



# Draft Report and Recommendations

Family Court Improvement Committee and  
Subcommittee for a Review of the Child Support  
Guidelines – January 2021





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# Draft Report and Recommendations

Family Court Improvement Committee and Subcommittee for a Review of the Child Support Guidelines – January 2021

## EXECUTIVE SUMMARY

### Creation and Charge of Committee and Subcommittee

On January 8, 2020, Chief Justice Robert Brutinel issued Administrative Order 2020-10 establishing the Child Support Guidelines Review Subcommittee (subcommittee) of the Family Court Improvement Committee (committee). The administrative order directed the subcommittee to:

- (a) Review and make recommendations regarding issues referred for further studies by the 2017 Committee for an Interim Review of the Child Support Guidelines (Interim Review).
- (b) Make recommendations regarding other improvements to the guidelines.
- (c) Consider economic and labor market data; the impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that impact compliance with child support orders.
- (d) Analyze case data on the application of and deviations from the child support guidelines, as well as the rates of



Chief Justice Robert Brutinel



Hon. Paul J. McMurdie,  
Family Court Improvement  
Committee Chair



Hon. David M Gass,  
Child Support Guidelines  
Review Subcommittee Chair





default and imputed child support orders and orders determined using the low-income adjustment.

- (e) Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives.

Additionally, the administrative order directed the subcommittee to file a final report and make recommendations to the Arizona Judicial Council (AJC) in December 2020. Due to COVID-19 and its impact on gathering the case file review data, a request to extend the deadline for this report was submitted to Chief Justice Brutinel.

Administrative Order 2020-181 issued on November 25, 2020, extended the subcommittee and the report deadline until April 30, 2021. Additionally, this administrative order extended the term of service for the appointed members through July 31, 2021. The extended term allowed the subcommittee to address any issues raised by the AJC and additional tasks including forms development and child support calculator updates.

The subcommittee met numerous times via video conferencing before distributing a draft report and holding a virtual public hearing on January 15, 2021. Additional public input was sought using an online comment page. **A total of \*\* comments were received. (See Appendix \*\*: Public Comments.)**

## Summary of Committee Recommendations

A summary of the subcommittee's final recommendations is outlined below. The summary is organized by the proposed reorganized Arizona Child Support Guidelines' Table of Contents. More detailed recommendations are set forth in the body of this report.

### *Proposed Amendments Made Throughout the Guidelines*

- Reorganize the Guidelines to flow along with the Child Support Worksheet
- Restyle the Guidelines for ease of use and understanding
- Update terminology to conform with Title 25's use of legal decision-making and parenting time

### *Determining Income*

- Reorganize the Income section to clarify what is income, what is not income, and what is attributed income
- Eliminate the use of "gross income"

### *Determining the Parents' Incomes for Purposes of Calculating Child Support*

What is included in Child Support Income?

- Clarify that income is from ANY source before any deductions or withholdings
- Add clarifying language regarding military pay and benefits;



When is income attributed for purposes of child support even if not actually being earned?

- Add clarifying language regarding unemployment and underemployment and full-time earnings

When is income not attributed for purposes of calculating child support?

- Add clarifying language regarding overtime.

#### *Adjustments to Child Support Income for Spousal Maintenance and Support of Children of Other Relationships*

- Provide the court discretion to consider the lack of tax deductibility of the spousal maintenance payment under applicable federal and state income tax regulations and provide an example.
- Take no action to adjust Parents' Incomes for HSA/FSA accounts, but provide the court the discretion to consider.

#### *Determining the Combined Child Support Obligation*

##### *Determining the Basic Child Support Obligation*

- Set as the presumptive the amount set forth in the Schedule of Basic Support Obligation for combined adjusted parents' incomes of \$30,000 per month.
- Clarify deviations from the presumptive amount for combined adjusted parents' incomes of more the \$30,000 per month

##### *Determining the Combined Child Support Obligation*

- Eliminate the calculation that reduces the childcare amount by the federal child and dependent care tax credit

##### Medical Insurance

- Allow the use of a family health insurance policy available to a parent's new spouse or domestic partner for a child, crediting the prorated cost and assigning the responsibility for providing health insurance to that parent
- Clarify the calculation of child-related medical insurance by adding examples

##### Childcare Expenses

- Clarify what expenses are included in Childcare Costs

##### Extraordinary Child Expenses

- Clarify Extraordinary Child costs

#### *Adjustments for Costs Associated with Parenting Time*

- Amend Parenting Time Table A to provide for essentially equal parenting time when both parents incur expenses and costs associated with parenting time
- Amend Sections 11 and 12 commensurate with Parenting Time Table A
- Eliminate Parenting Time Table B and rename Parenting Time Table A without the "A" designation



- Define essentially equal parenting time as when both parents have 164 days of parenting time or more.

#### *Deviations*

- Provide additional guidance regarding when deviation from the Guidelines should be considered

#### *The Child Support Order*

##### *Non-Covered Medical Expenses*

- Clarify that unreimbursed and uninsured expenses are included in medical expenses

##### *Tax Benefits Associated with Minor Children*

- Eliminate the allocation of exemptions in light of the tax changes of the Tax Cuts and Jobs Act (TCJA) and define how the tax benefits associated with children are to be shared

##### *Condition for Entitlement to Tax Benefit*

- Establish a process for a parent to claim the tax benefit if the child support obligation for that tax year is not fully paid by January 15<sup>th</sup>

##### *State Involvement in Child Support Cases*

- Add new section that discusses the Title IV-D Program and Child Support Assigned to the State

##### *Schedule of Basic Support Obligation*

- Extend the Schedule of Basic Support Obligation to combined adjusted gross incomes up to \$30,000 per month



## ECONOMIC REVIEW

To meet its obligation to conduct the federally mandated economic and case file reviews, the Administrative Office of the Courts contracted with Center for Policy Research (CPR). Dr. Jane Venohr, Economist and Research Associate, attended several meetings to discuss the review process, provide data and expert insight that assisted the Subcommittee in defining the underlying factors needed for the Schedule of Basic Support Obligation (Schedule) calculations.

In all, there are seven factors. The Subcommittee elected to maintain the historical assumptions for the following five factors:

1. Adjust to current price levels.

Because there are no alternatives to the index published by the Bureau of Labor and Statistics, no Subcommittee action was required.

2. Exclude childcare, child's health insurance premium, and extraordinary out-of-pocket medical expenses and include ordinary out-of-pocket medical expenses of \$250 per year per child in the child-rearing expenditures.
3. Consider expenditures to net income ratio, which is the first step to converting measurements of child-rearing expenditures to a child support income basis.
4. Consider federal and state income taxes and FICA, which is the second step to converting measurements of child-rearing expenditures to a child support income basis.

The historical assumption takes the combined Adjusted Gross Income (AGI) and uses the federal withholding formula applying to a single taxpayer. State income tax is applied to the federal taxable income based on the percentage the employee's selected tax rate.

The passage of Proposition 208, that creates a 1% difference in state taxes for persons with income over \$250,000 per year or couples with incomes over \$500,000 per year, was discussed but not considered for inclusion in the measurements.

5. Whether and how to convert the measurements of child-rearing expenditures, which are based on national data, to account for differences between U.S. average price levels Arizona price levels.

Historically, Arizona has not made an adjustment for cost of living. Arizona's price parity is only 3.5% less than the national average. The cost of living varies by region within the state, and calculation would be complex and cumbersome.



The assumptions for the two remaining factors were updated during this review. The reasoning is as follows:

6. Economic study to use as the basis of the Schedule

The current Schedule is based upon the Betson Rothbarth 3 (BR3) economic study. The BR3 study, conducted in 2006, utilized data from the 1998-2004 Consumer Expenditure Survey (CES). Seeking updated economic data, Arizona included the development of Betson Rothbarth 5 (BR5) economic study in its contract with CPR. The BR5 economic study utilizes data from the 2014-2019 CES.

BR5 provides the most current measurements of childrearing expenditures. Its economic methodology is consistent with the economic methodology underlying the current Schedule. The Betson Rothbarth measurements are a valid and robust method and have been used by several states (including Arizona) for over two decades.

The Subcommittee approved the BR5 economic study to update Arizona's Schedule of Basic Support Obligation.

7. Extending the schedule to higher incomes

The current Schedule includes combined incomes of up to \$20,000 gross per month. The BR5 measurements support the extension of the Schedule to combined incomes to \$34,000 gross per month. Alternate studies do not extend to \$34,000 and cannot be used for comparison. However, comparisons between BR5 and alternate studies including combined incomes up to \$28,750 were provided by CPR for consideration.

The subcommittee felt a round number would make more sense to the general public; the subcommittee extended the Schedule to include combined incomes of \$30,000.

## *ISSUES DEFERRED TO THIS REVIEW FROM THE INTERIM REVIEW*

Three issues were discussed during the 2017 review that were determined to be outside the scope of that review, and thus referred to this review for additional study and consideration.



## Federal Tax Exemption for Dependent Children

Section 27 (Now **Section XI**) of the Guidelines allocated federal and state tax exemptions between parents, as they agree, or in a manner that allowed each parent to claim allowable federal dependency exemptions proportionate to adjusted gross income. In 2017, a mandatory provision of the Affordable Care Act (ACA) penalized a parent for not providing insurance to cover a child’s health care when claiming a child as a tax exemption when the other parent was ordered and providing the insurance.

The federal government has since temporarily repealed this mandatory aspect of the ACA making this issue moot.

**Recommendation:** If the mandatory aspect of the ACA is resurrected, a future review should address the issue.

## Determination of the Child Support Income of The Parents

Section 5 (Now **Section II**) was referenced in a Court of Appeals opinion<sup>1</sup> that posed the question “may a court attribute income beyond that of regular full-time employment without a showing that the income was historically earned from a regular schedule and is anticipated to continue into the future?”<sup>2</sup>

In its recommended amendments to **Section II.A.1.d**, the subcommittee, grants the court discretion to consider whether non-continuing or non-recurring income is deemed income for child support purposes. Further, the subcommittee addressed overtime in **Section II.A.4.b** where it discusses court considerations when attributing income.

### b. Overtime

- i. The court generally does not include more income than earned through full-time employment.
  - aa. Each parent should have the choice of working additional hours through overtime or at a second job without increasing the child support obligation:

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<sup>1</sup> *Lundy v. Lundy*, 242 Ariz. 198, 200, ¶ 8 n. 1 (App. 2017).

<sup>2</sup> In *Lundy*, the Arizona Court of Appeals, Division 1, noted an apparent conflict in Section 5(A) of the guidelines and went on to say, “We read the second sentence to prohibit inclusion of income from traditional overtime or second jobs, and we read the third sentence to permit realistic calculation of income in cases involving a parent whose income does not arise from such discrete sources.” *See Lundy*, 242 Ariz. at 200, ¶ 8 n. 1.



- bb. A parent who historically worked overtime when the family was intact may choose to reduce or not to work overtime hours to ensure the parent has meaningful interaction with the child during that parent's parenting time.
- ii. The court may consider income actually earned if it is greater than would have been earned by full-time employment if that income was historically earned from a regular schedule and is anticipated to continue into the future. The court generally does not attribute additional income to a parent if it would require an extraordinary work regimen. Determination of what constitutes an extraordinary work regimen depends upon all relevant circumstances, including the choice of jobs available within a particular occupation, working hours, and working conditions. It also may depend upon the parent's relevant medical or personal circumstances.

### Insufficient Funds for Multiple Orders

As in the previous review, the issue of allocating insufficient funds for multiple orders was a topic of great concern. The members discussed cases where a single obligor has multiple court orders for child support and more common cases where an obligor is the parent of children who live in the household as well as the child for whom a support order is being sought or modified. An obligor's inability to support all his/her children, usually results in unpaid support for most, if not all, of the orders.

#### **Recommendations:**

- Eliminate the distinction between children who are the subject of the child support case and those who are not.
- Allow greater discretion to adjust for another support order.
- Adopt the Title IV-D process devised by the Office of the Attorney General in cases with a low-income obligor, which allows the court to pro-ration the limited funds available to provide support among the obligor's children so that application of the Self Support Reserve test does not foreclose support for any child.
- Clarify the adjustment for other children in the household under an equal custody arrangement.



## RECOMMENDATIONS BASED ON CHANGES TO STATE AND FEDERAL LAW

### 45 CFR §302.56(c)

Recently the minimum requirement in 45 CFR §302.56(c) to base the child support order on the noncustodial parent’s earnings and income was amended to include “and other evidence of ability to pay.”

Historically, other States have required that that income be determined from tax returns and a set number of paystubs. States are beginning to recognize alternative sources (e.g., State Dept of Labor data in LA guidelines). Arizona’s Guidelines require the court to make findings on the record as to child support income and order the parties to exchange financial information such as tax returns, financial affidavits, and earnings statements every twenty-four months.

**Recommendation:** Because Arizona’s Guidelines conform with the CFR, take no action regarding evidence of ability to pay.

### Tax Cuts and Jobs Act (TCJA)

The Tax Cuts and Jobs Act (TCJA) made two changes to the federal tax code that impact the guidelines.

First, amounts paid toward spousal maintenance orders effective (or, in some cases, modified) after December 31, 2018, are no longer deductible—and are excluded from the recipient’s taxable income. As a result, the parent paying spousal maintenance has less spendable (after-tax) income available for child support and the parent receiving spousal maintenance has more spendable (after-tax) income available for child support. This result may warrant an adjustment to income.

**Recommendation:** Upon a parent’s request for a hearing, allow a parent to present evidence regarding the lack of tax deductibility of spousal maintenance so the court may consider adjusting the parent’s income for purposes of child support.

Second, parents historically have been entitled to claim children as personal exemptions on income tax returns, but the deduction for personal exemptions was suspended for tax years 2018 through 2025 by the Tax Cuts and Jobs Act. For these years, taxpayers cannot claim a deduction for exemptions, but they may be eligible to claim the child tax credit and the additional child tax credit.

**Recommendations:**

- Use more inclusive “tax benefit” terminology to address not only the policy change from exemption to credit, but any post-2025 policy reversion.
- Clearly articulate allocation of the tax benefits and the conditions of entitlement.



- Adopt a process for claiming the tax benefit when the conditions of entitlement have not been met.

## RECOMMENDATIONS BASED ON CHANGES TO CASE LAW

After reviewing published opinions and memorandum decisions filed between November 2016 and May 19, 2020, the Subcommittee found that other than the clarifications described above regarding *Lundy*, no additional proposed amendments were needed to address case law.

## OTHER RECOMMENDATIONS

### Restyling

The 2017 Interim Review recommended a restyled and reorganized version of the guidelines that flowed with the child support worksheet. That work has been revitalized in this review with the goal of making the guidelines more easily understood by all.

Some of the more prominent features of the reorganization and restyling include:

- Adding an Executive Summary.
- Reorganizing and renumbering the Guidelines to flow with the Child Support Worksheet.
- Including Title 25 terminology regarding “legal decision-making” and “parenting time,” except when referencing third-party caregivers and grandparents’ rights.
- Using simplified terminology such as “parents’ incomes for child support purposes” instead of “gross income.”

**Recommendation:** Adopt the restyled and reorganized Guidelines.

### Adoption subsidies or a Child’s Social Security Income (SSI) Benefits

The Attorney General’s Office frequently receives questions from parties about whether adoption subsidies or a child’s SSI benefit should be counted as income to the parent who receives it as a representative payee. The subcommittee developed the following language to provide the information in the Guidelines [Section II.A.2.a.iii](#):

Sums a parent earns or receives by or for the benefit of a minor child, including adoption subsidies, Supplemental Security Income (SSI), and subsidies arising from the disability of a child is not child support income but may impact a parent’s child support obligation as explained in Section VII.B below.

**Recommendation:** Clarify that income earned or money received by or for the benefit of a child will not be credited to reduce the child support obligation.



## Child and Dependent Care Adjustment

While considering the need to adjust parents’ incomes for Flexible Spending and Health Savings Accounts (FSA and HSA), the subcommittee also considered the current adjustment to the basic child support obligation for the child and dependent care tax credit. The subcommittee found that the child and dependent care tax credit:

- Does not apply in low-income situations;
- Is incorrectly applied, if a flex spending account or pre-tax dollars are used to pay for childcare;
- Can fall into a gray area for the parent who is not the primary residential parent; and
- Can change based on income year to year for parents with essentially equal parenting time.

Additionally, the subcommittee agreed that the complexity of the calculation was not justifiable for the *de minimis* adjustment amount.

**Recommendation:** Remove the adjustment for child and dependent care tax credit from the Child Support Worksheet but include a comment in the Guidelines that the parents can use the adjustment in appropriate cases.

## Parenting Time Adjustment Tables A and B

Parenting Time Adjustment Table A (Table A) provides a stepped approach to address the transient child expenses and costs associated with parenting time. Arizona’s stepped approach was originally designed around the most commonly ordered parenting time plans of that time (e.g., every other weekend and a Wednesday overnight) and has seen little, if any, change since 2001. In the case file review, the CPR consultant found that 25% of the Child Support Worksheets indicated essentially equal parenting time. The comparable percentages in 2013 and 2007 were 21% and 15% respectively. As societal parenting norms change, so must the assumptions behind the Table A.

Current:

Parenting Time Table A

Number of Parenting Time Days		Percentage
0	3	0.0%
4	20	1.2%
21	38	3.1%
39	57	5.0%
58	72	8.5%
73	87	10.5%
88	115	16.1%

Proposed:

Parenting Time Table

Number of Parenting Time Days		Percentage
0	19	0.0%
20	34	2.5%
35	49	5.0%
50	69	7.5%
70	84	10.0%
85	99	15.0%
100	114	17.5%



116	129	19.5%
130	142	25.3%
143	152	30.7%
153	162	36.2%
163	172	42.2%
173	182	48.6%

115	129	20.0%
130	142	25.0%
143	152	32.5%
153	163	40.0%
164	or more	50.0%

**Recommendation:** Amend Parenting Time Table A to:

- Align current common parenting plans into same steps.
- Increase the number of parenting time days required to receive a parenting time adjustment from 3 days to 20 days.
- Reduce the number of steps by 1 minimizing the impact and severity of change from prior table of going to any fewer steps.
- Round the percentages to the nearest one-half percent.
- Address equal parenting time by defining essentially equal parenting time as when both parents have 164 days or more, and extending the Parenting Time Table to include a 50% adjustment for that range of parenting time days.
- Simplify the calculation for equal parenting time by eliminating the choice of calculation methods (Table A and Table B) when parenting time is essentially equal.

Parenting Time Table B (Table B) provides a means of addressing the situation in which the parents have essentially equal parenting time and one parent pays all expenses and costs associated with the child, and the costs do not transfer with the child to the other parent’s home. Table B, anecdotally, is rarely used. The case file review provided evidence that only two of the cases indicated the use of Table B. If Table B is eliminated from the guidelines, these rare cases would be addressed by deviation in [Section IX](#).

**Recommendation:** Eliminate Table B with discussion added regarding deviation.

## Health Insurance

One of the ACA’s three primary goals was to make affordable health insurance available to more people.

Though a new spouse’s income cannot be used when determining a child support obligation, the subcommittee views health care coverage as “community” in this situation. As a result, an adjustment under [Section III.B.3.d](#) for the cost to the stepparent is appropriate and expands on the ACA goal to include more affordable options for insuring children.



**Recommendation:** Allow a parent to fulfill the Guidelines' requirement regarding health insurance through family coverage provided by a parent's new spouse or domestic partner for a child.

## Schedule of Basic Support Obligation

### *Combined Adjusted Parents' Incomes Extension*

The case file review conducted in 2013 revealed that 1% of the orders reviewed were based upon a combined adjusted gross income of greater than \$20,000 per month. The current review indicates the percentage of orders based upon that income has risen to 3%. Additionally, among those orders, 2% were based upon a combined adjusted gross income between \$20,000 and \$30,000 per month.

Extending the schedule to higher incomes would:

- Improve the predicted amounts among high-income parents considering the establishment or modification of a child support order;
- Produce more consistent support awards at higher incomes; and
- Lead to fewer deviations.

**Recommendation:** Extend the Schedule of Basic Support Obligation to combined adjusted child support incomes up to \$30,000 per month.

### *Schedule Extension and the Presumptive Amount*

When the combined adjusted child support income is greater than \$20,000 per month, the current guidelines set that amount as the presumptive.

**Recommendation:** Set \$30,000 as the presumptive amount for combined adjusted child support incomes of \$30,000 per month or more.

### *Schedule Extension and Deviation from the Presumptive Amount*

The Guidelines impose a burden of proof on the parent who seeks an award greater than the presumptive for combined adjusted child support incomes in excess of \$30,000. The CPR consultant pointed out that Arizona's Guidelines are unique in this regard. The subcommittee recognized the burden of proof was inappropriate and devised language that discusses a court's determination regarding the "evidence" and further clarifies the presumptive level.

**Recommendation:** To amend Section **III.A.1.c** as follows:

- c. If the Combined Adjusted Child Support Income of the parties is greater than \$30,000 per month,
- i. If no party requests consideration of a higher amount, the amount for Combined Adjusted Child Support Income of \$30,000 is the Basic Child Support Obligation.



- ii. Upon a party's request, the court determines whether the evidence shows that an amount higher than the Basic Child Support Obligation for the Combined Adjusted Child Support Income of \$30,000 per month is in the child's best interests. The court takes into account the child's needs in excess of the presumptive amount, any significant disparity in the respective percentages of Child Support Income for each party, and any other factors which, on a case-by-case basis, demonstrate that the increased amount is appropriate.

## *Other topics discussed*

### Flexible Spending Accounts (FSA) and Health Savings Accounts (HSA)

Having considered the insight of tax specialists and research conducted by the CPR consultant, the subcommittee recommends that no action be taken to add FSA and HSA accounts into the calculation of child support for every case.

The insight indicated that if a parent made the maximum contribution to either type of account, the tax impact would likely be relatively small. A parent earning an annual income between \$25,000 and \$100,000, who contributed \$2,500 over the year to either an FSA or an HSA, could see a tax savings between \$21 and \$36 monthly. Moreover, the calculation to determine the tax savings amount is complex requiring information from the 1040 Tax Return (FSA) or Form 8889 (HSA).

If the contribution, tax savings, and ability to pay medical expenses using pre-tax dollars is at issue in a case, a court may, in its discretion, consider a deviation.

## *ISSUES REFERRED TO THE NEXT CHILD SUPPORT GUIDELINES REVIEW COMMITTEE*

### *45 CFR § 302.56*

Changes to 45 CFR § 302.56 were pending at the time of this review. The pending amendment would allow states to consider two exceptions in which incarceration would not be treated as voluntary unemployment under the Guidelines. The exceptions, if adopted, would permit states to except incarceration as a result of:

- Intentional non-payment of child support; and
- Because of a crime if the victim was the person to whom the child support is paid or the child for whom the child support is paid.

### *Adjustment for Children Over the Age of 12*

Explore the adjustment for children over the age of 12. Is there a need for other adjustments based upon a child's age? One example given during the subcommittee discussions was a driving aged child and the related expenses (i.e. vehicle and insurance).



## Review Third Party Caregiver Worksheet

With every review, the Child Support Worksheet is taken into consideration. This places more focus on the guidelines impact on parents in dissolution, separation, and paternity cases. Though out of the scope of this review, the subcommittee recommends that the next review place additional focus on the impact of the guidelines on the third-party caregiver and worksheet review.

## Parenting Time Adjustment

When Arizona adopted the policy of adjusting the child support obligation based upon parenting time, the focus was on transient expenses and costs associated with the child (such as food, entertainment, personal care items, and reading material) and not on the fixed expenses. In doing so, it was understood that duplicated expenses (such as maintaining two households) were not included. Because Arizona's Guidelines are based upon an income shares model, which relies upon data from intact families, the underlying model fails to account for duplicative expenses.

A future review subcommittee or an interim workgroup should investigate the means by which to address duplicative expenses. Past suggestions include one where the basic support obligation is grossed up by a certain percentage (such as 120%), which would address the reality that the cost for the child is higher than the figure the chart gives us based on data for intact families.

## Minimally Adequate Support Test

Consistent with 45 CFR § 302.56(c)(1)(ii), the Arizona Child Support Guidelines contain a Self-Support Reserve (SSR) test for the parent ordered to pay child support. The SSR addresses that parent's basic subsistence needs. The federal regulation offers states discretion to consider the basic subsistence needs of the parent receiving child support. It is recommended that the next review subcommittee or an interim workgroup consider whether a test like the SSR should be developed for the recipient parent whose income is below a certain threshold. For example, if the recipient parent's income is below 170% of the federal poverty level and the income of the paying parent is 340% or more above the federal poverty level, a minimally adequate support amount sufficient to bring the income of the lesser earning parent above the threshold of 170% of poverty would be added to the child support calculation.

## Child Support Order Modification for Incarcerated Parents

At the time of this report, an amendment to 45 CFR § 302.56<sup>3</sup> was pending. The amendment would add optional exceptions to the prohibition against treating incarceration as voluntary unemployment under child support guidelines. The proposed exceptions, under § 302.56(c)(3)(i) and (ii), would be for incarceration: (1) because of intentional nonpayment of child support resulting from a

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<sup>3</sup> Federal Register, Vol. 85, No. 1818, Thursday, September 17, Page 58029



criminal case or civil contempt action in accordance with guidelines established by the State under §303.6(c)(4); and/or (2) for any offense for which the individual's dependent child or the child support recipient was a victim. Should this amendment be adopted, the next review subcommittee or an interim workgroup should consider whether to recommend adopting those exceptions.

### ACA Tax Penalty

The ACA currently does not impose a mandatory insurance requirement and contains no related tax penalty for a parent who can claim a child tax exemption but who is not the parent who provides health insurance. With any change of leadership in our nation's capital, the mandatory aspect could be resurrected. If that were to occur, the next review committee will need to address the issue.

DRAFT

## Appendix A: Child Support Guidelines Review Subcommittee Membership

**Honorable David Gass, Chair**  
Arizona Court of Appeals, Division I

### Members

**Ms. Carol Park Aden**  
Community Legal Services, Inc.

**Honorable John J. Assini**  
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**Ms. Laura C. Belleau**  
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**Honorable Joseph Goldstein**  
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**Ms. Tiffany Harvey** (replaced Cherie Wasiel on  
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**Ms. Mary K. Boyte Henderson J.D.**  
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**Ms. Janet W. Sell**  
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**Mr. Vance D. Simms**  
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**Honorable Jeff Fine** (replaced Honorable  
Amanda Stanford on 7/15/2020)  
Superior Court in Maricopa County

**Ms. Rosa Torrez**  
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**Mr. Steve Wolfson J.D.**  
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**Don Bays**  
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**Chris Gorman**  
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*Appendix B:  
Proposed Child Support Guidelines – Redline Version*

*Appendix C:  
Proposed Child Support Guidelines – Clean Version*



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Final Report and Recommendations of the  
Family Court Improvement Committee  
Child Support Guidelines Review Subcommittee

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