum annual costs of \$2,400 for one child or \$4,800 for two or more children. If the annual costs for child care exceed the maximum limits, \$50 or \$100 per month, respectively, may be subtracted from the annualized monthly child care cost. Otherwise, annual costs are multiplied by .0625 to arrive at the adjusted monthly child care costs.

EXAMPLE ONE: For two children a parent pays monthly child care costs of \$550 for nine months of the year. To adjust for the expected tax credit benefit first determine whether the annual costs of child care exceed the maximum allowed annual costs. In this example, because the annual cost of \$4,950 (\$550 multiplied by 9 months) exceeds the \$4,800 maximum for two or more children, \$100 per month may be subtracted from the annualized monthly cost. To calculate the annualized cost divide the annual cost by 12 months (\$412.50) and subtract \$100. \$312.50 may be added to the Basic Child Support Obligation for adjusted child care

costs.

EXAMPLE TWO: A parent pays monthly child care costs of \$175 for one child. Multiply by 12 months to obtain the annual costs (\$2,100). Because this amount is less than the \$2,400 maximum for one child, multiply \$2,100 by .0625 to obtain the amount (\$131.25) that may be added to the Basic Child Support Obligation.

Any adjustment for the payment of child care costs with pre-tax dollars shall be calculated in a similar manner. A percentage adjustment other than twenty-five percent may be utilized if proven by the parent paying the child care costs.

At lower income levels the head of household does not incur sufficient tax liability to benefit from the federal tax credit. No adjustment should be made where the income of the custodial parent is less than indicated on the following chart:

MONTHLY GROSS INCOME OF THE CUSTODIAL PARENT					
ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
\$1,100	\$1,500	\$1,700	\$1,900	\$2,100	\$2,300

2. Education Expenses:

Any reasonable and necessary expenses for attending private or special schools or necessary expenses to meet particular educational needs of a child, when such expenses are incurred by agreement of both parents or ordered by the court.

3. Older Child Adjustment:

The average expenditures for children age twelve or older exceed the average expenditures for all children by approximately ten percent. Therefore, the court may increase child support for a child who has reached the age of twelve years by an amount up to ten percent of the support shown on the Schedule. If the court chooses to make an adjustment, the following method of calculation shall be used.

EXAMPLE: The Basic Child Support Obligation for one child, age 12, is \$300. As much as \$30 may be added by the court, for a total of \$330. If not all children subject to the order are age 12 or over, the increase will be prorated as follows: Assume the Basic Child Support Obligation for three children is \$300. If one of the three children is age 12 or over, assign 1/3 of the Basic Child Support Obligation to the older child (\$100). Up to 10% (\$10) of that portion of the Basic Child Support Obligation may be added as an older child adjustment, increasing the obligation to \$310. NOTE: This proration method is limited to this section and should not be followed in Section 22.

4. Extraordinary Child Adjustment:

These guidelines are designed to fit the needs of most children. The court may increase the Basic Child Support Obligation to provide for the special needs of gifted or handicapped children.

9. Determining Each Parent's Proportionate Share of the Total Child Support Obligation

The Total Child Support Obligation shall be divided between the parents in proportion to their Adjusted Gross Incomes. The obligation of each parent is computed by multiplying each parent's share of the Combined Adjusted Gross Income by the Total Child Support Obligation.

EXAMPLE: Combined Adjusted Gross Income is \$1,000. The father's Adjusted Gross Income is \$600. Divide the father's Adjusted Gross Income by the Combined Adjusted Income. The result is the father's share of the Combined Adjusted Gross Income. (\$600 divided by \$1,000 = 60%) So, the father's share is 60%; the mother's share is 40%.

10. Adjustment for Costs Associated with Visitation

Because the Schedule of Basic Child Support Obligations is based on expenditures for children in intact households, there is no consideration for costs associated with visitation. Accordingly, when proof establishes that visitation is or is expected to be exercised by the parent paying child support, an adjustment shall be made to that parent's proportionate share of the Total Child Support Obligation.

To adjust for the costs of visitation, first determine the total amount of visitation indicated in a court order or parenting plan or by the expectation or historical practice of the parents. Using the following definitions, add together each period of visitation within twenty-four hours to arrive at the total number of visitation days per year.

- a. "One day" means more than 12 continuous and consecutive hours or an overnight.
- b. "One-half day" means greater than 4 and up to and including 12 continuous and consecutive hours.
- c. "One-quarter day" means up to and including 4 continuous and consecutive hours.

For purposes of calculating visitation days, only the time spent by a child with the noncustodial parent is considered. Time that the child is in school or child care is not considered.

After determining the total number of visitation days, refer to the following Visitation Table. The left two columns of the Visitation Table set forth numbers of visitation days in increasingly higher ranges. "Reasonable" visitation or visitation consistent with available county visitation/access guidelines will likely fall within the range of days between 72 and 129. Adjacent to each range is an adjustment percentage. The visitation adjustment is calculated as follows: Locate the total number of visitation days per year in the left columns of the Visitation Table and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 7 by the appropriate adjustment percentage. The number resulting from this multiplication then is subtracted from the proportionate share of the Total Child Support Obligation of the parent who exercises visitation.

VISITATION TABLE	
-------------------------	--

Number of Visitation Days		Adjustment Percentage
0	3	0
4	20	.012
21	38	.031
39	57	.050
58	72	.068
73	129	.187
130	148	.255
149	166	.289
167	180	.323

EXAMPLE: The Basic Child Support Obligation from the Schedule is \$430 for two children. After making all applicable adjustments under Section 8, the Total Child Support Obligation is \$500 and the noncustodial parent's proportionate share is 60%, or \$300. The noncustodial parent has visitation with the children a total of 100 days. On the Visitation Table, the range of days for this amount of visitation is from 73 to 129 days. The corresponding adjustment percentage is .187. Multiply the \$430 Basic Child Support Obligation by .187. The resulting \$80.41 is subtracted from \$300 (the noncustodial parent's proportionate share of the Total Child Support Obligation), adjusting the support obligation to \$219.59.

NOTE: The visitation adjustment in this section does not consider certain costs usually incurred only by the parent having primary physical custody, such as a child's clothing and personal-care items. Upon proof that in the best interests of the child such costs are in fact duplicated or equally shared by the parents or incurred primarily by the noncustodial parent, the court may make a further adjustment if visitation exceeds 129 days per year. The amount of this adjustment is limited to 16 percent of the Basic Child Support Obligation.

If the time spent with each parent is essentially equal, the expenses for the children are equally shared and gross adjusted incomes of the parents also are essentially equal, no support shall be paid. If the parents' incomes are not equal, the total child support amount shall be divided equally between the two households and the parent owing the greater amount shall be ordered to pay what is necessary to achieve that equal share in the other parent's household.

11. Determining the Child Support Order

The court shall order the noncustodial parent to pay child support in an amount equal to his or her proportionate share of the Total Child Support Obligation. The custodial parent shall be presumed to spend his or her share on the children.

EXAMPLE: On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Gross Income of \$1,500 for one child is \$290. To this the court adds \$20 because the child is over 12 years of age (approximately 7% in this example). The Total Child Support Obligation is \$310.

The father's share is 60% of \$310, or \$186. The mother's share is 40% of \$310, or \$124. Custody is

granted to the mother and under the court-approved parenting plan visitation will be exercised by the father a total of 100 days per year. After adjusting for visitation, the father's share is \$131.77. The father shall pay the child support amount of \$131.77 per month. The value of the mother's contribution is \$124, and she spends it directly on the child.

12. **Self Support Reserve Test**

In each case, after determining the child support order, the court shall perform a self support reserve test to verify that the obligor is financially able both to pay the child support order and to maintain at least a minimum standard of living, as follows:

Deduct \$645 (the self support reserve) from the obligors' Adjusted Gross Income. If the resulting amount is less than the child support order, the court shall reduce the child support order to the resulting amount.

EXAMPLE: The Adjusted Gross Income of the parent paying support is \$800. In determining the child support order, that parent's proportionate share was calculated to be \$175. Subtracting \$645 (the self support reserve) from the \$800 gross income leaves a remainder of \$155. Because this difference is less than \$175, the child support order must be reduced to \$155.

13. **Multiple Children, Divided Custody**

When each parent is granted physical custody of at least one of the parties' children, each parent is obligated to contribute to the support of all the children. However, the amount of current support to be paid by the parent having the greater support obligation shall be reduced by the amount of support owed to that parent by the other parent.

EXAMPLE: (For simplicity, this example does not consider visitation.) Combined Adjusted Gross Income is \$3,000 per month. Father's gross income is \$1,000 per month (33.3%) and he has custody of one child. Mother's gross income is \$2,000 per month (66.6%) and she has custody of two children.

Prepare a Parent's Worksheet to determine support for children in the mother's household. Locate the Combined Adjusted Gross Income figure of \$3,000 on the Schedule. Select the support figure in the column for the two children in this household, \$766. The father's share is 33.3% of \$766 or \$255.08.

Prepare a Parent's Worksheet to determine support for the child in the father's household. Locate the Combined Adjusted Gross Income figure of \$3,000. Select the support figure in the column for the one child in this household, \$530. The mother's share is 66.6% of \$530, or \$352.98.

The mother is obligated to pay the father \$352.98 for child support. This amount is reduced by the \$255.08 obligation owed by the father to the mother. Thus, the mother shall pay \$97.90 per month.

14. **Support Assigned to the State**

If support has been assigned to the state under Arizona Revised Statutes Section 46-407, the obligation of a parent to pay support shall not be offset by child support arrearages that may be owed to that parent.

15. **Travel Expenses Associated with Visitation**

The court may allocate travel expenses of the child associated with visitation. In doing so, the court shall consider the means of the parents and may consider how their conduct (such as a change of residence) has affected the costs of visitation. To the extent possible, any allocation shall ensure that the child has continued contact with each parent. A parent who is entitled to receive reimbursement from the other parent for allocated visitation expenses shall, upon request of the other parent, provide receipts or other evidence of payments actually made. The allocation of expenses does not change the amount of the support ordered.

16. Gifts in Lieu of Money

Once child support has been ordered by the court, the child support is to be paid in money. Gifts of clothing, etc. in lieu of money are not to be offset against the support order except by court order.

17. Deviations

a. The court shall deviate from the guidelines, i.e., order support in an amount different from that which is provided pursuant to these guidelines, after considering all relevant factors, including those set forth in Arizona Revised Statutes Section 25-320, and applicable case law, only if all of the following criteria are met:

1. Application of the guidelines is inappropriate or unjust in the particular case,
2. The court has considered the best interests of the child in determining the amount of a deviation. A deviation that reduces the amount of support paid is not, by itself, contrary to the best interests of the child,
3. The court makes written findings regarding 1 and 2 above,
4. The court shows what the order would have been without the deviation, and
5. The court shows what the order is after deviating.

b. The court may deviate from the guidelines based upon an agreement of the parties only if all of the following criteria are met:

1. The agreement is in writing,
2. All parties have signed the agreement with knowledge of the amount of support that would have been ordered by the guidelines but for the agreement,
3. All parties have signed the agreement free of duress and coercion, and
4. The court complies with the requirements of Section 17.a.

18. Third-Party Care Givers

When a child lives with a third-party care giver by virtue of a court order, administrative placement by a state agency or under color of authority, the third-party care giver is entitled to receive support payments from each parent on behalf of the child.

19. Court's Findings

The court shall make findings in the record as to: gross income, Adjusted Gross Income, Basic Child Support Obligation, Total Child Support Obligation, each parent's proportionate share of the child support obligation, and the child support order.

The findings may be made by incorporating a worksheet containing this information into the file.

The child support order shall be set forth in a sum certain and start on a date certain. A new child support order shall be filed upon any change in the amount or due date of the child support obligation.

20. Exchange of Information

The court shall order that every twenty-four months financial information such as tax returns, financial affidavits, and earning statements be exchanged between the parties.

Unless the court has ordered otherwise, at the time the parties exchange financial information, they shall also exchange residential addresses and the names and addresses of their employers.

21. Modification

a. Standard Procedure

Pursuant to Arizona Revised Statutes Sections 25-503 and 25-327, either parent or the state title IV-D agency may ask the court to modify a child support order upon a showing of a substantial and continuing change of circumstances.

b. Simplified Procedure

Either parent or the state title IV-D agency may request the court to modify a child support order if application of the guidelines results in an order that varies fifteen percent or more from the existing amount. A fifteen percent variation in the amount of the order will be considered prima facie evidence of substantial and continuing change of circumstances. A request for modification of the child support amount must be accompanied by a completed and sworn "Parent's Worksheet for Child Support Amount," and documentation supporting the incomes if different from the court's most recent findings regarding income of the parents. If the party requesting the modification is unable to provide documentation supporting the other party's income, the requesting party shall indicate that the income

amount is attributed/estimated and state the basis for the amount listed. The state title IV-D agency may submit a parent's worksheet.

The simplified procedure also may be used by either parent or the state title IV-D agency to modify a child support order to assign or alter the responsibility to provide medical insurance for a child who is subject of a support order.

A copy of the request for modification of child support and the "Parent's Worksheet for Child Support Amount," including supporting documentation, showing that the proposed child support amount would vary fifteen percent or more from the existing child support order shall be served on the other parent, or on both parents if filed by the state title IV-D agency, pursuant to Rules 4.1 and 4.2, Rules of Civil Procedure.

If the requested modification is disputed, the parent receiving service must request a hearing within 20 days of service. If service is made outside the state, as provided in Rule 4.2, Rules of Civil Procedure, the parent receiving service must request a hearing within 30 days of service.

A party requesting a hearing shall file a written request for hearing accompanied by a completed and sworn "Parent's Worksheet for Child Support Amount." Copies of the documents filed, together with the notice of hearing, shall be served on the other party and, if appropriate, the state title IV-D agency by first class mail not less than ten judicial days prior to the hearing.

Upon proof of service and if no hearing is requested within the time allowed, the court will review the request and enter an appropriate order or set the matter for hearing.

If any party requests a hearing within the time allowed, the court shall conduct such hearing. No order shall be modified without a hearing if one is requested.

The notice provision of Rule 55, Rules of Civil Procedure, does not apply to this simplified modification procedure.

A request to modify child support, request for a hearing and notice of hearing, "Parent's Worksheet for Child Support Amount" and child support order filed or served pursuant to this subsection must be made using forms approved by the Arizona Supreme Court or substantially similar forms.

Approved forms are available from the Clerk of the Superior Court.

22. Effect of Cessation of Support for One Child

If support for more than one child was ordered under these guidelines and thereafter the duty to support one of the children stops, the order is not automatically reduced by that child's share. To obtain a modification to the support order, a request must be made in writing to the court to recalculate the support obligation pursuant to these guidelines. The procedure specified in Section 21 may be used for this purpose.

EXAMPLE: The child support order for an income of \$1,500, with four children is \$562. One child graduates from high school and turns 18. In determining the new child support amount, do not deduct one-fourth of the order for a new order of \$421.50. Instead, determine a new child support order by applying the guidelines. (NOTE: This method varies from the one used in section 8.b.3.)

23. Income of a Child

Income earned or money received by a child from sources other than child support shall not relieve a parent of the support obligation established by these guidelines.

24. Credit for Benefits

Benefits, such as social security disability or insurance, received by a child as a result of contributions made by the parent paying support shall be credited as follows:

- a. Only the benefits received by the parent are included as part of that parent's gross income.
- b. If the amount of the child's benefit for a given month is equal to or greater than the parent's child support obligation, then the parent's obligation is satisfied. Any benefit received by the child for a given month in excess of the child support obligation is not treated as an arrearage payment nor as a future payment.
- c. If the amount of the child's benefit for a given month is less than the parent's child support obligation, the parent must pay the difference.

25. Federal Tax Exemption for Dependent Children

In any case in which the current child support obligation is at least \$1,200 per year, there should be an allocation of the federal tax exemptions applicable to the minor children which as closely as possible approximates the percentages of support being provided by each of the parents. The allocation of the exemptions shall be conditioned upon payment by December 31 of the total court-ordered child support obligation for the current calendar year and any court-ordered arrearage payments due during that calendar year for which the exemption is to be claimed. If these conditions have been met, the obligee shall execute the necessary Internal Revenue Service forms to transfer the exemptions. If the obligor has paid the current support, but has not paid the court-ordered arrearage payments, the obligor shall not be entitled to claim the exemption.

EXAMPLE: Noncustodial parent's percentage of gross income is approximately 67% and custodial parent's percentage is approximately 33%. All payments are current.

- # If there are three children, the noncustodial parent would be entitled to claim two and the custodial parent would claim one.
- # If there is only one child, the noncustodial parent would be entitled to claim the child two out of every three years, and the custodial parent would claim the child one out of every three years.

For purposes of this section only, an obligor shall be credited as having paid child support that has been deducted on or before December 31 pursuant to an order of assignment if the amount has been received by the court or clearinghouse by January 15 of the following year.

26. Effective Date

All child support orders in actions filed after October 31, 1996, shall be made pursuant to these guidelines, whether they be original orders or modifications of pre-existing orders.

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
650	145	227	270	298	323	346
700	152	238	283	313	339	362
750	160	249	296	327	354	379
800	168	261	310	343	371	397
850	177	273	324	358	388	416
900	185	285	339	374	406	434
950	194	297	353	390	423	452
1000	202	310	367	406	440	471
1050	211	322	381	422	457	489
1100	219	334	396	437	474	507
1150	228	346	410	453	491	526
1200	236	358	424	469	508	544
1250	245	370	439	485	526	562
1300	254	383	453	501	543	581
1350	262	394	466	515	558	597
1400	271	406	480	531	575	616
1450	281	418	495	547	592	634
1500	290	430	509	562	609	652
1550	299	442	523	578	626	670
1600	308	454	537	594	643	688
1650	317	467	551	609	660	707
1700	327	479	566	625	678	725
1750	336	491	580	641	695	743
1800	345	503	594	656	712	761
1850	354	515	608	672	728	780
1900	363	527	622	688	745	798
1950	371	539	637	703	762	816
2000	379	551	651	719	779	834
2050	388	563	665	735	796	852
2100	396	575	679	750	813	870
2150	405	588	693	766	830	888
2200	413	600	707	782	847	907
2250	421	612	721	797	864	925
2300	430	624	736	813	881	943
2350	438	636	750	829	898	961
2400	447	648	764	844	915	979

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
2450	455	660	778	859	932	997
2500	463	671	790	873	947	1013
2550	469	680	802	886	960	1028
2600	476	690	813	898	973	1042
2650	483	699	824	910	987	1056
2700	489	709	835	922	1000	1070
2750	496	719	846	935	1013	1084
2800	503	728	857	947	1026	1098
2850	510	738	868	959	1040	1113
2900	516	747	879	971	1053	1127
2950	523	757	890	984	1066	1141
3000	530	766	901	996	1080	1155
3050	536	776	912	1008	1093	1169
3100	543	785	923	1020	1106	1184
3150	548	793	932	1030	1117	1195
3200	553	800	941	1039	1127	1206
3250	558	807	949	1049	1137	1217
3300	562	814	958	1058	1147	1228
3350	567	821	966	1068	1157	1239
3400	572	828	975	1077	1168	1249
3450	577	835	983	1087	1178	1260
3500	581	842	992	1096	1188	1271
3550	586	849	1000	1105	1198	1282
3600	591	856	1009	1115	1209	1293
3650	596	863	1017	1124	1219	1304
3700	601	871	1026	1134	1229	1315
3750	605	878	1034	1143	1239	1326
3800	610	885	1043	1152	1249	1337
3850	614	890	1049	1160	1257	1345
3900	618	896	1056	1167	1265	1353
3950	623	902	1062	1174	1272	1361
4000	627	907	1068	1181	1280	1369
4050	631	913	1075	1188	1287	1377
4100	635	919	1081	1194	1295	1385
4150	639	924	1087	1201	1302	1393

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
4200	644	930	1093	1208	1310	1401
4250	648	936	1100	1215	1317	1410
4300	652	942	1106	1222	1325	1418
4350	656	947	1112	1229	1332	1426
4400	660	953	1119	1236	1340	1434
4450	664	959	1125	1243	1347	1442
4500	669	964	1131	1250	1355	1450
4550	671	969	1136	1255	1361	1456
4600	674	973	1141	1261	1366	1462
4650	677	976	1146	1266	1372	1468
4700	679	980	1150	1271	1377	1474
4750	682	984	1155	1276	1383	1480
4800	685	988	1159	1281	1388	1485
4850	687	992	1163	1285	1393	1491
4900	690	995	1168	1290	1399	1496
4950	692	999	1172	1295	1404	1502
5000	695	1003	1176	1300	1409	1508
5050	697	1006	1181	1305	1414	1513
5100	700	1010	1185	1309	1419	1519
5150	703	1014	1190	1315	1425	1525
5200	706	1018	1195	1320	1431	1531
5250	710	1024	1201	1327	1439	1539
5300	715	1031	1209	1337	1449	1550
5350	720	1039	1218	1346	1459	1561
5400	726	1046	1226	1355	1469	1572
5450	731	1054	1235	1365	1479	1583
5500	736	1061	1243	1374	1490	1594
5550	742	1068	1252	1383	1500	1605
5600	747	1076	1260	1393	1510	1616
5650	752	1083	1269	1402	1520	1626
5700	757	1091	1277	1412	1530	1637
5750	763	1098	1286	1421	1540	1648
5800	768	1106	1294	1430	1550	1659
5850	773	1113	1303	1440	1561	1670
5900	779	1120	1311	1449	1571	1681

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
5950	783	1126	1318	1457	1579	1690
6000	787	1132	1325	1465	1588	1699
6050	791	1138	1332	1472	1596	1708
6100	795	1144	1339	1480	1604	1717
6150	799	1150	1346	1488	1613	1726
6200	803	1156	1353	1496	1621	1734
6250	807	1162	1360	1503	1630	1743
6300	811	1168	1367	1511	1638	1752
6350	815	1174	1374	1519	1646	1761
6400	820	1180	1381	1526	1655	1770
6450	824	1185	1388	1534	1663	1779
6500	828	1191	1395	1542	1671	1788
6550	832	1197	1402	1550	1680	1797
6600	836	1203	1409	1557	1688	1806
6650	840	1209	1416	1565	1697	1815
6700	844	1215	1423	1573	1705	1824
6750	848	1221	1430	1580	1713	1833
6800	852	1227	1437	1588	1722	1842
6850	856	1233	1444	1596	1730	1851
6900	860	1239	1451	1604	1738	1860
6950	865	1245	1459	1612	1747	1870
7000	869	1252	1466	1620	1756	1880
7050	874	1259	1474	1629	1766	1889
7100	879	1265	1482	1637	1775	1899
7150	883	1272	1489	1646	1784	1909
7200	888	1279	1497	1654	1793	1919
7250	893	1285	1505	1663	1803	1929
7300	897	1292	1513	1672	1812	1939
7350	902	1298	1520	1680	1821	1949
7400	907	1305	1528	1689	1831	1959
7450	911	1312	1536	1697	1840	1969
7500	916	1318	1544	1706	1849	1979
7550	921	1325	1551	1714	1858	1989
7600	925	1332	1559	1723	1868	1999
7650	930	1338	1567	1731	1877	2008

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
7700	934	1345	1575	1740	1886	2018
7750	939	1352	1582	1749	1895	2028
7800	944	1358	1590	1757	1905	2038
7850	948	1365	1598	1766	1914	2048
7900	953	1371	1606	1774	1923	2058
7950	958	1378	1613	1783	1933	2068
8000	962	1385	1621	1791	1942	2078
8050	967	1391	1629	1800	1951	2088
8100	972	1398	1636	1808	1960	2098
8150	976	1405	1644	1817	1970	2108
8200	981	1411	1652	1825	1979	2118
8250	986	1418	1660	1834	1988	2127
8300	990	1424	1667	1842	1997	2137
8350	994	1430	1674	1850	2006	2146
8400	998	1436	1682	1858	2014	2155
8450	1002	1442	1689	1866	2023	2164
8500	1006	1448	1696	1874	2031	2173
8550	1010	1454	1703	1881	2040	2182
8600	1015	1460	1710	1889	2048	2191
8650	1019	1466	1717	1897	2057	2201
8700	1023	1472	1724	1905	2065	2210
8750	1027	1478	1731	1913	2074	2219
8800	1031	1484	1738	1921	2082	2228
8850	1035	1490	1746	1929	2091	2237
8900	1039	1496	1753	1936	2099	2246
8950	1043	1502	1760	1944	2108	2255
9000	1047	1508	1767	1952	2116	2264
9050	1052	1514	1774	1960	2125	2274
9100	1056	1520	1781	1968	2134	2283
9150	1060	1526	1788	1976	2142	2292
9200	1064	1532	1795	1984	2151	2301
9250	1068	1538	1802	1992	2159	2310
9300	1072	1544	1810	1999	2168	2319
9350	1076	1550	1817	2007	2176	2328
9400	1080	1556	1824	2015	2185	2337

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
9450	1084	1562	1831	2023	2193	2347
9500	1089	1568	1838	2031	2202	2356
9550	1093	1574	1845	2039	2210	2365
9600	1097	1580	1852	2047	2219	2374
9650	1101	1586	1859	2054	2227	2383
9700	1105	1591	1866	2061	2234	2391
9750	1108	1596	1872	2068	2242	2399
9800	1112	1602	1878	2076	2250	2407
9850	1115	1607	1885	2083	2257	2415
9900	1119	1612	1891	2090	2265	2424
9950	1123	1618	1897	2097	2273	2432
10000	1126	1623	1904	2104	2280	2440
10050	1130	1628	1910	2111	2288	2448
10100	1133	1634	1917	2118	2296	2456
10150	1137	1639	1923	2125	2303	2465
10200	1140	1644	1929	2132	2311	2473
10250	1144	1649	1936	2139	2319	2481
10300	1148	1655	1942	2146	2326	2489
10350	1151	1660	1949	2153	2334	2497
10400	1155	1665	1955	2160	2341	2505
10450	1158	1670	1960	2166	2348	2513
10500	1161	1675	1966	2173	2355	2520
10550	1165	1680	1972	2179	2362	2528
10600	1168	1685	1978	2186	2369	2535
10650	1171	1689	1984	2192	2376	2543
10700	1174	1694	1990	2199	2383	2550
10750	1178	1699	1996	2205	2390	2558
10800	1181	1704	2002	2212	2397	2565
10850	1184	1709	2007	2218	2405	2573
10900	1188	1714	2013	2225	2412	2580
10950	1191	1719	2019	2231	2419	2588
11000	1194	1724	2025	2238	2426	2596
11050	1198	1729	2031	2245	2434	2604
11100	1202	1735	2039	2253	2443	2614
11150	1206	1742	2047	2262	2452	2624

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
11200	1210	1748	2055	2270	2461	2633
11250	1215	1754	2062	2279	2471	2643
11300	1219	1761	2070	2287	2480	2653
11350	1223	1767	2078	2296	2489	2663
11400	1227	1773	2086	2304	2498	2673
11450	1232	1780	2093	2313	2508	2683
11500	1236	1786	2101	2322	2517	2693
11550	1240	1792	2109	2330	2526	2703
11600	1244	1799	2116	2339	2535	2713
11650	1248	1805	2124	2347	2545	2723
11700	1253	1812	2132	2356	2554	2732
11750	1257	1818	2140	2364	2563	2742
11800	1261	1824	2147	2373	2572	2752
11850	1265	1831	2155	2381	2582	2762
11900	1270	1837	2163	2390	2591	2772
11950	1274	1843	2171	2398	2600	2782
12000	1278	1850	2178	2407	2609	2792
12050	1282	1856	2186	2416	2619	2802
12100	1287	1862	2194	2424	2628	2812
12150	1291	1869	2201	2433	2637	2822
12200	1295	1875	2209	2441	2646	2832
12250	1299	1881	2217	2450	2656	2841
12300	1304	1888	2225	2458	2665	2851
12350	1308	1894	2232	2467	2674	2861
12400	1312	1900	2240	2475	2684	2871
12450	1316	1907	2248	2484	2693	2881
12500	1321	1913	2256	2493	2703	2892
12550	1324	1918	2261	2499	2709	2898
12600	1327	1923	2266	2505	2715	2905
12650	1330	1927	2271	2510	2721	2911
12700	1333	1931	2277	2516	2727	2918
12750	1336	1936	2282	2522	2733	2924
12800	1339	1940	2287	2527	2739	2931
12850	1342	1945	2292	2533	2745	2937
12900	1345	1949	2297	2538	2751	2944

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
12950	1348	1953	2302	2544	2758	2951
13000	1360	1970	2322	2566	2782	2976
13050	1364	1975	2327	2572	2788	2983
13100	1367	1979	2333	2578	2794	2990
13150	1370	1984	2338	2584	2800	2996
13200	1373	1988	2343	2589	2807	3003
13250	1376	1993	2348	2595	2813	3010
13300	1379	1997	2353	2601	2819	3016
13350	1382	2002	2359	2607	2825	3023
13400	1385	2006	2364	2612	2831	3030
13450	1388	2011	2369	2618	2838	3036
13500	1392	2015	2374	2624	2844	3043
13550	1395	2020	2379	2629	2850	3050
13600	1398	2024	2384	2635	2856	3056
13650	1401	2028	2390	2641	2863	3063
13700	1404	2033	2395	2647	2869	3069
13750	1407	2037	2400	2652	2875	3076
13800	1410	2042	2405	2658	2881	3083
13850	1413	2046	2410	2664	2887	3089
13900	1416	2051	2416	2670	2894	3096
13950	1420	2055	2421	2675	2900	3103
14000	1423	2060	2426	2681	2906	3109
14050	1426	2064	2431	2687	2912	3116
14100	1429	2069	2436	2693	2919	3123
14150	1432	2073	2442	2698	2925	3129
14200	1435	2077	2447	2704	2931	3136
14250	1438	2082	2452	2710	2937	3143
14300	1441	2086	2457	2716	2943	3149
14350	1445	2091	2462	2721	2950	3156
14400	1448	2095	2468	2727	2956	3163
14450	1451	2100	2473	2733	2962	3169
14500	1454	2104	2478	2739	2968	3176
14550	1457	2109	2483	2744	2975	3183
14600	1460	2113	2488	2750	2981	3189
14650	1463	2118	2494	2756	2987	3196

SCHEDULE OF BASIC CHILD SUPPORT OBLIGATION

This Schedule is only part of the overall guidelines and must be used together with the accompanying information

COMBINED ADJ. GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
14700	1466	2122	2499	2762	2993	3203
14750	1469	2126	2504	2767	2999	3209
14800	1473	2131	2509	2773	3006	3216
14850	1476	2135	2514	2779	3012	3223
14900	1479	2140	2520	2784	3018	3229
14950	1482	2144	2525	2790	3024	3236
15000	1485	2149	2530	2796	3031	3243

**REPORT AND RECOMMENDATIONS
FOR IMPROVEMENTS TO
THE ARIZONA CHILD SUPPORT
GUIDELINES**

Presented to
**THE ADVISORY COMMITTEE
ON CHILD SUPPORT**

October 1995

*Domestic Relations Division
Arizona Supreme Court
Administrative Office of the Courts*



REPORT AND RECOMMENDATIONS FOR IMPROVEMENTS TO THE ARIZONA CHILD SUPPORT GUIDELINES

INTRODUCTION

On September 15, 1995, Arizona Supreme Court Chief Justice Stanley G. Feldman signed Administrative Order 95-49 establishing the Advisory Committee on Child Support. That order directed the committee to:

- Assist the Arizona Judicial Council and the Arizona Supreme Court by reviewing the recommendations of the Domestic Relations Division of the Administrative Office of the Courts for a new child support schedule and self support level for working parents paying child support, and
- Recommend to the Domestic Relations Division other studies of, or improvements to, the Arizona Child Support Guidelines, as the committee determines.

Under the leadership of Program Specialist Patrick Scott, the Domestic Relations Division of the Administrative Office of the Courts has conducted an extensive review leading to recommendations for improvement to the Arizona Child Support Guidelines. Included in this review was the consideration of an economic study prepared by Professor James W. Shockey, Ph.D., of the University of Arizona, the analysis of reports and studies of and consultations with leading national guideline experts such as Dr. Robert G. Williams, Ph.D., of Policy Studies, Inc. and Professor David M. Betson, Ph.D., of the University of Notre Dame, the study of other states' child support guidelines of various models and recent revisions of those guidelines made in accordance with federal directives, and the extensive statewide collection of data to determine how guidelines have been applied by the courts in Arizona child support determinations.

The report of the Domestic Relations Division recommends six changes or adjustments to the present Arizona Child Support Guidelines. As these recommendations are addressed, the Advisory Committee, in accordance with its charge, also will prepare its own recommendations for other studies of or improvements to the guidelines.

SUMMARY OF THE RECOMMENDATIONS OF THE DOMESTIC RELATIONS DIVISION

Upon review and analysis, the Domestic Relations Division makes the following recommendations for change and improvement to the Arizona Child Support Guidelines:

1. Update the Economic Data on Which the Guidelines are Premised.

The Schedule of Basic Support Obligations that accompanies the guidelines was prepared from economic data of income expenditures sampled throughout the United States in 1972 and 1973. As that data now is more than twenty years old, more current data is available and should be used.

2. Adopt a More Accurate Method to Estimate Expenditures on Children.

The child support guidelines of virtually every state originally were constructed upon the work of Thomas Espenshade utilizing the Engel approach to estimate the cost of supporting children. The Engel methodology no longer yields plausible results. It has been supplanted by the Rothbarth approach in every other state utilizing the income shares model. Rothbarth methodology should be adopted in Arizona.

3. Incorporate Updated Federal Poverty Levels for Self-Support Reserves.

The current Schedule of Basic Support Obligations of the Arizona Child Support Guidelines incorporates an allowance to ensure support obligations do not place low income earners below federal poverty guidelines. Present calculation of this "self support reserve" is based upon outdated economic information. The schedule should be corrected to reflect current federal poverty level.

4. Substitute a Formula-Based Adjustment for Visitation Expenses.

The guidelines presently allow an adjustment based on enumerated factors for the impact of physical custody arrangements. It is proposed to substitute for this open-ended approach a formula to guide courts in making such adjustments.

5. Test Support Orders for Self-Maintenance of Parents Paying Support.

Parents must retain economic resources sufficient for self support, particularly considering that economies of scale available in an intact family setting often are lost after separation or divorce. The income shares model has a single self-support reserve included within the basic support obligation schedule, but when both parents are earning an income that reserve is diluted. It is proposed there be a mechanism by which to test whether the ability for self support will be compromised by the amount of support that is determined by application of the guidelines and to adjust the amount of support if that result is indicated.

6. Remove the Adjustment for Second Primary Residence.

What presently is termed the second primary residence was adopted in response to criticism of the data on which Arizona's guidelines are based. In practice, the adjustment is not widely understood, seldom used, and in some circumstances misapplied. Reduction of support obligations resultant from this adjustment is contrary to the basic philosophy of the income shares model. Assurance that parents retain self support capability is better accomplished by other recommended mechanisms.

HISTORICAL BACKGROUND

As a background to the work of the Advisory Committee on Child Support, the following section explains why a review of the Arizona Child Support Guidelines is being undertaken and describes the process of case data analysis that has been conducted. The section also outlines the circumstances leading to the economic study conducted by Dr. Shockey and summarizes the results of that report.

Review of the Child Support Guidelines

The last major review of the Arizona Child Support Guidelines occurred in 1991, resulting in revisions that became effective in actions filed after March 31, 1992. State and federal law require periodic review at four-year intervals, thus Arizona's guidelines must be studied again in 1995. The results of a study commissioned by the Supreme Court may suggest a revision to the schedule upon which child support obligations are based.

I. Legal Requirements.

Uniform statewide child support guidelines were first implemented for use in Arizona in October 1987, in response to federal requirements enacted in 1984 (P.L. 98-378, amending 42 U.S.C. § 667; see 45 C.F.R. 302.56). In 1986, Governor Bruce Babbitt appointed an *ad hoc* committee chaired by Hon. Barry G. Silverman to draft proposed guidelines. That committee presented its report in December, 1986. During the first part of 1987, those proposed guidelines were reviewed by a subcommittee (chaired by Hon. Richard Mangum) appointed by the Arizona Supreme Court and addressed at public hearings. Final adoption by the Supreme Court occurred in July 1987.

The Family Support Act of 1988 (P.L. 100-485) amended 42 U.S.C. § 667 to require that: 1) there be a rebuttable presumption that the amount of child support resulting from application of the guidelines is the correct amount to be awarded; 2) the state identify criteria by which the presumption may be rebutted; and 3) the guidelines be reviewed at least once every four years to ensure that their application results in appropriate awards. The original deadline for implementation

of these changes was October, 1989; but was extended to December 31, 1989. In response to the federal legislation, amendments were made to A.R.S. § 25-320(A) in 1989 to include the following language:

"The supreme court shall establish guidelines for determining the amount of child support. The amount resulting from application of these guidelines shall be the amount of child support ordered unless a written finding is made, based on criteria approved by the supreme court, that application of the guidelines would be inappropriate or unjust in a particular case. The supreme court shall review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts."

Thus far, revisions have been more frequent than the four-year interval mandated by federal and state law.

II. The Arizona Experience.

In 1989, an Advisory Committee on Child Support appointed by the Arizona Supreme Court began a review of the 1987 guidelines to incorporate changes mandated by federal legislation and to make adjustments based on practical experience. The recommendations of the committee ultimately resulted in revisions to the guidelines adopted by the Supreme Court on December 12, 1989, effective in actions filed after December 31, 1989. Among the major changes were provisions addressing the divided custody of multiple children, the impact of physical custody arrangements, deviation from the guidelines, and simplified modification of child support orders.

In April, 1990, the Supreme Court appointed the Advisory Committee on Child Support and Visitation, chaired by Hon. Stephen A. Gerst, to continue the review process. The administrative order of appointment assigned to this committee the responsibility "to enhance the effectiveness, efficiency, and statewide uniformity of Arizona's child support and visitation programs by identifying and undertaking appropriate projects, by researching and resolving issues of statewide concern, and by performing such other functions as identified by the Supreme Court."

Between June 1990 and August 1991, the committee worked to consider and recommend further changes to the guidelines, holding a series of public hearings in July and August 1991. On December 12, 1991, the Supreme Court approved revisions to the guidelines. Formal adoption occurred by Administrative Order 92-01 dated January 7, 1992, making the revisions effective for child support orders made in all actions filed after March 31, 1992. Major revisions included changes to the adjustment (previously a deviation) for the impact of physical custody arrangements, directions for allocating federal tax exemptions and credits, and specific recognition of the court's authority to make adjustments to the support order as necessary to take into account a parent's contribution to a second household. In addition, the Schedule of Basic Child Support Obligations accompanying the guidelines was expanded to include support obligations for as many as six (rather than four) children and for combined incomes up to \$12,000 (instead of \$7,500 as previously).

It is from this last major review that the time frame for revision is being measured. Because this review occurred during 1991 (resulting in changes made applicable to actions filed after March 31, 1992), the statutorily required four-year review must occur at least during 1995.

It is appropriate to note that a narrowly-focused guideline review was completed subsequent to March 1992. By Supreme Court Administrative Order 92-31 dated, October 15, 1992, an Advisory Committee on Child Support was created, under the leadership of Monsignor Edward J. Ryle, to:

"1) assist the Arizona Judicial Council and the Arizona Supreme Court in recommending a method, or methods, to account for second household expenses when calculating the child support amount; and 2) recommend an approach to gather or develop Arizona data on costs of raising children in non-intact families."

Based on the recommendations of that committee, the Supreme Court approved limited revisions to the guidelines on December 1, 1993. By Administrative Order 94-22, dated April 4, 1994, the revised guidelines were formally adopted and made applicable to actions filed after May 31, 1994. The changes involved only the issues of second primary residence adjustments and support orders for low-income families.

Economic Study of Child-Rearing Expenses

In the course of previous guideline reviews, the equity of the Schedule of Basic Child Support Obligations that accompany the guidelines was questioned. The principle argument challenged the data on which the schedule was constructed. Because this data was sampled principally from intact families, it was reasoned that no consideration was given in the schedule to expenses inevitably incurred by each parent's maintenance of individual residences following separation or divorce. The debate produced various attempts to permit deviations from or adjustments to the amount of support otherwise indicated by the guidelines. The debate also prompted efforts to test or cure the perceived problem by conducting new research on the costs associated with raising children in non-intact families.

Following is an historical review of the issues raised and actions taken in respect of this concern.

I. Introduction.

The Arizona Child Support Guidelines utilizes an income shares approach that assumes that a child should receive the same proportion of parental income that would have been spent on the child if the parents were living together. The basic support amounts are drawn from the Schedule of Basic Support Obligations that accompany the guidelines. The amounts reflected on this schedule are derived from economic estimates that attempt to quantify the cost of raising children. These estimates of expenditures on children must be made from cross-sectional surveys that provide information on expenditures among a large number of families with different numbers of children. The Consumer Expenditure Survey (CEX), administered annually by the federal Bureau of Labor Statistics, is widely used for studies of expenditures on children in the United States, including those underlying Arizona's guidelines.

As child support guidelines became widely applied in Arizona, a debate ensued surrounding the use of child-rearing cost estimates as a basis of support orders. The data embodied in the CEX survey is largely sampled from so-called "intact families," i.e., households having two adults. Critics argue that because child support is awarded only in circumstances where parents are not living together (due to separation, divorce or, in a paternity action context, where parents may never have cohabited) use of data from intact families fails to account for the

economic realities associated with the maintenance of separate households, including costs of child visitation.

This debate became most vocal during the review of the Arizona Child Support Guidelines undertaken in 1990-91 by the Advisory Committee on Child Support and Visitation, chaired by Hon. Stephen A. Gerst. During the review of that Committee's recommendations, the Arizona Judicial Council (AJC) passed a resolution to create a guideline model recognizing divided rather than intact households and to request legislative funding of a study to develop Arizona data in support of that model. A subsequent advisory committee created in October 1992, was directed by the Supreme Court to recommend a method to account for second household expenses when calculating child support awards and to recommend an approach to gather or collect data on costs of raising children in non-intact families. In October 1993, AJC adopted the recommendation of the committee that a study on the cost of raising children in non-intact households be continued.

During this period various changes were made to the guidelines in an attempt to ameliorate the perceived inequity in the data underlying the guidelines schedule. Provision was made (first as a deviation, then as an adjustment) for the economic impact of physical custody arrangements (Section 16 of the guidelines). Beyond that, by amendment to a basic premise of the guidelines (Premise 2(b)) adjustments were permitted "as necessary" to account for a parent's contribution to what is now termed a "second primary residence."

However, it is important to note that the second primary residence adjustment was suggested by AJC (and presumably adopted by the Supreme Court) as a temporary accommodation while the economic study referred to above was undertaken. In early 1994, the Administrative Office of the Courts entered into an interagency services agreement with the Arizona Board of Regents on behalf of The University of Arizona, to study the costs of raising children in non-intact households. The results have been presented in a report by Dr. Shockey titled "*Determining the Cost of Raising Children in NonIntact Arizona Households*" (*Shockey Arizona Households*).

As the guidelines are reviewed during 1995, the continued viability of this adjustment appropriately may be evaluated.

II. Historical Review.

From the outset (and without available explanation), the Arizona Child Support Guidelines have reflected the reality that the family involved in a support matter is not "intact." The version of the guidelines first adopted in July 1987 contained the following premise (Premise 2(b)):

"The child support award should permit the children a standard of living that as closely as possible approximates the one they would have had if the family remained together, recognizing the cost of maintaining two households."

The initial revisions approved by the Supreme Court in December 1989 did not alter this premise. However, those revisions included a new section (Section 16, "Impact of Physical Custody Arrangements") that allowed a "deviation" from the guidelines to account for financial considerations associated with physical custody (visitation) arrangements. In recommending this change, the Advisory Committee on Child Support, chaired by Hon. B. Michael Dann, considered a formula for mathematically distributing child support according to the amount of time each parent had actual physical custody. They demurred from this approach because practical examples resulted in application with changes in the support amount that seemed too dramatic. Consequently, the approach adopted allowed judicial discretion to adjust support for "exceptional physical custody arrangements" after considering the percentage of time each parent had physical custody and the extent to which the arrangement reduced costs of the parent receiving support.

The committee recommended that further study on this issue be undertaken.

In April 1990, the Supreme Court appointed the Advisory Committee on Child Support and Visitation, chaired by Hon. Stephen A. Gerst. In the course of the committee's deliberations, considerable debate focused on the concept of adjusting support amounts in consideration of physical custody arrangements. In conjunction with this debate, criticism (particularly from advocates for non-custodial parents) was directed toward the support amounts contained in the guideline schedules. It was argued that because the data on which the income shares approach is based is derived principally from intact families, the support schedules prepared from such data do not consider visitation expenses.

The Gerst Committee attempted to craft a formula-based approach for physical custody adjustments. Ultimately instead, Section 16 of the guidelines ("Impact of Physical Custody Arrangements") was substantially revised in the version of the guidelines that became effective March 31, 1992, to permit an adjustment (instead of a deviation, as previously) "to allocate additional dollars to the parent paying support" after considering specifically identified factors.

However, the debate over intact household expenditures as a basis for the support schedules was not ended. The Committee's proposals were submitted for approval to the Committee on Superior Court and then to the Arizona Judicial Council. At the AJC meeting of October 17, 1991, arguments again were raised that second-household expenses were ignored by the guidelines. The AJC passed a motion directing that

- The Committee on Child Support and Visitation provide a model based on the recognition that there will be divided households rather than intact households.
- The legislature be requested to fund a study with appropriate help from economists and statisticians to enable the development of Arizona figures to support that effort.
- While that process is going on, rather than continue with the present guidelines, the guidelines presented by the committee be approved with changes to Premise 2(b): End the last sentence after the word together; add "However, because the model that underlies these guidelines is based on the cost of maintaining an intact family, adjustments should be made as necessary to take into account a parent's contribution to a second household."

On December 12, 1991, the Supreme Court approved revisions to the guidelines. Formal adoption occurred by Administrative Order 92-01 dated January 7, 1992, making the revisions effective for child support orders made in all actions filed after March 31, 1992. The revised version of the guidelines included the change to premise 2(b) suggested by AJC. However, on February 28, 1992, the Supreme Court added a footnote to the guidelines to clarify its intent that a reduction for second household expenses should be made only on a case-by-case basis conforming to the deviation provisions (Section 15).

In October 1991, AJC had voted to seek legislative funding for development of an Arizona model for guidelines that would recognize second households. On March 18, 1992, AJC voted to form a committee "to gather information that would be helpful to judges in determining what adjustments or deviations from child support guidelines might appropriately be made to reflect the cost of second households and related matters."

By Supreme Court Administrative Order 92-31 dated October 15, 1992, an Advisory Committee on Child Support was created, under the leadership of Monsignor Edward J. Ryle, with specific direction to:

"1) assist the Arizona Judicial Council and the Arizona Supreme Court in recommending a method, or methods, to account for second household expenses when calculating the child support amount; and 2) recommend an approach to gather or develop Arizona data on costs of raising children in non-intact families."

The Cost of Children Subcommittee of that committee prepared a preliminary report titled "Estimating the Cost of Children in Nonintact Arizona Households" proposing a methodology for determining the cost described in the report's title. On October 1, 1993, the full committee approved a proposal to AJC for completion as expeditiously and accurately as possible of an economic study on the cost of raising children in non-intact families. The committee also proposed adding new language to the deviation section of the guidelines addressing the issue of second residence expenses.

At a meeting on October 13, 1993, AJC voted to continue the economic study of the cost of raising children in non-intact households. AJC rejected the committee's recommendation regarding a deviation for second residence expenses and instead voted changes in the language of Premise 2(b), indicating that adjustments to account for these expenses should be "considered" rather than "made" and substituting the word "residence" for "household" to emphasize that consideration could be given to residential costs, not expenses of a second family.

The Supreme Court approved revised guidelines on December 1, 1993. By Administrative Order 94-22 dated April 4, 1994, the guidelines were formally adopted and made applicable to actions filed after May 31, 1994. The final, present version of the guidelines substitutes the word "primary" to define the second

residence and adds an explanatory note interpreting the meaning of "second primary residence."

In early 1994, the Administrative Office of the Courts entered into an interagency services agreement with the Arizona Board of Regents on behalf of The University of Arizona to study the costs of raising children in non-intact households. The results have been presented in the report by Dr. Shockey (*Shockey Arizona Households*).

The Report of Dr. Shockey

The work to be performed by Dr. Shockey was intended to introduce a new perspective focused on the non-intact family. The Espenshade methodology would be utilized to construct a schedule of child support obligations based on data for non-intact Arizona families. Various non-intact family forms would be defined and, using representative Consumer Expenditure Survey (CEX) data and the Engel approach, expenditures on children would be estimated. The resulting estimates then would be adjusted for the relative cost of living in Arizona, using information compiled by the Arizona Chamber of Commerce Research Association (ACCRA). The results of the study would be validated by an interview phase using graduate students to interview, transcribe and code the results.

Dr. Shockey spent eight months attempting to complete the study as originally conceived. Initially, he replicated studies on which the original guidelines had been based. However, adjusting the national CEX data for Arizona-specific cost of living levels would prove troublesome. The ACCRA study contained data for urban and suburban, but not rural areas. Nevertheless, the professor proposed to continue the study with available data to evaluate whether Arizona expenditure patterns differed from national patterns. If no dramatic difference was found, CEX data for non-intact families could be used as a basis to create an Arizona specific table.

Dr. Shockey submitted a report in February 1995 (*Shockey Arizona Households*) calculating both the intact and non-intact models based on CEX data. Dr. Shockey also calculated support obligation schedules for intact and non-intact families. Using updated CEX data for intact families and traditional Espenshade-Engel methodology, produced an increase to the basic support obligation of almost 37 percent over all ranges of income. (This result approximated the findings of Dr.

Betson in a 1990 study for the U.S. Department of Health and Human Services.) The result for non-intact families was even higher. These estimates of the cost of raising children approximate expenditures of a per capita nature.

The report was submitted to two national experts in the area of child support guidelines, Dr. Williams and Dr. Betson. Dr. Williams is the principle architect of the income shares model for child support guidelines and has served as a consultant to the State of Arizona in the past. Dr. Betson wrote the last major study on child-rearing costs commissioned by the federal government. Thereafter, the report was discussed among these two experts, Dr. Shockey, representatives of the Domestic Relations Division of the Arizona Supreme Court Administrative Office of the Courts, and Debra Roubik, staff economist for the Department of Economic Security. Under consideration was whether at this time a non-intact family standard appropriately could be adopted for the determination of child support awards; whether the Engel estimator for determining child-rearing expenditures remained valid; and whether the income shares model should be retained as the basis for Arizona's guidelines. Additionally, it was considered whether a mathematical formula could be used to adjust basic child support orders for expenses particular physical custody arrangements.

Consensus was reached on some points:

- The income shares model should be retained. Although there are several different methods are used by other states, currently thirty states employ the income shares model. The Melson method that originated in Delaware and used in three other states was discussed at some length because of how it incorporates a self support reserve for each working parent. The Arizona guidelines do not contain a similar protection and should be examined for improvement.
- The Engel estimator should be replaced by the Rothbarth approach. The Rothbarth estimator would ameliorate the substantial increase in support obligations noted by Dr. Shockey, when applying Engel to updated economic data and is more sensitive to substitution patterns of spending by adults. Arizona is the last state to employ this methodology for determining the basic child support.

- The non-intact family should not be adopted as a normative standard for determination of child support obligations. The statistical precision in the knowledge of spending patterns for such families is small due to the limited sample size in available data (primarily CEX survey data), producing estimates of expenditures in which there can be little reliability or confidence. From a philosophical perspective, because children share in the documented decline in the standard of living after divorce, it would be difficult to justify additional sacrifice resultant from lower support awards.

Case Data Analysis of Deviations

Federal law and regulations require that states review their guidelines at least every four years and revise the guidelines if appropriate to "ensure that their application results in the determination of appropriate child support award amounts." (42 U.S.C. § 667(a); 45 C.F.R. § 302.56.) State law echoes this requirement. (A.R.S. § 25-320(A).)

Additional federal regulation imposes more particular direction. 45 C.F.R. § 302.56 requires that:

"(h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited."

In compliance with these mandates, the Domestic Relations Division of the Administrative Office of the Courts has undertaken a study of domestic relations cases throughout the state.

The study sampled domestic relations cases involving minor children that were filed in October 1994 to ascertain whether the guidelines are being applied properly. Through September 1995, the study so far has sampled from each Arizona county except Greenlee and Graham. Cases files were pulled at random with no differentiation made between case types (for example, paternity,

dissolution, and child support establishment where parents are separated). In all, over 1,995 case files were reviewed, in 814 of which child support orders had been granted.

Staff examined the files to assess whether the support amount reflected in the court's findings or worksheet were used presumptively, or in the alternative, if deviation criteria were being followed. Of the 814 cases with child support orders, 141 were considered to involve deviations from the guidelines. In 95 of those 141 cases, the court had made findings supporting the deviation. The remaining 46 case files contained either worksheets that did not match the support amount ordered or no information from which to determine how the order was calculated.

The following table illustrates reasons for granting deviations:

Worksheet and order do not match	46
In the child's best interest	43
For visitation arrangements	15
Stipulation of the parties	12
For Joint custody arrangements	5
Disability of one party	3
Mother has no income	2
Low income of payor	2
Equal income	2
Waived	2
Unemployed payor	2
Paid as house payment	2
Second residence added expense	2
Priority given to restitution	1
Military allotment in effect	1
Mother lives with parents	1

ANALYSIS OF RECOMMENDATIONS TO THE ADVISORY COMMITTEE ON CHILD SUPPORT

The remainder of the report provides an analysis of the six recommendations of the Domestic Relations Division, as summarized earlier.

RECOMMENDATION:

Update the Economic Data on Which the Guidelines Are Premised

The Schedule of Basic Support Obligations that accompanies the guidelines was prepared from economic data of income expenditures sampled throughout the United States in 1972 and 1973. As that data now is more than twenty years old, more current data is available and should be used.

Discussion

The Arizona Child Support Guidelines follow the income shares model, based on the concept that a child support award should approximate the same proportion of parental income that would have been spent on the child if the parents were living together. A basic child support obligation is computed based on the combined income of the parents (replicating total income that would have been available in an intact family). The basic child support obligation is adjusted, if appropriate, and divided between the parents in proportion to their relative incomes.

The basic obligations on which the support award is based is reflected in tabular form in the Schedule of Basic Child Support Obligations that is a part of the Arizona Child Support Guidelines. This schedule is derived from economic estimates of child-rearing expenditures (minus average amounts for health insurance, child care and a child's extraordinary medical expenses).

As summarized by national guideline authority Dr. Williams in his June 29, 1995, report to the Arizona Supreme Court, titled *Economic Basis for Updated Child Support Schedule* ("*Williams Economic Update*") (page 2):

"When the Arizona Child Support Guidelines were first drafted in 1987, the State implemented the national Income Shares model recommended by the Child Support Guidelines Project. Like other states that use the model, Arizona relied on national data for child-rearing expenditures because valid state-specific estimates do not exist. Specifically, the figures in the Basic Child Support Schedule are based on economic estimates of child-rearing expenditures as a proportion of household consumption by Thomas Espenshade published in *Investing in Children* (Urban Institute Press: Washington, D.C., 1984). The Espenshade estimates were derived from the national data on household expenditures from the 1972-73 Consumer Expenditure Survey conducted by the U.S. Bureau of Labor Statistics."

The Consumer Expenditure Surveys (CEX) provides the most detailed source available of household spending information. It includes information on income and spending information for a large sample of households of a depth and quality not available at the state level. Thus, simply as a data base of information, the CEX supplies an appropriate cross-sectional survey on which to base estimates of child-rearing expenditures.

Despite the continued utility of CEX data, the Espenshade study on which Arizona's income shares model is patterned was constructed by examining economic data available for 1972 and 1973. Given changes in American society and thus in the economy of the United States since that time period, continued reliance on the estimates prepared by Espenshade is problematic. As noted by Dr. Shockey in his report to the Arizona Judicial Council in February 1995: "At a minimum, Espenshade's study should be replicated with expenditure data that are more current."

The Domestic Relations Division recommends that the economic data on which the guidelines is based be updated beyond 1972-73. As indicated later in this report, more current CEX data has been utilized in the recent work of Dr. Betson and further adjusted for consumer price index adjustments by Dr. Williams.

RECOMMENDATION:

Adopt A More Accurate Method to Estimate Expenditures on Children

The child support guidelines of virtually every state originally were constructed upon the work of Thomas Espenshade utilizing the Engel approach to estimate the cost of supporting children. The Engel methodology no longer yields plausible results. It has been supplanted by the Rothbarth approach in every other state utilizing the income shares model. Rothbarth methodology should be adopted in Arizona.

Discussion

To construct any model on which to base a child support obligation it is necessary to be able to estimate the cost of raising children. If the allocation of a family budget on its members could be observed directly, a determination of the amount of average expenditures on children relatively simply could be made. However, the vast percentage of family expenditures is made for items not easily attributable to any one member. Shared costs for such items as housing and utilities can only be apportioned on a per capita basis that may not reflect the actual percentage of use and incorrectly assumes that children are equally as expensive as adults. Even privately consumed goods such as food are often purchased in the aggregate so it is difficult to apportion to any family member the percentage of cost related to individual consumption (consider, for example, a loaf of bread).

As a result of the difficulty in reaching direct estimates of child-rearing costs, various indirect methods have been adopted, in effect, to infer what portion of a family budget is attributable to the presence of children. Most attempt to determine so-called marginal costs differences between families that are "equally well off." Expenditures are compared between households that are economically well off but have different numbers of children or no children at all. Increased expenditures in households with the greater number of children are assumed to be the costs of the children.

To compare household expenditures by this method, the standard to determine when families are equally well off must be independent of income. This is because two families with equivalent incomes but different numbers of children

are not likely to spend the same proportion of income on the children. Several methods, or estimators, of equal economic well-being have been developed.

In the study of child-rearing expenditures on which Arizona's Schedule of Basic Support Obligations is based, Espenshade used the Engel estimator. Developed by Ernst Engel in the nineteenth century, this approach assumes that families spending an equivalent portion of household income on food are equally well off. Based on this assumption, Espenshade constructed estimates of the cost of children. As explained in *Williams Economic Update* (page 10):

"He first estimated the relationship between family income and spending on food. He then compared household expenditures for families with and without children spending like amounts on food (and therefore presumed to be equally well off). . . . [H]e then estimated the "extra" spending on one child and the proportion of household spending allocated to one child."

The Engel approach has been criticized in several regards. The assumption that economies of scale in family food consumption appropriately reflect the economies of scale in all other children's consumables may not bear scrutiny. Further, some research suggests that children are food-intensive, i.e., that food consumption represents a higher proportion of children's needs than the family's needs. If true, attributing these relatively high proportionate increases in food consumption to all other goods is likely to cause spending on children to be overstated. Most troublesome, acceptance of Engel estimates lead to the conclusion that consumption by children approximates that of adults and that there are no economies of scale relative to family size. In other words, Engel estimates suggest that sharing of consumption in families is done on a per capita basis and a family with two children requires twice as much income as a family of only two adults.

An alternative estimator, somewhat akin to Engel, was proposed by Erwin Rothbarth (1943). The Rothbarth approach uses a different standard to measure economic well-being, namely the impact of children on adult consumption. It is assumed that well-being may be determined by the level of "excess income" available to parents after making necessary expenditures on all family members. Rothbarth defined "excess income" to include savings and "luxuries" (entertainment, alcohol, tobacco and sweets), although more recent incarnations of

the approach have narrowed this category to so-called "observable adult goods," i.e., goods that reliably can be traced to adult-only consumption.

Various other estimators or estimates of child-rearing costs (the Family Economics Research Group (FERG) approach, to name one) also have been proposed. None has been identified as "best," indeed a report to the U.S. Department of Health and Human Services in 1990 (Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*) states that the various estimates should be considered as expressing a range of results. But, as stated in *Williams Economic Update* (page 11): "Of the estimates derived, however, which include several other formulations, only the Rothbarth and Engel methodologies are without serious problems in empirical specification."

The report prepared for Arizona (*Shockey Arizona Households*) replicated Espenshade's original work using updated CEX data and also employing the Engel estimator. The results, when applied to a schedule of basic support obligations, yielded support awards 37 percent higher than present. A support order of this magnitude would approximate a per capita amount of expenditure, i.e., the amount spent for the support of the child would be approximately the same as the amount of money left available for each parent. Per capita estimates of child-rearing cost have long been rejected as a basis for establishing support schedules.

In a report to the U.S. Department of Health and Human Services in September 1990 (titled "*Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*") Dr. Betson employed various models to construct estimates of child-rearing costs using CEX data more recent than that used by Espenshade. Of these methodologies, the Rothbarth approach appeared to produce the most plausible results. Based upon this evidence and other practical and theoretical considerations, it is stated in *Williams Economic Update* (page 12):

"Thus, in our view, the sound theoretical basis of the Rothbarth methodology, in conjunction with the implausible results from the Engel methodology, renders the Rothbarth estimator to be the preferred choice for revision of the guidelines Schedule based on the most recent research on child-rearing costs."

In the June 1995 *Williams Economic Update*, Dr. Williams adopts the Rothbarth parameters estimated by Dr. Betson as yielding "the most theoretically sound and plausible results."

It is additionally significant that as states have conducted reviews of child support guidelines in response to federal mandates, those states having income shares models have shifted away from the original Engel-based Espenshade model to a Rothbarth estimator.

It is recommended that Arizona also adopt Rothbarth.

RECOMMENDATION:

Incorporate Updated Poverty Levels for Self Support Reserves

The current Schedule of Basic Support Obligations of the Arizona Child Support Guidelines incorporates an allowance to ensure support obligations do not place low income earners below federal poverty guidelines. Present calculation of this "self support reserve" is based upon outdated economic information. The schedule should be corrected to reflect the current federal poverty level.

Discussion

Arizona originally implemented the model child support guidelines recommended by the Child Support Guidelines Project. Using Espenshade's economic estimates of child-rearing expenditures, the Project staff created schedules of basic child support obligations by the following steps:

- Deriving estimates of income spent by parents on children as a proportion of net income.
- Deducting average amounts for child care and costs for child medical insurance as well as extraordinary medical expenses.
- Incorporating a single self support reserve.
- Converting net income tables to a gross income based table.
- Expanding the estimates of proportions into a schedule appropriate for use in setting guideline support amounts.

As noted, a part of this process involved establishing and integrating into the schedule a self support reserve. The logic of this step was to ensure that the parent paying support would retain sufficient income for self sustenance after deducting the child support payment. A single self-support was selected on the assumption that only one parent would actually be paying monies to the other. (Of course, under the income shares approach, both parents have responsibility for support. It is assumed that the parent not having legal or physical custody of a child will pay support to the other. The proportionate share of the support obligation born by the parent having custody is presumed to be spent directly on the child.)

The self support reserve built into the schedule is limited to low income levels. In these income categories, child support amounts were established in an amount that, when deducted from net income, would leave the obligor income sufficient to meet federal poverty levels.

Federal poverty level guidelines are updated annually to account for increases in prices as measured by the consumer price index. However, the self support reserve of the guidelines schedule was last revised in 1991.

It is appropriate that the self support reserve component of the Schedule of Basic Support Obligations be updated to reflect current federal poverty guidelines.

RECOMMENDATION:

Substitute a Formula-Based Adjustment for Visitation Expenses

The guidelines presently allow an adjustment based on enumerated factors for the impact of physical custody arrangements. It is proposed to substitute for this open-ended approach a formula to guide courts in making such adjustments.

Discussion

Section 16 of the Arizona Child Support Guidelines presently allows the court to make an adjustment from the total support obligation for what is termed the "impact of physical custody arrangements." The derivation of that adjustment

reveals that previous committees involved in guidelines review struggled to craft an adjustment that could be applied simply and fairly.

The original guidelines adopted in 1987 did not address this issue directly, but contained provisions regarding allocation of visitation expenses and abatement (or reduction) of support when a noncustodial parent provided for a child's needs over an extended period of time, such as a period of summer visitation.

The first revision of the guidelines, effective December 31, 1989, included a reference (in Section 16) to the impact of physical custody arrangements. Stating that it was the intention of the guidelines "to remove financial incentives" associated with custody or visitation, the guidelines nevertheless permitted a deviation "in recognition of exceptional physical custody arrangements." It was assumed there would be no deviation as a result of joint custody or for "usual" visitation, meaning visitation practices or visitation guidelines in the county where the support case was pending.

It was during the deliberations of the Gerst Committee appointed in 1990, that considerable debate began to focus on the concept of adjusting support amounts in consideration of physical custody arrangements. In conjunction with this debate, criticism (particularly from advocates for non-custodial parents) was directed toward the support amounts contained in the guidelines schedule. It was argued that because the data on which the income shares approach is based is derived principally from intact families, the support schedules prepared from such data do not consider visitation expenses.

Early proposals of this Committee regarding the physical custody issue contemplated development of a specific formula to adjust or deviate from the basic support payment to reflect the percentage of visitation time with the noncustodial parent. Ultimately, the Committee rejected a formula-based approach for physical custody adjustments. Instead, Section 16 of the guidelines was substantially revised in the version of the guidelines that became effective March 31, 1992, to permit an adjustment (instead of a deviation, as previously) "to allocate additional dollars to the parent paying support" after considering specifically identified factors. This adjustment could be made only after the basic needs of the child had been met in the primary care home.

The 1994 version of the guidelines did not alter that section.

The income shares guidelines model assumes that one parent has sole custody with the other parent contributing 100 percent of the support obligation to the custodial household. There is no consideration given for visitation costs in the current schedule of basic support obligations. It is therefore appropriate that some manner of consideration be given for costs incurred as a result of physical custody arrangements.

The present guideline adjustment attempts to allocate variable costs that because of physical custody arrangements are transferred between households. The principal variable costs associated with the child are the expenses for food, household operations and utilities. Until recently, Arizona has not attempted to determine statistically the percentage by which variable costs relate to the basic support obligation reflected in the guideline schedules. Thus, a mathematical formula could not be implemented to adjust the support award. Instead, deviations or adjustments have been focused on factors such as the percentage of time spent for visitation, demonstrated cost shifting, and historical visitation practices within the family.

Research by Dr. Shockey indicates that variable costs of the child amount to approximately 38 percent of the basic support obligation. With this understanding, a formula may be developed to adjust the basic support award for the level of visitation exercised by the noncustodial parent.

The formula to accomplish this is expressed as follows:

$$CSO = S \times BOA - t \times V$$

- CSO = Child support order
- S = Noncustodial parent's share of combined income
- BOA = Basic support obligation from the schedule
- t = Proportion of the time spent with the noncustodial parent
- V = Child-rearing expenditures spent on variable costs

In this equation, the child support order (CSO) is to be derived from application of the formula. The noncustodial parent's share of combined income (S) is determined in each case as a proportion of combined adjusted gross income of both parents. The basic support obligation (BOA) is taken from the Schedule of Basic Support Obligations of the guidelines. Child-rearing expenditures spent on

variable costs (V) has been determined currently at 38 percent. The remaining variable of the equation, proportion of the time spent for visitation (t), will be determined in each case by the court through facts presented.

This last variable is the same or similar to the finding courts already must make when considering an adjustment for physical custody arrangements under Section 16 of the present guidelines. Having made this determination, however, actual calculation of the amount of the adjustment is facilitated.

Use of the formula will lead to more consistent application of the guidelines resulting in less variation in awards for cases presenting similar circumstances.

The variable costs associated with the child will be incurred whenever the child remains for an overnight period. The adjustment then should be made, at a minimum, whenever overnight visits occur. Otherwise, the noncustodial parent bears variable costs in addition to paying the fair share proportion calculated within the basic support obligation.

It is recommended that the court order this adjustment presumptively in new cases. The adoption of a formula in place of the present method for adjusting support amounts for physical custody arrangements should not, of itself, be a basis for modifying existing orders.

The Committee should consider whether the failure to exercise visitation in accordance with an agreement of the parties or with a parenting plan would constitute sufficient grounds upon which to request a modification. Also, in application caution should be exercised at low income levels in which the parent automatically receives an adjustment for a self support reserve.

RECOMMENDATION:

Test Support Orders for Self Support Reserve of Parents Paying Support.

Parents must retain economic resources sufficient for self support, particularly considering that economies of scale available in an intact family setting often are lost after separation or divorce. The

income shares model has a single self support reserve included within the basic support obligation schedule, but when both parents are earning an income that reserve is diluted. It is proposed there be a mechanism by which to test whether the ability for self support will be compromised by the amount of support that is determined by application of the guidelines and to adjust the amount of support if that result is indicated.

Discussion

As outlined in the text accompanying an earlier recommendation, a single self support reserve is built into the Schedule of Basic Child Support Obligations at low income levels. The amount of this reserve is \$523, derived from the 1991 federal poverty guidelines. Because the current poverty level has increased to \$623, it was recommended above that the new poverty level figure replace the reserve amount in the present guidelines.

In addition, it is proposed that a "test" be added as a final step to calculating a child support award to ensure that parents paying child support maintain an ability for self support. Because the self support reserve built into the schedule relates to the basic child support obligation, it does not contemplate adjustments that increase the amount of that basic obligation. Therefore, the test recommended here would be applied after any such adjustments are included to arrive at a parent's proportionate support obligation.

The test is needed to correct a further potential inequity. As discussed earlier in this report, the income shares model used in Arizona is constructed on the assumption that one parent has sole custody and the other parent pays support. Just as there is no regard for visitation, there also is an assumption that only the parent paying child support is an income earner. For this reason only a single self support reserve is incorporated into the schedule of support obligations. Certainly that assumption does not reflect reality in modern American society. Accordingly, the proportioned obligation of each parent should be tested for the ability of each parent to be economically self sustaining.

The method for testing self support is straightforward. The total apportioned support obligation of each parent determined after all appropriate adjustments are subtracted from that parent's net income. The remainder is compared to the self

support reserve as derived from the federal poverty guidelines (currently \$623). The child support schedule award is appropriate in amount only if retained income exceeds the self support reserve. Expressed as a formula:

Net Income of Parent (minus) Child Support Order <hr style="width: 20%; margin: auto;"/> (equals) Remainder Must Exceed Poverty Level

Should the difference between net income and the child support order not exceed the poverty level, the child support order must be revised to assure a self support reserve.

A simple example using the present schedule illustrates the need to test for self support.

Assume a noncustodial parent with gross monthly income of \$900, whose former spouse is not employed (and for whom income is not attributed by the court). The basic support obligation for this parent would be \$190 per month for two children. The net income of that obligor under the current schedule is \$731.25 or \$208.25 greater than the 1991 poverty level (\$523). This obligor has the ability to pay this support amount with a retained excess of \$18.25. However, any adjustments added to the basic support obligation will reduce the parent's income to below poverty levels. For example, adding \$100 per month for the cost of medical insurance for the children increases the support obligation to \$290. Because the custodial parent has no income, under the current guidelines formula the additional cost of this insurance is not apportioned between the parents and the working payor must bear the entire burden of this necessary expense. With only \$208.25 available from net income to meet this expense, a deficit below poverty level of \$71.75 is created. If the full amount of support is awarded, the obligor cannot be expected to meet the obligation and an arrearage likely will begin to accrue.

The example is further complicated if both parents are employed (or if income is attributed). The addition of another income at minimum wage increases the basic support award to \$420. If the same \$100 adjustment for medical insurance plus an additional adjustment for day care costs of \$100 per month are added, the total support obligation increases to \$620. Yet the obligor still retains a balance of net income over poverty level of \$208.25. Consider too the assumption of the guidelines that the custodial parent will be able to contribute a full share of support. At minimum wage the custodial parent has a net income of \$621. Deducting for a poverty level of \$523 leaves only \$98 remaining. The child support obligation for this parent is \$279.48, a shortfall of \$181.48. The result is that neither party can contribute fully to the needs of the child. In this scenario, adjustments would be appropriate for both parents.

It is recommended that a self support test be employed to guard against such situations.

Note that should this recommendation for a self support test be adopted, guideline schedules should be amended to indicate net income as a corollary of gross income. This change would be necessary to avoid the need for judicial officers to compute net incomes in each case.

RECOMMENDATION:

Remove the Adjustment for Second Primary Residence.

What presently is termed the second primary residence was adopted in response to criticism of the data on which Arizona's guidelines are based. In practice, the adjustment is not widely understood, seldom used, and in some circumstances misapplied. Reduction of support obligations resultant from this adjustment is contrary to the basic philosophy of the income shares model. Assurance that parents retain self support capability is better accomplished by other recommended mechanisms.

Discussion

Premise 2(b) of the Arizona Child Support Guidelines permits the court to adjust a child support award as necessary to take into account a parent's contribution to a second primary residence. Like the adjustment for the impact of physical custody arrangements, the second primary residence adjustment is made as a reduction of a parent's proportionate share of the total child support obligation.

As recounted in the historical overview presented at the beginning of this report, the second primary residence adjustment was created in response to perceived inequities in the Schedule of Basic Child Support Obligations. The argument for second residence adjustments assumes that because the schedule of support obligations is based on data sampled principally from intact families, there is no consideration of expenses inevitably incurred by each parent's maintenance of a separate household. The argument prompted an effort to test or cure the perceived defect by conducting new research on the costs associated with so-called non-intact families.

While that process was ongoing, changes were incorporated into Premise 2(b) of the guidelines that would allow adjustments for contributions to a second household. Variations were made to the form of this adjustment over time as efforts continued to complete a broad economic study and fashion a guidelines schedule sensitive to non-intact households.

The proposed economic study has been conducted by Dr. Shockey. While much was learned through this substantial effort, creation as contemplated of a new schedule of basic support obligations was not achieved. Reliable results simply could not be obtained, perhaps due to the paucity of both Arizona and national expenditure data for non-intact households. Dr. Betson subsequently confirmed that little confidence could be accorded to a schedule of obligations based on the limited data available.

Because a different form of guidelines schedule is not forthcoming, the continued viability of the second primary residence must be evaluated.

From the case data analysis performed by the Domestic Relations Division certain conclusions concerning this adjustment may be drawn. Additionally, as a part of this analysis, the Division conducted interviews with various individuals and

focus groups knowledgeable in child support matters, that reinforce these conclusions. They are:

- The adjustment is seldom made. Of the 814 cases analyzed, adjustments were made only in seventeen.
- The adjustment is largely understood. Conceived as a temporary measure, no formula or other guidance for application was offered.
- The adjustment sometimes is misapplied--used instead of a deviation to ameliorate perceived inequities resulting from strict application of the guidelines.

There is a more fundamental concern. Reduction of support obligations by this adjustment is contrary to the philosophy underlying the income shares approach: that a child should receive the same proportion of parental income that would have been received if the parents lived together. It has been demonstrated that a child's standard of living often is reduced when the family is restructured. To adjust child support awards downward for second residence expenses further impacts the child economically.

Moreover, although sometimes understood to apply only to second household expenses incurred by the noncustodial parent, the adjustment is available equally to each parent. When parents no longer reside together, each independently must maintain a household (even if one parent and the child or children continue to reside in the original family home). Granting adjustments to each parent inevitably impacts adversely the child's standard of living.

The Domestic Relations Division recommends removing this adjustment from the guidelines. Through the reengineering reflected in the earlier recommendations, greater fairness may be achieved.

The second primary residence adjustment aimed to provide parents self support capability while establishing independent households in which access with the child may be enjoyed. The Division's recommendations suggest alternative means to accomplish this. Updating self support reserves built into the guidelines schedule and applying the self support test protects persons in low income categories. Use of the Rothbarth estimator has the effect of moderating support awards. Adoption of a formula-based adjustment for physical custody arrangements

allows variable costs associated with the child to be shared equitably by each parent.

These measures represent more useful, responsive, and effective means to address the economic concerns the second primary residence adjustment attempted to resolve. Consistent with the underlying purposes of the guidelines, applying these mechanism will result in support awards that are uniform, predictable and respectful both of the reasonable needs of the child and the ability of parents to pay.

CONCLUSION

In accordance with the mandates of state and federal law, the Domestic Relations Division of the Arizona Supreme Court Administrative Office of the Courts has conducted a review of the Arizona Child Support Guidelines to ensure that their application results in appropriate child support award amounts. In addition, the Division has made an analysis of work performed at the direction of the Arizona Judicial Council by Dr. James W. Shockey and sought to identify measures for improvement to the guidelines.

Based on that review and analysis, this report presents six recommendations for change. Each is consistent with the overriding objectives and underlying purposes of the guidelines. Together they represent an advancement toward greater fairness to parents and children of the State of Arizona in the determination of child support awards.

The recommendations hereby are presented to the Advisory Committee on Child Support for review as directed by the Supreme Court in Administrative Order 95-49, dated September 15, 1995.

Prepared by:

Domestic Relations Division
Administrative Office of the Courts
Arizona Supreme Court
1501 West Washington, Suite 345
- Phoenix, Arizona 85007

