HISTORICAL INTRODUCTION TO GUIDELINES[1]

Historically, the amount of child support awarded was completely within the discretion of the judge, based on two primary factors: the ability of the obligor parent to pay and the needs of the child. Due to this amorphous standard for the award of child support, major problems arose such as many parents, although eligible, had no child support awards at all. Among parents who were awarded child support, the empirical evidence suggested inadequate awards. Studies show the awards that were made were inconsistent. As a result of the inconsistency of the orders, obligors developed a disrespect for the court's orders, causing parents to simply forego their support obligations. And lastly, because of the amorphous standard, neither parent could predict what a court would order, which resulted in neither parent being willing to settle.

In 1935, Congress enacted legislation establishing the Aid for Dependent Children program (AFDC). AFDC established a partnership between the federal government and the states by providing appropriations to those states which adopt plans approved by the Secretary of Health and Human Services. The states would then provide a minimum monthly subsistence payment to families meeting established needs requirements.

1974 Congress passed Title IV-D of the Social Security Act, (**Family Support Act**) which required each state, as a condition of receiving federal welfare funds, to operate a child support enforcement program, popularly known as "IV-D (say four-dee) Agency. The primary goal of the Family Support Act was to reduce the federal cost of the AFDC program by sharpening enforcement of support obligations.

Child Support Enforcement Amendments of 1984, provided for advisory guidelines to determine appropriate amounts of support. The National Center for State Courts undertook the task of establishing a panel; it became known as the "Child Support Project."

Dr. Robert Williams, principal in a private consulting company known as Policy Studies, Inc., was the prime investigator for the project. Final report issued in 1987, which consisted of recommendation to Congress for legislation on child support awards and recommendations to the states regarding the development of guidelines.

Child Support Project reviewed two existing child support formulas/guidelines that were in use by the states of Delaware and Wisconsin. The Delaware guideline is known as the **Melson formula**. The Wisconsin guideline is called the **percent of income** (POOI) model and it was intended for use in welfare and welfare recovery cases. POOI sets support as a percentage of only the noncustodial parent's income, either gross or net. The custodial parent's income is not considered. Of these two guidelines, the Child

[1] Based on the *Basis of an Updated Child Support Schedule for Arizona*. Venohr, Jane C. (2008)

Support Project's final report recommended the Melson model for implementation by the states.

(The Melson guideline combines attributes of both the Wisconsin guideline and the income shares model.) The formula, a more complicated version of the income shards model, reflects several public policy judgments. First, the formula recognized that support of other is impossible until one's own basic support needs are met, second, the model reflects the public policy that further enhancement of the parents' own economic status should not be allowed until the parents jointly, in proportion to their incomes, meet the basic poverty level needs of their children. Finally, by incorporating a Standard of Living Adjustment (SOLA), reflects the policy judgment that parents should share their additional incomes with their children, improving their children's standard of living as their own standard of living improves. The Melson formula calculates child support in six steps:

1. Provide for each parent's minimal self-support needs.
2. Provide for the children's primary support needs.
3. Determine work-related child care expenses and extraordinary medical expenses.
4. Determine the Standard of Living Allowance.
5. Add together the amounts determined in steps 2, 3, and 4.
6. Allocate the support between the parents according to each parent's percentage of total net income.

In addition to the Melson guideline, the advisory panel recommended its own newly developed model, called **income shares**, which was based on the existing Washington state guidelines and Dr. Williams' adaption of economic data contained in Thomas Espenshade's study, *Investing in Children; New Estimates of Parental Expenditures.*

The income shares guideline is based on the assumption that a child should be supported at the same level of spending after family dissolution as he/she received when the family was intact. The parents' income is combined to replicate total income in an intact family. This amount is matched to economic estimates – Williams' adaption – of how much an intact family with the same income and number of children would allocate to spending on the children. This estimated amount is then prorated between the parents according to each parent's share of combined income.

Four years after requiring the states to adopt advisory guidelines, Congress passed **"The Family Support Act of 1988"** requiring the states to develop and implement mandatory guidelines in one year. The new law required that all child support orders entered by a court or state agency must be based on the state's guidelines. The federal government hoped to accomplish four main goals, each goal corresponding to the perceived problems of the common law method of determining child support (1) increase the adequacy of child support awards; (2) increase the consistency and predictability of child support awards; (3) increase compliance through perceived fairness of child support awards; and (4) increase the ease of administration of child support cases.

The change from advisory to mandatory guidelines also required there be a **legal presumption** that the amount of support resulting from application of the guidelines is the correct amount. If the support order was set at a different amount, **specific findings regarding the reason for deviation** were required. Another regulation required only **one set of guidelines for each state**. The federal rules also required that guidelines be **numeric**, **provide for children's health care needs, be reviewed every four years and provide a standard for modification** such that a difference between the amount of the support order and the amount resulting from application of the guidelines would be sufficient reason for further view of the support order. This last provision included the exception that states could set a reasonable threshold for determining if the difference was sufficient to justify further review of the order. Since the enactment of the Family Support Act of 1988 most of the guidelines have incorporated into the formula by which the presumptive child support is determined special additions for child care expenses, special formulas for shared custody, split custody, extraordinary visitation, and special deductions for the support for previous and subsequent children, as well as specific consideration of the needs of the older child. Because the child support guidelines have sought to incorporate these specific expenses into the guideline calculation itself, these expenses are referred to as "mandatory add-ons and deductions" rather than deviation factors.

"The Family Support Act of 1988" funded two studies. The first, undertaken by economist, David M. Betson, was to detail "the patterns of expenditures on children in two-parent families and single-parent families where the custodial parent was divorced, separated, or never married." Published in 1990, this study was based on data from the national Consumer Expenditure Survey (CEX) of 1980-1986, and updated the economic basis of the income shares guideline originally developed by Dr. Robert Williams, which relied on data from the 1972-1972 CEX.

The second study funded by the Family Support Act, "Estimates of Expenditures on Children and Child Support Guidelines" reviewed and reported the results of Betson's Study but also reviewed the results of many other relevant studies concerning the expenditures made on children and the effect of separation and divorce on household standard of living. In the past 18 years, Betson has conducted three studies estimating child-rearing expenditures. Each study uses more recent data. (Study details outlined in the *Basis of an Updated Child Support Schedule for Arizona*, page 8-9.)

Arizona has based its guidelines on the Income Shares model since the late 1980s. The first Arizona version relied on a prototype Income Shares model developed through the National Child Support Guidelines project. Most states, including Arizona, relied on Espenshade's measurements when they first developed child support guidelines because his was the most authoritative study available at the time. It formed the basis of the prototype Income shares model developed through the 1984-1987 National Child Support Guidelines Project. (For more information on "Usage of Estimates in State Guidelines" see the *Basis of an Updated Child Support Schedule for Arizona*, pages 15-17.)

Betson updated his 2001 estimates using the Rothbarth methodology with data from 1998 through the first quarter of 2004 for the state of Oregon. The 2004 survey was the most recent data available from the Consumer Expenditure Survey (CES). This current review is based upon this most current update.

Economists use the CES, which is administered by the Bureau of Labor Statistics, because it is the most comprehensive and detailed survey conducted on household expenditures and consists of a large sample. The CES surveys about 6,000 households per quarter on expenditures, income, and household characteristics (e.g., family size). Households remain in the survey for five consecutive quarters, with households rotating in and out each quarter. Most economists use at least three quarters or a year of expenditures data for a surveyed family. This means that family expenditures are averaged for about a year rather than over a quarter, which may not be as reflective f typical family expenditures. The Bureau of Labor Statistics designed the CES to produce a nationally representative sample and samples representative f the four regions (Midwest, Northeast, South, and West). The sample sizes for each state, however, are not large enough to estimate child-rearing costs for families within a state. (For detailed information please read the *Basis of an Updated Child Support Schedule for Arizona*, pages 12-15.)

There are currently 38 states that rely on the Income Shares model; 10 states that use a percentage-of-income (POOI) guidelines model; and, three states that rely on the Melson formula.