ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	**Type of Action Requested:**	**Subject:**
December 14, 2017	_X_ Formal Action/Request __ Information Only __ Other	Committee for an Interim Review of the Child Support Guidelines - Final Report and Recommendations

FROM:

Judge Paul J. McMurdie, Chair of the Committee for an Interim Review of the Child Support Guidelines.

DISCUSSION:

On July 26, 2017, Chief Justice Scott Bales issued Administrative Order 2017-93 establishing the Committee for an Interim Review of the Child Support Guidelines due to changes to state law, federal regulations, and case law. The administrative order directed the committee to:

(a) Review the impact a higher minimum wage and new federal regulations have on the Child Support Guidelines.
(b) Develop recommendations to the guidelines and if needed, the Arizona Rules of Family Law Procedure.
(c) File a final report and make recommendations to the Arizona Judicial Council (AJC) in December 2017.

Chair Judge McMurdie will provide a detailed overview of the issues addressed by the committee and the proposed recommendations to the child support guidelines.

RECOMMENDED COUNCIL ACTION:

Motion: To adopt the proposed Child Support Guidelines to become effective April 1, 2018.

Final Report and Recommendations

Committee for an Interim Review of the Child Support Guidelines — December 2017

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Final Report and Recommendations

Committee for an Interim Review of the Child Support Guidelines — December 2017

Chief Justice Scott Bales

Hon. Paul J. McMurdie, Chair

EXECUTIVE SUMMARY

Creation and Charge of Committee

On July 26, 2017, Chief Justice Scott Bales issued Administrative Order 2017-93 establishing the Committee for an Interim Review of the Child Support Guidelines ("committee"). The administrative order directed the committee to:

(a) review the impact a higher minimum wage and new federal regulations have on the Child Support Guidelines.

(b) develop recommendations to the guidelines and if needed, the Arizona Rules of Family Law Procedure.

(c) file a final report and make recommendations to the Arizona Judicial Council (AJC) in December 2017.

The committee met twice before distributing a preliminary report and held a public hearing on October 26, 2017. Additionally, an online public forum was developed and opened to the public commencing September 29, 2017, through November 1, 2017, for comments regarding the committee's preliminary recommendations. A total of four comments were received. (See Appendix D: Public Comments.)

Summary of Committee Recommendations

A summary of the committee's final recommendations is outlined below. More detailed recommendations are set forth in the body of this report.

- Adopt the proposed Child Support Guidelines (See Appendices B and C) to become effective April 1, 2018.
- Recommend the Administrative Office of Courts (AOC) implement updates to the statewide Child Support Calculator and related forms to reflect the recommended revisions to the guidelines.
- Provide the next child support guidelines quadrennial review committee recommendations to address important substantive issues that were determined to be outside the scope of this review.

RECOMMENDATIONS BASED ON CHANGES TO STATE AND FEDERAL LAW

Introduction

Since the last child support quadrennial review in 2013-2015, there have been major revisions to federal law[1], state law, and caselaw that impact Arizona's Child Support Guidelines. As explained by the Administration for Children and Families, Health and Human Services:

> *"The goal of the revisions is to increase reliable child support for children by setting child support orders based on the noncustodial parent's earnings, income, or other evidence of ability to pay. Orders set beyond a parent's ability to pay can lead to unintended consequences, such as unmanageable debt, reduced employment, participation in the underground economy, and increased criminal activities. It is counterproductive and not in children's best interests to have their parents engage in a cycle of nonpayment, illegal income generation, and incarceration. Support orders based on the noncustodial parent's ability to pay should result in less conflict between parents, fewer requests for hearings, and less time and resources spent on enforcement."*

List of issues addressed

1. Self-support reserve amount
2. Arizona's minimum wage and impact to the self-support reserve
3. New federal guidance on incarceration and ability to pay
4. New federal guidance on imputation of income

[1] The Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs updates guidelines for setting child support orders at 45 CFR 302.56 and the establishment of child support orders at 45 CFR 303.4.

5. Rounding the child support order to the nearest dollar
6. Global change of terminology – replaced "noncustodial," "custodial," and "custody" contextually within the guidelines
7. Provided more guidance in third-party caregiver situations
8. Clarified the proper calculation for parenting arrangements where there are multiple children and different parenting plans

Self-support reserve

The self-support reserve (SSR) test is performed in each child support case to evaluate and verify that the paying parent is financially able to pay the child support order and to maintain at least a minimum standard of living.

The new federal regulation 45 C.F.R. 302.56(c)(1)(ii) requires child support guidelines to take into consideration the basic subsistence needs of the paying parent (and at the state's discretion the receiving parent) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the state. Arizona already uses a self-support reserve. The current SSR amount is $1,115, which is based on the 2014 federal poverty level of $973 for a single person that has been "grossed-up."

Changes to Arizona's minimum wage and impact to the self-support reserve amount

Recent state law[2] has increased the state's minimum wage from $8.05 per hour to $10 per hour on and after January 1, 2017; $10.50 per hour in 2018; $11.00 per hour in 2019; and $12.00 per hour on and after January 1, 2020.

Updating the minimum wage each year will impact the child support guidelines, specifically, the SSR amount. The increase in minimum wage may require low-income obligors to pay a higher percentage of their earnings for child support unless the self-support reserve amount is also increased.

The committee agreed that the SSR amount needs to be increased to correspond to the increase in minimum wage, but the question before the committee is what amount should it be changed to and how to make this determination?

[2] Arizona Revised Statutes § 23-363

One instructive resource was a 2011 study conducted by the Orange County Department of Child Support Services.[3] In summary, the report indicates that orders set above 19 percent of the paying parents' income leads to lower compliance, arrears growth, and missed monthly payments. The committee also looked at alternative amounts, such as basing the SSR on 138 percent of federal poverty level like many other federal programs use.

The committee agreed to change the SSR amount based on the 2011 Orange County study to reflect a threshold that results in the best outcomes for children, and to enable the SSR to vary year to year due to the new minimum wage state law.

The William E. Morris Institute for Justice ("Institute") objects to the establishment of the SSR by exclusive reference to wages "because wages by themselves do not always reflect an inability to pay support." However, the current SSR is based on wages, and the committee believes the overall concern is addressed by the court in the examination of the paying parent's actual ability to pay.

Self-support reserve

Proposed SSR amount will change annually, based on changes to state minimum wage law.

Calculated at 80% of minimum wage earnings.

Results in no more than 20% of the non-primary parenting time parent's minimum wage earnings for child support order, for one child.

Furthermore, the Institute recommends that "Arizona exercise the discretion found in the federal regulation and perform a SSR test on both parents in each child support case to evaluate and verify that both the paying and receiving parent and children are financially able to maintain at least a minimum standard of living." Section 15 of the guidelines already provides that "the court may reduce the current child support order to the resulting amount after first considering the financial impact the reduction would have on the receiving parent's household."

The committee recommends that the Court approve and adopt the change in the SSR amount and that the Administrative Office of the Courts will modify the SSR amount within the child support

[3] *How Do Child Support Order Amounts Affect Payments and Compliance?* Prepared by the Research and Reporting Unit of the Orange County Department of Child Support Services, Mark Takayesu, Manager (M.A.), October 2011.

calculator to reflect annual increases to the minimum wage pursuant to Arizona Revised Statutes § 23-363.

Therefore, this committee recommends the following changes to Section 15 of the Child Support Guidelines:

15. SELF-SUPPORT RESERVE TEST

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

The self-support reserve shall be an amount equal to ~~Deduct~~ 80% of the monthly full-time earnings at the current state minimum wage at the time of the order ~~$1,115~~ (the ~~S~~self-~~S~~support ~~R~~reserve amount). Deduct the self-support reserve amount from the ~~noncustodial~~ paying parent's Adjusted Gross Income, except that the court may deduct from such parent's Adjusted Gross Income for purposes of the ~~S~~self-~~S~~support ~~R~~reserve ~~T~~test only, court-ordered arrears on child support for children of other relationships or spousal maintenance, if actually paid. If the resulting amount is less than the child support order, the court may reduce the current child support order to the resulting amount after first considering the financial impact the reduction would have on the ~~custodial~~ receiving parent's household. The test applies only to the current child support obligation, but does not prohibit an additional amount to be ordered to reduce an obligor's arrears.

EXAMPLE ONE: Before applying the ~~S~~self-~~S~~support ~~R~~reserve ~~T~~test, the child support order is calculated under the guidelines to be ~~$253~~ $492. The adjusted gross income of the ~~noncustodial~~ paying parent is ~~$1,250~~ $1,820 at a minimum wage of $10.50 per hour the self-support reserve amount is $1,456 ($10.50 x 40 hours x 52 weeks = $21,840 ÷ 12 months = $1,820 x 80% = $1,456). Subtracting the self-support reserve amount of ~~$1,115~~ $1,456 from the ~~noncustodial~~ paying parent's adjusted gross income of ~~$1,250~~ $1,820 leaves ~~$135~~ $364. Because this resulting amount is less than the ~~$253~~ $492 child support order, the court may reduce the child support order to the resulting amount. However, before making any reduction, the court shall examine the self-support capability of the ~~non-paying~~ receiving parent, using the same ~~S~~self-~~S~~support ~~R~~reserve ~~T~~test applied to the ~~noncustodial~~ paying parent.

~~In this example,~~ EXAMPLE TWO: The ~~non-paying~~ receiving parent's proportionate share of the total child support obligation is calculated under the guidelines to be ~~$233~~ $404. This parent's Adjusted Gross Income is ~~$1,150~~ $1,487. Subtracting the self-support reserve of ~~$1,115~~ $1,456 from the ~~non-paying~~ receiving parent's Adjusted Gross Income of ~~$1,150~~ $1,487 leaves ~~$35~~ $31. Because this resulting amount is less than the parent's proportionate share of the Total Child Support Obligation, it is evident that both parents have insufficient income to be self-supporting. In this situation, the court has discretion to determine whether and in what amount the child support order (the amount the ~~noncustodial~~ paying parent is ordered to pay) may be reduced.

Incarceration and ability to pay

The committee discussed the new federal requirement in 45 C.F.R. § 302.56(c)(3) that requires states to provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders. While the committee believed the federal law is consistent with Arizona caselaw, the committee agreed to recommend the following proposed language to Section 5 of the child support guidelines:

> 5. DETERMINATION OF THE GROSS INCOME OF THE PARENTS
>
> 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. If the reduction in income is voluntary but reasonable, the court shall balance that parent's decision and benefits therefrom against the impact the reduction in that parent's share of child support has on the children's best interest. The court may not attribute income to a person who is incarcerated, but may establish or modify support based on actual ability to pay.

Imputation of income

As part of the conversation regarding addressing and codifying an incarceration provision to the guidelines, the committee discussed the inclusion of proposed language to Section 5 regarding the new federal regulation 45 C.F.R. § 302.56(c)(1)(iii), which takes into consideration specific circumstances of the paying parent to the extent known, when determining the amount of imputed income, and the court may not use a standard amount in lieu of fact-gathering in a specific case.

Additionally, the committee discussed removing E(4.) from the guidelines because Temporary Assistance to Needy Families (TANF) funds cannot be considered income for the purposes of calculating child support. After hearing public comment that was opposed to striking E(4.), the committee decided to leave the instruction in the guidelines.[4] The committee also considered and agreed to include, based on further public comment, another example of when the court may decline to attribute minimum wage. In situations where a parent is the caretaker of a young child and is attributed full-time minimum wage, the court may also attribute costs for ordinary full-time childcare. If the court attributes these amounts, and the receiving parent remains unemployed without being responsible for childcare costs, the result is

[4] See Appendix D: Public Comments by Ellen Katz, William E. Morris Institute for Justice)

an inflated child support obligation for a low-income paying parent. The committee members also discussed the plight for low-income caretaking parents who are employed and struggling to afford high childcare expenses.

The committee agreed to include a recommendation for additional proposed language to Section 5 in the following manner:

5. DETERMINATION OF THE GROSS INCOME OF THE PARENTS

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. If the reduction in income is voluntary but reasonable, the court shall balance that parent's decision and benefits therefrom against the impact the reduction in that parent's share of child support has on the children's best interest. The court may not attribute income to a person who is incarcerated, but may establish or modify support based on actual ability to pay. In accordance with Arizona Revised Statutes Section 25-320, income of at least minimum wage ~~shall~~ should generally be attributed to a parent ~~ordered to pay child support~~ after considering the specific circumstances of the parents to the extent known. This includes such factors as the parents' assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parents, prevailing earnings level in the local community, and other relevant background factors in the case.[5] If income is attributed to the parent receiving child support, appropriate childcare 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 Temporary Assistance to Needy Families~~.~~, or
5. A parent is the caretaker of a young child and the cost of childcare is prohibitive.

[5] Proposed language is directed by the new federal regulation 45 C.F.R. § 302.56(c)(1)(iii).

Rounding the child support order amount to the nearest dollar

The committee noted that some of the child support calculators round the final child support amount to the nearest dollar, while the statewide calculator retains the exact amount calculated. To simplify child support orders, the committee members agreed that the final amount should be rounded up to the nearest dollar amount if the order is fifty cents or more, and rounded down if it is forty-nine cents or less. The committee members believe this action should not be considered a deviation of the child support amount.

Members reported that occasionally a child support order will not even rise to the amount of the Support Payment Clearinghouse fee, which is currently $5 per month. The committee members discussed those situations and believe it makes sense to not impose a court order for an amount that is less than the current clearinghouse monthly fee. Like the rounding issue above, the committee members believe this action should not be considered a deviation of the child support amount.

Lastly, the committee believes the example amounts should be updated to better reflect realistic incomes.

The committee agreed to include a recommendation for proposed language to Section 14 in the following manner:

14. DETERMINING THE CHILD SUPPORT ORDER

Unless the calculation results in a negative number, ~~The~~ the court shall order the ~~noncustodial~~ parent with less parenting time to pay child support in an amount equal to his or her proportionate share of the Total Child Support Obligation. The ~~custodial~~ parent receiving child support shall be presumed to spend his or her share directly on the children.

EXAMPLE: On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Gross Income of ~~$1,500~~ $3,120 for one child is ~~$323~~ $610. To this the court adds ~~$32~~ $61 because the child is over 12 years of age (10% in this example). The Total Child Support Obligation is ~~$355~~ $671.

The father's share is ~~60%~~ 56% of ~~$355~~ $671, or ~~$213~~ $373. The mother's share is ~~40%~~ 44% of ~~$355~~ $671, or ~~$142~~ $298~~.~~ ~~Custody is granted to the mother~~ and she has more parenting time than father. U~~u~~nder the court-approved parenting plan, parenting time will be exercised by ~~the~~ father for a total of 100 days per year, resulting in an adjustment of ~~$52~~ $98 (~~$323~~ $610 X 16.1%). After adjusting for parenting time, ~~the~~ father's share is ~~$161~~ $275 (~~$213~~ $373 less ~~$52~~ $98). ~~The~~ F~~f~~ather shall pay the child support amount of ~~$161~~ $275 per month. The value of ~~the~~ mother's contribution is ~~$142~~ $298, and she spends it directly on the child.

For all awards, the child support amount shall be rounded to the nearest whole dollar. A rounded amount is not a deviation under Section 20.

If the amount of child support is less than the current clearinghouse fee, the court shall not impose a child support award unless a deviated award is warranted under Section 20. It is not a deviation under Section 20 if an award is not imposed because it is less than the clearinghouse fee.

Global change of terminology – replaced "noncustodial," "custodial," and "custody" in the guidelines

In 2012, the legislature removed the terminology "custody" (including "legal" and "physical") in Arizona statutes (Title 25 - *Marital and Domestic Relations*) and replaced it with the terminology of "legal-decision making" and "parenting time;"[6] however, the corresponding terminology has not been changed within the Arizona Child Support Guidelines.

Committee members realize that most family law court litigants are self-represented and the difference in terminology between the statutes, rules, and the guidelines, may cause unnecessary confusion. To alleviate misunderstandings or confusion for guideline users, the committee members *initially* recommended a global change to the guidelines by replacing the terminology in the following manner:

- "noncustodial parent" with "non-primary parenting time parent"
- "custodial parent" with "primary parenting time parent"
- "child custody" with "legal decision-making and parenting time"
- "physical custody" with "parenting time"
- "receiving parent" and "paying parent" in the self-support reserve section

Several public comments opposed these changes and suggested inserting "legal decision-making" and "parenting time" in place of "noncustodial" and "custodial" parent. As such, "legal decision-making" relates to the "legal right and responsibility to make nonemergency decisions for a child" and "parenting time" is defined as "the schedule of time during which each parent has access to a child for a specified time." A.R.S. § 25-401(3) and (5). These terms do not translate properly when used in a guidelines context as labels for an obligee/obligor parent, paying/receiving parent, or for a parent with more, less, or equal parenting time. The committee's challenge was to identify and label parents at two different times; the first is the time prior to establishment of a child support obligation, and second, the period after determining which parent, if any, will have an obligation to pay child support. The committee again reviewed the guidelines and decided to incorporate appropriate contextual changes to provide the user more clarity and guidance. New terms include the use of "primary residential parent," "eligible parent," "parent with more parenting time," "parent with less parenting time," "parent receiving child support," and "parent paying child support."

[6] 2012 – Fiftieth Legislative – Second Regular Session, Chapter 309

The members defined the term "primary residential parent" by adding a new paragraph H. to Section 3:

> H. The "primary residential parent" is the parent who has parenting time with the child for the greater part of the year.

The committee recommends the above proposed terminology, which will affect the following sections:

Section 2.	Premises
Section 3.	Presumption
Section 6.	Adjustments to Gross Income
Section 9.	Determining the Total Child Support Obligation
Section 11.	Adjustments for Costs Associated with Parenting Time
Section 12.	Equal Custody
Section 13.	Adjustments for Other Costs
Section 14.	Determining the Child Support Order
Section 15.	Self-support Reserve Test
Section 16.	Multiple Children, Different Parenting Plans
Section 26.	Income and Benefits Received by or on Behalf of Child
Section 27.	Federal Tax Exemption for Dependent Children

Third-party caregivers

Committee members believe that Section 21, Third-Party Caregivers, should include additional language to provide guidance for calculating appropriate child support amounts in third-party situations, such as where a grandparent or guardian cares for a child. Clarifying language should be added that allows other appropriate expenditures under Section 9, such as childcare and health insurance premiums, to be included in the child support worksheet.

Initially, the committee considered inserting language into Section 21 that would allow third-party caregivers to receive support from parents that placed their children with a relative; however, public comment from the William E. Morris Institute of Justice notes that A.R.S. §§ 25-402(B) and 409 do not establish the right to support of that child without a legal interest being awarded.

The committee recommends proposed language to Section 21 in the following manner:

> 21. THIRD-PARTY CARE-GIVERS
>
> When a child lives with a third-party caregiver by virtue of a court order, administrative placement by a state agency or under color of authority, the third-party caregiver is entitled to

receive child support payments from each parent on behalf of the child. When calculating the amount of child support to be awarded to a third-party caregiver, consider the third-party caregiver's expenses under Section 9, but not the third-party caregiver's income.

EXAMPLE: The parties have one child together who is living with a third-party caregiver. Mother has an adjusted gross income of $2,500 per month and father has an adjusted gross income of $2,000 per month. Add both parents' income together for a total adjusted gross income of $4,500 per month. The total basic support obligation for one child would be $817. The third-party caregiver pays $500 per month for medical insurance. Place the $500 amount as an additional child support obligation under the third-party column. The parents have no recognized expenses for the child under Section 9. Father should be ordered to pay the caregiver $585 per month and mother should be ordered to pay the caregiver $732 per month.

RECOMMENDATIONS BASED ON CHANGES TO CASE LAW

Introduction

The committee examined two recent Court of Appeals decisions[7] that referenced relevant guideline issues that the members discussed to ensure clarity in the guidelines. The relevant issues are: (1) how to calculate child support when the parties have different parenting plans for multiple children, and (2) 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?

The first issue regarding appropriate child support calculations when differing parenting time is ongoing with children is within the scope of the charge of this committee and a recommendation for proposed language follows in the section below - Multiple Children, Different Parenting Plans.

In the second case, in the matter of *Lundy v. Lundy,* the Arizona Court of Appeals, Division 1, noted in a footnote;

> *"Though the second and third sentences of section 5(A) might appear to conflict, we interpret the Guideline as a whole, avoiding constructions that could render any part meaningless. 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."*

[7] *Lundy v. Lundy*, 1 CA-CV 15-0612 FC (2016 WL 4140883) and *Mitton v. Mitton*, 1 CA-CV 15-0769FC, 242 Ariz. 201 (2017), 394 P.3d28, 762 Ariz. Adv. Rep.20 (de-published September 12, 2017).

The committee declined to provide a recommendation for this issue regarding attribution of second income during this interim review and considers this question a complex and complicated issue that should be reviewed by the next quadrennial child support guidelines review committee.

MULTIPLE CHILDREN, DIFFERENT PARENTING PLANS

During the first committee meeting, members discussed memorializing the holding in *Mitton* by including in the child support guidelines an example of calculating parenting time in situations where parenting time differs for multiple children. Two sections of the guidelines, Section 11 and 16, have proposed language to ensure guideline users are aware of conducting appropriate calculations on child support worksheets.

The committee recommends adding the following language to Section 11:

> 11. ADJUSTMENT FOR COSTS ASSOCIATED WITH PARENTING TIME
>
> If the children have different parenting time schedules, then see Section 16 to determine the parenting time adjustment or to determine if separate worksheets are required. After determining the total number of parenting time days, refer to "Parenting Time Table A" below. The left column of the table sets forth numbers of parenting time days in increasingly higher ranges. Adjacent to each range is an adjustment percentage. The parenting time adjustment is calculated as follows: locate the total number of parenting time days per year in the left column of "Parenting Time Table A" and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 8 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 parenting time.

The committee received written and oral comments regarding the calculation of child support based on the holding in *Mitton*. One commenter agrees that an example of how to address multiple children with differing parenting schedules should be included into the guidelines, but does not agree that the holding in Mitton should be the basis of that example. The commenter opined that the "average parenting time approach…does not ultimately give the obligor parent the appropriate credit against their support obligation, and will typically result in a support obligation that is far higher than what is contemplated by the Guidelines." Rather, this individual offers the "incremental increase approach."

> "The basics of the method are that an initial child support obligation is calculated based on the parenting schedule that is common to the greatest number of children. Then, a second calculation is performed for the child or children that exercise different parenting time schedule. The second calculation is performed to find the incremental increase of how much additional support should be paid."[8]

[8] See Appendix D: Public Comments by Glenn Halterman, Esq.

The committee did not agree with the underlying rationale of the "incremental increase approach" and declined inclusion into the guidelines. The committee recommends adding language to Section 16 and revising the header of Section 16 as follows:

16. MULTIPLE CHILDREN, ~~DIVIDED CUSTODY~~ DIFFERENT PARENTING PLANS

When each parent ~~is granted~~ exercises ~~physical custody~~ more than half of the parenting time with ~~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 child support to be paid by the parent having the greater child support obligation shall be reduced by the amount of child support owed to that parent by the other parent.

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

Prepare a Parent's Worksheet to determine child support for children in the mother's household. Locate the Combined Adjusted Gross Income figure of $3,000 on the Schedule. Select the child support figure in the column for the two children in this household, $857. ~~The~~ ~~f~~Father's share is 33.3% of $857, or $285.

Prepare a Parent's Worksheet to determine child support for the child in the father's household. Locate the Combined Adjusted Gross Income figure of $3,000. Select the child support figure in the column for the one child in this household, $592. ~~The~~ ~~m~~Mother's share is 66.6% of $592, or $394.

~~The~~ ~~m~~Mother is obligated to pay ~~the~~ father $394 for child support. This amount is reduced by the $285 obligation owed by the father to the mother. Thus, ~~the~~ mother must pay $109 per month.

When the parties have children with different parenting plans and one parent does not have more than half of the parenting time with any of the children, prepare only one worksheet. To determine the parenting time cost adjustment for the parent who does not have more than half of the parenting time, use an average of the total number of parenting days. Add the total amount of parenting days for each child. Divide that number by the total number of children.

~~Example:~~ EXAMPLE: The parties have two minor children, one who lives with mother full-time and one who splits time equally between parents. Prepare one worksheet. When entering the parenting time cost adjustment for father, divide father's total number of parenting days for both children, 182, by the total number of children, two (2). Thus, father's parenting time cost adjustment would be calculated for 91 days.

ISSUES REFERRED TO THE NEXT CHILD SUPPORT GUIDELINES QUADRENNIAL REVIEW COMMITTEE

Several issues were discussed during the committee meetings that involve issues outside the scope of this review; however, the committee respectfully refers these issues for consideration to the next child support guidelines quadrennial review committee.

1. Section 27. Federal Tax Exemption for Dependent Children of the guidelines allocates federal and state tax exemptions between parents, as they agree, or in a manner that allows each parent to claim allowable federal dependency exemptions proportionate to adjusted gross income. However, the Affordable Care Act (ACA) will penalize the parent who claims the child as a tax exemption for not providing insurance to cover the child's health care even if the other parent was ordered to provide the insurance.

Many states whose child support guidelines are based on an income shares model, like Arizona, are uncertain of what to do with the medical child support provisions, in light of the ACA. These states recognize that the parent who is required to provide health insurance under the ACA, may not be the same parent ordered to provide insurance by the child support order. Fortunately, the reality is that the current practice is working; however, there remains a misalignment between the state provision and the ACA.

This committee is hopeful that between the end of this review and the commencement of the next quadrennial review, the federal government will make further refinements to the ACA that will result in a practical solution for states that allocate income tax exemptions to both parents on a proportionate share of income basis.

2. Section 5.(A) Determination of the Gross Income of the Parents was recently referenced in a Court of Appeals opinion[9] 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?"[10] This committee believes further examination of this

[9] *Lundy v. Lundy*, 1 CA-CV 15-0612 FC (2016 WL 4140883)

[10] In the matter of *Lundy v. Lundy*, the Arizona Court of Appeals, Division 1, noted in a footnote; *"Though the second and third sentences of section 5(A) might appear to conflict, we interpret the Guideline as a whole, avoiding*

issue is warranted as this provision of the guidelines continues to create confusion for calculating gross income appropriately and could result in inconsistent child support orders.

Examination of this issue will require a more in-depth analysis involving subject matter experts and extensive vetting.

3. The issue of allocating insufficient funds for multiple orders was a topic of great concern for the review committee. The members discussed instances in which a single obligor had several court orders for child support; however, earnings from low-income obligors to fund several support orders for numerous children, usually result in unpaid support for most, if not all, of the orders. Because this issue concerns many policy considerations that lie outside the scope of this interim review, the committee respectfully requests the next review committee consider the issue.

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constructions that could render any part meaningless. 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."

Appendix A:
Child Support Guidelines Interim Committee Membership

Chair – **Hon. Paul J. McMurdie**, Court of Appeals, Division 1

MEMBERS

Honorable Suzanne Cohen
Presiding Family Court Judge
Superior Court in Maricopa County

Honorable Lisa Bibbens
Judge
Superior Court in Pima County

Mr. Kiilu Davis
Attorney
Law Offices of Stone & Davis PC

Honorable Joseph P. Goldstein
Judge
Superior Court in Yavapai County

Ms. Annalisa Moore Masunas
Attorney
Moore, Masunas & Moore PLLC

Honorable Michael D. Peterson
Presiding Judge
Superior Court in Graham County

Ms. Janet Sell
Unit Chief Counsel
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Ms. Rosa Torrez
Operations Administrator
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AOC Staff

Ms. Kathy Sekardi
Senior Court Policy Analyst
Court Services Division

Ms. Sabrina Nash
Court Specialist
Court Services Division

ARIZONA CHILD SUPPORT GUIDELINES

ADOPTED BY THE ARIZONA SUPREME COURT

EFFECTIVE ~~JULY 1, 2015~~ APRIL 1, 2018

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 children if the parents and children were living together. Each parent contributes his or 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 Support Obligations is based, is contained in the June 27, 2014 report of Center for Policy Research, entitled Economic Review of the Arizona Child Support Schedule.

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 5.A and 6.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 child support determined under the guidelines.

E. In appropriate cases, a ~~custodial~~ parent HAVING MORE OF THE PARENTING TIME may be ordered to pay child support.

F. Monthly figures are used to calculate the child support obligation. Any adjustments to the child support amount shall be annualized so that each month's child 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 childcare costs (Section 9.B.1.). The parent incurs childcare costs of $150 per month but only for nine months of the year. The adjustment for childcare 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 $113 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 8, 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 $20,000 where the actual Combined Adjusted Gross Income of the parents is greater than $20,000.

H. THE "PRIMARY RESIDENTIAL PARENT" IS THE PARENT WHO HAS PARENTING TIME WITH THE CHILD FOR THE GREATER PART OF THE YEAR.

3. PRESUMPTION

In any action to establish or modify ~~child custody~~ PARENTING TIME, 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 20.

4. DURATION OF CHILD SUPPORT

Duration of child support is governed by Arizona Revised Statutes, Sections 25-320 and 25-501, except as provided in Arizona Revised Statutes, Section 25-1304.

Upon entry of an initial or modified child support order, the court shall, or in any subsequent action relating to the child support order, the court may, establish a presumptive date for the termination of the current child support obligation. The presumptive termination date shall be the last day of the month of the 18th birthday of the youngest child included in the order unless the court finds that it is projected that the youngest child will not complete high school by age 18. In that event, the presumptive termination date shall be the last day of the month of the anticipated graduation date or age 19, whichever occurs first. The administrative income withholding order issued by the department or its agent in Title IV-D cases and an Order of Assignment issued by the court shall include the presumptive termination date. The presumptive date may be modified upon changed circumstances.

An employer or other payor of funds honoring an Order of Assignment or an administrative income withholding order that includes the presumptive termination date and is for current child support only, shall discontinue withholding monies after the last pay period of the month of the presumptive termination date. If the Order of Assignment or administrative income withholding order includes current child support and arrearage payment, the employer or other payor of funds shall continue withholding the entire amount listed on the Order of Assignment or administrative income withholding order until further order.

For purposes of determining the presumptive termination date, it is further presumed:

A. That a child not yet in school will enter 1st grade if the child reaches age 6 on or before September 1 of the year in which the child reaches age 6; otherwise, it is presumed that the child will enter 1st grade the following year; and,

B. That a child will graduate in the month of May after completing the 12th grade.

5. 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 26), worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring 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. Generally, the court should not attribute income greater than what would have been earned from full-time employment. Each parent should have the choice of working additional hours through overtime or at a second job without increasing the child support award. The court may, however, consider income actually earned that 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 should generally not attribute additional income to a parent if that would require an extraordinary work regimen. Determination of what constitutes a reasonable work regimen depends upon all relevant circumstances including the choice of jobs available within a particular occupation, working hours and working conditions.

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, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Nutrition Assistance 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. Ordinary and necessary expenses include one-half of the self-employment tax actually paid.

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. If the reduction in income is voluntary but reasonable, the court shall balance that parent's decision and benefits therefrom against the impact the reduction in that parent's share of child support has on the children's best interest. THE COURT MAY NOT ATTRIBUTE INCOME TO A PERSON WHO IS INCARCERATED, BUT MAY ESTABLISH OR MODIFY SUPPORT BASED

ON ACTUAL ABILITY TO PAY. In accordance with Arizona Revised Statutes Section 25-320, income of at least minimum wage ~~shall~~ SHOULD GENERALLY be attributed to a parent ~~ordered to pay child support.~~ AFTER CONSIDERING THE SPECIFIC CIRCUMSTANCES OF THE PARENTS TO THE EXTENT KNOWN. THIS INCLUDES SUCH FACTORS AS THE PARENTS' ASSETS, RESIDENCE, EMPLOYMENT AND EARNINGS HISTORY, JOB SKILLS, EDUCATIONAL ATTAINMENT, LITERACY, AGE, HEALTH, CRIMINAL RECORD AND OTHER EMPLOYMENT BARRIERS, AND RECORD OF SEEKING WORK, AS WELL AS THE LOCAL JOB MARKET, THE AVAILABILITY OF EMPLOYERS WILLING TO HIRE THE PARENTS, PREVAILING EARNINGS LEVEL IN THE LOCAL COMMUNITY, AND OTHER RELEVANT BACKGROUND FACTORS IN THE CASE. If income is attributed to the parent receiving child support, appropriate childcare 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 Temporary Assistance to Needy Families, OR~~.~~

5. A PARENT IS THE CARETAKER OF A YOUNG CHILD AND THE COST OF CHILDCARE IS PROHIBITIVE.

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.~~D.7. ("...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 (Federal Tax including Earned Income Tax Credit, Arizona State Tax, and FICA).

6. ADJUSTMENTS TO GROSS INCOME

For purposes of this section, "children of other relationships" means natural or adopted children who are not the subject of this particular child support determination.

Adjustments to gross income for other support obligations are made as follows:

A. The court-ordered amount of spousal maintenance resulting from this or any other marriage, if actually being paid, shall be deducted from the gross income of the parent paying spousal maintenance. Court-ordered arrearage payments shall not be included as an adjustment to gross income.

B. The court-ordered amount of child support for children of other relationships, if actually being paid, shall be deducted from the gross income of the parent paying that child support. Court-ordered arrearage payments shall not be included as an adjustment to gross income.

C. An amount shall be deducted from the gross income of a parent for children of other relationships covered by a court order for whom they are the ~~custodial~~ PRIMARY RESIDENTIAL parent. The amount of the adjustment shall be determined by a simplified application of the guidelines (defined in example below).

D. An amount may be deducted from the gross income of a parent for support of natural or adopted children of other relationships not covered by a court order. The amount of any adjustment shall not exceed the amount arrived at by a simplified application of the guidelines (defined in example below).

EXAMPLE: A parent having gross monthly income of $2,000 supports a natural or adopted minor child who is not the subject of the child support case before the court and for whom no child support order exists. To use the Simplified Application of the Guidelines, locate $2,000 in the Combined Adjusted Gross Income column of the Schedule. Select the amount in the column for one child, $415. The parent's income may be reduced up to $415, resulting in an Adjusted Gross Income of $1,585.

7. DETERMINING THE ADJUSTED GROSS INCOME OF THE PARENTS

Adjusted Gross Income is gross income minus the adjustments provided in Section 6 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.

8. 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. If the parents' income falls exactly in between two combined adjusted gross income amounts, round up to the nearest combined adjusted income entry on the schedule of basic child support obligations.

EXAMPLE: T~~t~~he combined adjusted gross income of the parents' is $8,125 which is exactly between $8,100 and $8,150. Round up to the nearest combined adjusted income entry of $8,150 and use this amount as the basic child support obligation.

If there are more than six children, the amount derived from the schedule of basic support obligations for six children shall be the presumptive amount. The party seeking a greater sum shall bear the burden of proof that the needs of the children require a greater sum.

If the combined adjusted gross income of the parties is greater than $20,000 per month, the amount set forth for combined adjusted gross income of $20,000 shall be the presumptive Basic Child Support Obligation. The party seeking a sum greater than this presumptive amount shall bear the burden of proof to establish that a higher amount is in the best interests of the children, taking into account such factors as the standard of living the children would have enjoyed if the parents and children were living together, the needs of the children in excess of the presumptive amount, consideration of any significant disparity in the respective percentages of gross income for each party and any other factors which, on a case by case basis, demonstrate that the increased amount is appropriate.

9. 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 dental or vision insurance coverage, if any (this provision does not imply any obligation of either parent to provide dental or vision insurance). In determining the amount to be added, only the amount of the insurance cost attributable to the children subject of the child support order shall be included. If coverage is applicable to other persons, the total cost shall be prorated by the number of persons covered. The court may decline to credit a parent for medical, dental or vision insurance coverage obtained for the children if the coverage is not valid in the geographic region where the children reside.

EXAMPLE: Through an employment-related insurance plan, a parent provides medical insurance that covers the parent, one child subject of the child support case and two other children. Under the plan, the cost of an employee's individual insurance coverage would be $120. This parent instead pays a total of $270 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 $120 cost of individual coverage from the $270 paid for the "family option" to find the cost of dependent coverage. The $150 remainder then is divided by three - the number of covered dependents. The resulting $50 is added to the Basic Child Support Obligation as the cost of medical insurance coverage for the one child.

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~~ RESIDENTIAL PARENT.

The court shall also specify the percentage that each parent shall pay for any medical, dental or vision costs of the children which are not covered by insurance. For purposes of this paragraph, non-covered "medical" means medically necessary medical, dental or vision care as defined by Internal Revenue Service Publication 502.

Except for good cause shown, any request for payment or reimbursement of uninsured medical, dental or vision costs must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receipt of the request.

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. Childcare Costs

Childcare expenses that would be appropriate to the parents' financial abilities.

Expenses for childcare shall be annualized in accordance with Section 2.F.

A PARENT PAYING FOR CHILDCARE MAY BE ELIGIBLE FOR A CREDIT FROM FEDERAL TAX LIABILITY FOR CHILDCARE COSTS ONLY IF THE PARENT HAS PARENTING TIME FOR THE GREATER PART OF THE YEAR. IN AN EQUAL PARENTING TIME SITUATION, NEITHER PARTY SHALL BE ENTITLED TO THE

CREDIT FOR THE PURPOSES OF CALCULATING CHILD SUPPORT.

~~A custodial parent paying for childcare may be eligible for a credit from federal tax liability for childcare costs for dependent children. The custodial parent is the parent who has physical custody of the children for the greater part of the year. In an equal physical custody situation, neither parent shall be entitled to the credit for purposes of calculating child support.~~ Before adding childcare 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 childcare costs.

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

MONTHLY GROSS INCOME OF THE ~~CUSTODIAL~~ ELIGIBLE PARENT	
ONE CHILD	$2,600
TWO CHILDREN	$3,100
THREE CHILDREN	$3,400
FOUR CHILDREN	$3,550
FIVE CHILDREN	$3,650
SIX CHILDREN	$3,800

If the ~~custodial~~ ELIGIBLE parent's income is greater than indicated on the above chart, the court may adjust this cost for the federal childcare tax credit if the credit is actually claimed or will be claimed.

For one child with monthly childcare costs exceeding $200, deduct $50 from the monthly childcare amount. For two or more children with total monthly childcare costs exceeding $400, deduct $100 from the monthly childcare amount. See Example One.

For one child with monthly childcare costs of $200 or less, deduct 25% from the monthly childcare amount. For two or more children with total monthly childcare costs of $400 or less, deduct 25% from the monthly childcare amount. See Example Two.

EXAMPLE ONE: For two children, a parent pays monthly childcare costs of $550 for nine months of the year. To adjust for the expected tax credit benefit, first determine whether the average cost~~s~~ of childcare exceeds $400 per month. In this example, because the average cost of $413 ($550 multiplied by 9 months, divided by 12 months) exceeds the $400 maximum for two or more children, $100 per month may be subtracted from the average monthly cost. $313 ($413 - $100) may be added to the Basic Child Support Obligation for adjusted childcare costs.

EXAMPLE TWO: A parent pays monthly childcare costs of $175 for one child. Because this amount is less than the $200 maximum for one child, multiply $175 by 25% ($175 multiplied by 25% = $44). Subtract the adjustment from the monthly average ($175 - $44 = $131). The adjusted amount of $131 may be added to the Basic Child Support Obligation.

Any adjustment for the payment of childcare 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 childcare costs.

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. Extraordinary Child

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.

4. Older Child Adjustment

The average expenditures for children age 12 or older exceed the average expenditures for all children by approximately 10%. Therefore, the court may increase child support for a child who has reached the age of 12 years by an amount up to 10% of the child 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 $459. As much as $46 may be added to the basic child support obligation, for a total of $505. 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 $786. If one of the three children is age 12 or over, assign 1/3 of the Basic Child Support Obligation to the older child ($262). Up to 10% ($26) of that portion of the Basic Child Support Obligation may be added as an older child adjustment, increasing the obligation to $812. NOTE: This prorating method is limited to this section and should not be followed in Section 25.

10. 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 f~~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%). ~~The f~~Father's share is 60%; ~~the~~ mother's share is 40%.

11. ADJUSTMENT FOR COSTS ASSOCIATED WITH PARENTING TIME

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 parenting time. When parenting time is exercised by the ~~noncustodial~~ parent WITH LESS PARENTING TIME, a portion of the costs for children normally expended by the ~~custodial~~ PRIMARY RESIDENTIAL parent shifts to the ~~noncustodial~~ OTHER parent. Accordingly, unless it is apparent from the circumstances that the ~~noncustodial~~ parent WITH LESS PARENTING TIME will not incur costs for the children during parenting time, when proof establishes that parenting time is or is expected to be exercised by ~~the noncustodial~~ THAT parent, an adjustment shall be made to that parent's proportionate share of the Total Child Support Obligation. To calculate child support in equal ~~custody~~ PARENTING TIME cases, see Section 12.

For purposes of calculating parenting time days, only the time spent by a child with the ~~noncustodial~~ parent WITH LESS PARENTING TIME is considered. Time that the child is in school or childcare is not considered.

To adjust for the costs of parenting time, first determine the total annual amount of parenting time 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 block of parenting time to arrive at the total number of parenting time days per year. Calculate the number of parenting time days arising from any block of time the child spends with the ~~noncustodial~~ parent WITH LESS PARENTING TIME in the following manner:

A. Each block of time begins and ends when ~~the noncustodial~~ THAT parent receives or returns the child from the ~~custodial~~ PRIMARY RESIDENTIAL parent or from a third party with whom the ~~custodial~~ PRIMARY RESIDENTIAL parent left the child. Third party includes, for example, a school or childcare provider.

B. Count one day of parenting time for each 24 hours within any block of time.

C. ~~to~~ To the extent there is a period of less than 24 hours remaining in the block of time, after all 24-hour days are counted or for any block of time which is in total less than 24 hours in duration:

1. A period of 12 hours or more counts as one day.

2. A period of 6 to 11 hours counts as a half-day.

~~2.~~3. A period of 3 to 5 hours counts as a quarter-day.

~~3.~~4. Periods of less than 3 hours may count as a quarter-day if, during those hours, the ~~noncustodial~~ parent WITH LESS PARENTING TIME pays for routine expenses of the child, such as meals.

EXAMPLES: FOR THE PURPOSES OF THESE EXAMPLES, MOTHER HAS PARENTING TIME 130 DAYS PER YEAR AND FATHER IS THE PRIMARY RESIDENTIAL PARENT.

1. ~~Noncustodial parent~~ MOTHER receives the child at 9:00 p.m. on Thursday evening and brings the child to school at 8:00 a.m. on Monday morning, from which ~~custodial parent~~ FATHER picks up the child at 3:00 p.m. on Monday.

   a. 9:00 p.m. Thursday to 9:00 p.m. Sunday is three days.
   b. 9:00 p.m. Sunday to 8:00 a.m. Monday is 11 hours, which equals a half day.
   c. Total is 3 ½ days.

2. ~~Noncustodial parent~~ MOTHER picks the child up from school at 3:00 p.m. Friday and returns the child to school at 8:00 a.m. on Monday.

   a. 3:00 p.m. Friday to 3:00 p.m. Sunday is two days.
   b. 3:00 p.m. Sunday to 8:00 a.m. Monday is 17 hours, which equals one day.
   c. Total is 3 days.

3. ~~Noncustodial parent~~ MOTHER picks up child from soccer at noon on Saturday, and returns the child to ~~custodial parent~~ FATHER at 9:00 p.m. on Sunday.

a. Noon Saturday to noon Sunday is one day.
b. Noon Sunday to 9:00 p.m. Sunday is 9 hours, which equals ½ day.
c. Total is 1 ½ days.

IF THE CHILDREN HAVE DIFFERENT PARENTING TIME SCHEDULES, THEN SEE SECTION 16 TO DETERMINE THE PARENTING TIME ADJUSTMENT OR TO DETERMINE IF SEPARATE WORKSHEETS ARE REQUIRED. After determining the total number of parenting time days, refer to "Parenting Time Table A" below. The left column of the table sets forth numbers of parenting time days in increasingly higher ranges. Adjacent to each range is an adjustment percentage. The parenting time adjustment is calculated as follows: locate the total number of parenting time days per year in the left column of "Parenting Time Table A" and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 8 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 parenting time.

PARENTING TIME TABLE A	
Number of Parenting Time Days	Adjustment Percentage
0 - 3	0
4 - 20	.012
21 - 38	.031
39 - 57	.050
58 - 72	.085
73 - 87	.105
88 - 115	.161
116 - 129	.195
130 - 142	.253
143 - 152	.307
153 - 162	.362
163 - 172	.422
173 - 182	.486

EXAMPLE: The Basic Child Support Obligation from the Schedule is $667 for two children. After making all applicable adjustments under Section 9, such as an adjustment for one older child, the Total Child Support Obligation is $700 and ~~the noncustodial~~

~~parent's~~ FATHER'S proportionate share is 60%, or $421. ~~The noncustodial parent~~ FATHER has parenting time with the children a total of 100 days. On Parenting Time Table A, the range of days for this amount of parenting time is from 88 to 115 days. The corresponding adjustment percentage is .161. Multiply the $667 Basic Child Support Obligation by .161 or 16.1%. The resulting $107 is subtracted from $421 (~~the noncustodial parent's~~ FATHER'S proportionate share of the Total Child Support Obligation), adjusting the child support obligation to $313.

As the number of parenting time days approaches equal time sharing (143 days and above), certain costs usually incurred only in the ~~custodial~~ PRIMARY RESIDENTIAL PARENT'S household are assumed to be substantially or equally shared by both parents. These costs are for items such as the child's clothing and personal care items, entertainment and reading materials. If this assumption is rebutted by proof, for example, that such costs are not substantially or equally shared in each household, only Parenting Time Table B must be used to calculate the parenting time adjustment for this range of days. Locate the total number of parenting time days per year in the left columns of "Parenting Time Table B" and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 8 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 parenting time.

PARENTING TIME TABLE B	
Number of Parenting Time Days	Adjustment Percentage
143 – 152	.275
153 – 162	.293
163 – 172	.312
173 – 182	.331

12. EQUAL ~~CUSTODY~~ PARENTING TIME

If the time spent with each parent is essentially equal, the expenses for the children are equally shared and adjusted gross incomes of the parents also are essentially equal, no child 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.

EXAMPLE: After making all applicable adjustments under Sections 9 and 13, the remaining child support obligation is $1,500. The parents' proportionate shares of the obligation are $1,000 and $500. To equalize the child support available in both

households, deduct the lower amount from the higher amount ($1,000 - $500 = $500), then divide the balance in half ($500 ÷ 2 = $250). The resulting amount, $250, is paid to the parent with the lower obligation.

13. ADJUSTMENTS FOR OTHER COSTS

If a parent pays a cost under Section 9.A. or 9.B. (except 9.B.4), deduct the cost from that parent's Proportionate Share of income to arrive at the Preliminary Child Support Amount.

EXAMPLE: ~~A noncustodial parent~~ FATHER pays for medical insurance through his ~~or her~~ employer. This cost is added to the Basic Child Support Obligation pursuant to Section 9.A, then prorated between the parents to arrive at each parent's proportionate child support obligation. Because the cost has already been paid to a third party (the insurance company), the cost must be deducted from ~~the noncustodial parent's~~ FATHER'S child support obligation because this portion of the child support obligation has already been paid.

14. DETERMINING THE CHILD SUPPORT ORDER

UNLESS THE CALCULATION RESULTS IN A NEGATIVE NUMBER, ~~The~~ THE court shall order the ~~noncustodial~~ parent WITH LESS PARENTING TIME to pay child support in an amount equal to his or her proportionate share of the Total Child Support Obligation. The ~~custodial~~ parent RECEIVING CHILD SUPPORT shall be presumed to spend his or her share directly on the children.

EXAMPLE: On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Gross Income of ~~$1,500~~ $3,120 for one child is ~~$323~~ $610. To this the court adds ~~$32~~ $61 because the child is over 12 years of age (10% in this example). The Total Child Support Obligation is ~~$355~~ $671.

The father's share is ~~60~~ 56% of ~~$355~~ $671, or ~~$213~~ $373. The mother's share is 4~~0~~0% of ~~$355~~ $671, or ~~$142~~ $298,~~.~~ ~~Custody is granted to the mother~~ and SHE HAS MORE PARENTING TIME THAN FATHER. U~~u~~nder the court-approved parenting plan, parenting time will be exercised by ~~the~~ father FOR a total of 100 days per year, resulting in an adjustment of ~~$52~~ $98 (~~$323~~ $610 X 16.1%). After adjusting for parenting time, ~~the~~ father's share is ~~$161~~ $275 (~~$213~~ $373 less ~~$52~~ $98). ~~The f~~Father shall pay the child support amount of ~~$161~~ $275 per month. The value of ~~the~~ mother's contribution is $~~142~~ $298, and she spends it directly on the child.

FOR ALL AWARDS, THE CHILD SUPPORT AMOUNT SHALL BE ROUNDED TO THE NEAREST WHOLE DOLLAR. A ROUNDED AMOUNT IS NOT A DEVIATION UNDER SECTION 20.

IF THE AMOUNT OF CHILD SUPPORT IS LESS THAN THE CURRENT CLEARINGHOUSE FEE, THE COURT SHALL NOT IMPOSE A CHILD SUPPORT AWARD UNLESS A DEVIATED AWARD IS WARRANTED UNDER SECTION 20. IT IS NOT A DEVIATION UNDER SECTION 20 IF AN AWARD IS NOT IMPOSED BECAUSE IT IS LESS THAN THE CLEARINGHOUSE FEE.

15. SELF-SUPPORT RESERVE TEST

In each case, after determining the child support order, the court shall perform a ~~S~~Self-support ~~R~~Reserve ~~T~~Test to verify that the ~~noncustodial~~ PAYING parent is financially able ~~both~~ to pay the child support order and to maintain at least a minimum standard of living, as follows:

THE SELF-SUPPORT RESERVE SHALL BE AN AMOUNT EQUAL TO ~~Deduct~~ 80% OF THE MONTHLY FULL-TIME EARNINGS AT THE CURRENT STATE MINIMUM WAGE AT THE TIME OF THE ORDER ~~$1,115~~ (the ~~S~~Self-support ~~Reserve~~ RESERVE amount). DEDUCT THE SELF-SUPPORT RESERVE AMOUNT from the ~~noncustodial~~ PAYING parent's Adjusted Gross Income, except that the court may deduct from such parent's Adjusted Gross Income for purposes of the ~~Self~~Self-support ~~Reserve~~ RESERVE ~~Test~~ TEST only, court-ordered arrears on child support for children of other relationships or spousal maintenance, if actually paid. If the resulting amount is less than the child support order, the court may reduce the current child support order to the resulting amount after first considering the financial impact the reduction would have on the ~~custodial~~ RECEIVING parent's household. The test applies only to the current child support obligation, but does not prohibit an additional amount to be ordered to reduce an obligor's arrears.

EXAMPLE ONE: Before applying the ~~Self~~SELF-support ~~Reserve~~ RESERVE ~~Test~~TEST, the child support order is calculated under the guidelines to be ~~$253~~ $492. The adjusted gross income of the ~~noncustodial~~ PAYING parent is ~~$1,250~~ $1,820 AT A MINIMUM WAGE OF $10.50 PER HOUR THE SELF SUPPORT RESERVE AMOUNT IS $1,456 ($10.50 x 40 HOURS x 52 WEEKS = $21,840 ÷ 12 months = $1,820 x 80% = $1,456). Subtracting the self-support reserve amount of ~~$1,115~~ $1,456 from the ~~noncustodial~~ PAYING parent's adjusted gross income of ~~$1,250~~ $1,820 leaves ~~$135~~ $364. Because this resulting amount is less than the $~~253~~ $492 child support order, the court may reduce the child support order to the resulting amount. However, before making any reduction, the court shall examine the self-support capability of the ~~non-paying~~RECEIVING parent, using the same ~~S~~Self-~~s~~Support ~~R~~Reserve ~~T~~Test applied to the ~~noncustodial~~ PAYING parent.

~~In this example,~~EXAMPLE TWO: T~~t~~he ~~non-paying~~RECEIVING parent's proportionate share of the total child support obligation is calculated under the guidelines to be ~~$233~~ $404. This parent's Adjusted Gross Income is ~~$1,150~~ $1,487. Subtracting the self-support

reserve of ~~$1,115~~ $1,456 from the ~~non-paying~~ RECEIVING parent's Adjusted Gross Income of ~~$1,150~~ $1,487 leaves ~~$35~~ $31. Because this resulting amount is less than the parent's proportionate share of the Total Child Support Obligation, it is evident that both parents have insufficient income to be self-supporting. In this situation, the court has discretion to determine whether and in what amount the child support order (the amount the ~~noncustodial~~ PAYING parent is ordered to pay) may be reduced.

16. MULTIPLE CHILDREN, ~~DIVIDED~~ DIFFERENT ~~CUSTODY~~ PARENTING PLANS

When each parent ~~is granted~~ EXERCISES ~~physical custody~~ MORE THAN HALF OF THE PARENTING TIME WITH~~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 child support to be paid by the parent having the greater child support obligation shall be reduced by the amount of child support owed to that parent by the other parent.

EXAMPLE: (For simplicity, this example does not consider parenting time.) Combined Adjusted Gross Income is $3,000 per month. Father's gross income is $1,000 per month (33.3%) and he has ~~custody~~ MORE THAN HALF OF THE TIME WITH ~~of~~ one child. Mother's gross income is $2,000 per month (66.6%) and she has ~~custody~~ MORE THAN HALF OF THE TIME WITH THE OTHER ~~of~~ two children.

Prepare a Parent's Worksheet to determine child support for children in the mother's household. Locate the Combined Adjusted Gross Income figure of $3,000 on the Schedule. Select the child support figure in the column for the two children in this household, $857. ~~The~~ F~~f~~ather's share is 33.3% of $857, or $285.

Prepare a Parent's Worksheet to determine child support for the child in the father's household. Locate the Combined Adjusted Gross Income figure of $3,000. Select the child support figure in the column for the one child in this household, $592. ~~The m~~Mother's share is 66.6% of $592, or $394.

~~The m~~Mother is obligated to pay ~~the~~ father $394 for child support. This amount is reduced by the $285 obligation owed by the father to the mother. Thus, ~~the~~ mother must pay $109 per month.

WHEN THE PARTIES HAVE CHILDREN WITH DIFFERENT PARENTING PLANS AND ONE PARENT DOES NOT HAVE MORE THAN HALF OF THE PARENTING TIME WITH ANY OF THE CHILDREN, PREPARE ONLY ONE WORKSHEET. TO DETERMINE THE PARENTING TIME COST ADJUSTMENT FOR THE PARENT WHO DOES NOT HAVE MORE THAN HALF OF THE PARENTING TIME, USE AN AVERAGE OF THE TOTAL NUMBER OF PARENTING DAYS. ADD THE TOTAL AMOUNT OF PARENTING DAYS FOR EACH CHILD. DIVIDE THAT NUMBER BY THE TOTAL NUMBER OF CHILDREN.

EXAMPLE: THE PARTIES HAVE TWO MINOR CHILDREN, ONE WHO LIVES WITH MOTHER FULL-TIME AND ONE WHO SPLITS TIME EQUALLY BETWEEN PARENTS. PREPARE ONE WORKSHEET. WHEN ENTERING THE PARENTING TIME COST ADJUSTMENT FOR FATHER, DIVIDE FATHER'S TOTAL NUMBER OF PARENTING DAYS FOR BOTH CHILDREN, 182, BY THE TOTAL NUMBER OF CHILDREN, TWO (2). THUS, FATHER'S PARENTING TIME COST ADJUSTMENT WOULD BE CALCULATED FOR 91 DAYS.

17. CHILD SUPPORT ASSIGNED TO THE STATE

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

18. TRAVEL EXPENSES ASSOCIATED WITH PARENTING TIME

The court may allocate travel expenses of the child associated with parenting time in cases where one-way travel exceeds 100 miles. 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 parenting time. 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 parenting time 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 child support ordered.

19. 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 child support order except by court order.

20. DEVIATIONS

A. The court shall deviate from the guidelines, i.e., order child 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 child 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 in the Child Support Order, Minute Entry or Child Support Worksheet,

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 or stated on the record pursuant to Rule 69, Arizona Rules of Family Law Procedure (*ARFLP).*

2. All parties have entered into the agreement with knowledge of the amount of child support that would have been ordered under the guidelines but for the agreement,

3. All parties have entered into the agreement free of duress and coercion, and

4. The court complies with the requirements of Section 20.A.

In cases with significant disparity of income between the ~~custodial and noncustodial~~ parentS, a deviation may be appropriate.

21. THIRD-PARTY CARE-GIVERS

When a child lives with a third-party caregiver by virtue of a court order, administrative placement by a state agency or under color of authority, the third-party caregiver is entitled to receive child support payments from each parent on behalf of the child. WHEN CALCULATING THE AMOUNT OF CHILD SUPPORT TO BE AWARDED TO A THIRD-PARTY CAREGIVER, CONSIDER THE THIRD-PARTY CAREGIVER'S EXPENSES UNDER SECTION 9, BUT NOT THE THIRD-PARTY CAREGIVER'S INCOME.

EXAMPLE: THE PARTIES HAVE ONE CHILD TOGETHER WHO IS LIVING WITH A THIRD-PARTY CAREGIVER. MOTHER HAS AN ADJUSTED GROSS INCOME OF $2,500 PER MONTH AND FATHER HAS AN ADJUSTED GROSS INCOME OF $2,000 PER MONTH. ADD BOTH PARENTS' INCOME TOGETHER FOR A TOTAL ADJUSTED GROSS INCOME OF $4,500 PER MONTH. THE TOTAL BASIC SUPPORT OBLIGATION FOR ONE CHILD WOULD BE $817. THE THIRD-PARTY

CAREGIVER PAYS $500 PER MONTH FOR MEDICAL INSURANCE. PLACE THE $500 AMOUNT AS AN ADDITIONAL CHILD SUPPORT OBLIGATION UNDER THE THIRD-PARTY COLUMN. THE PARENTS HAVE NO RECOGNIZED EXPENSES UNDER SECTION 9. FATHER SHOULD BE ORDERED TO PAY THE CAREGIVER $585 PER MONTH AND MOTHER SHOULD BE ORDERED TO PAY THE CAREGIVER $732 PER MONTH.

22. 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.

If the court attributes income above minimum wage income, the court shall explain the reason for its decision.

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.

23. 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.

24. MODIFICATION

A. Standard Procedure

Pursuant to Arizona Revised Statutes Sections 25-327 and 25-503, 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 15% or more from the existing amount. A fifteen percent variation in the amount of the order will be considered 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 child support order. A modification of the medical assignment or responsibility does not need to vary by 15% or more from the existing amount to use the simplified procedure.

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 15% 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 Rule 27, Arizona Rules of Family Law Procedure *(ARFLP).*

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 42, *ARFLP,* 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 44, *ARFLP*, 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.

25. EFFECT OF CESSATION OF CHILD SUPPORT FOR ONE CHILD

If child 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 child support order, a request must be made in writing to the court to recalculate the child support obligation pursuant to these guidelines. The procedure specified in Section 24 may be used for this purpose.

EXAMPLE: The child support order for Combined Adjusted Gross Income of $1,500, with four children is $621. 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 $466. Instead, determine a new child support order by applying the guidelines. (NOTE: This method varies from the one used in Section 9.B.4).

26. INCOME AND BENEFITS RECEIVED BY OR ON BEHALF OF CHILD

A. Income earned or money received by a child from any source other than court-ordered child support shall not be counted toward either parent's child support obligation except as stated herein. However, income earned or money received by or on behalf of a person for whom child support is ordered to continue past the age of majority pursuant to Arizona Revised Statute Sections 25-320.~~B~~E and 25-809.F may be credited against any child support obligation.

B. Benefits, such as Social Security Disability or Insurance, received by a ~~custodial~~ parent on behalf of a child, as a result of contributions made by the OTHER parent WHO IS ORDERED TO PAY ~~paying~~ child support shall be credited as follows:

1. If the amount of the child's benefit for a given month is equal to or greater than the paying parent's child support obligation, then that parent's obligation is satisfied.

2. Any benefit received by the child for a given month in excess of the child support obligation shall not be treated as an arrearage payment nor as a credit toward future child support payments.

3. If the amount of the child's benefit for a given month is less than the parent's child support obligation, the parent shall pay the difference unless the court, in its discretion, modifies the child support order to equal the benefits being received at that time.

C. Except as otherwise provided in section 5.~~b~~B, any benefits received directly, and not on behalf of a child, by either the ~~custodial~~ parent RECEIVING CHILD SUPPORT or the parent paying child support as a result of his or her own contributions, shall be included as part of that parent's gross income.

27. FEDERAL TAX EXEMPTION FOR DEPENDENT CHILDREN

All the federal and state tax exemptions applicable to the minor children shall be allocated between the parents as they agree, or, in the absence of their agreement, in a manner that allows each parent to claim allowable federal dependency exemptions proportionate to adjusted gross income in a reasonable pattern that can be repeated in no more than 5 years. This may be done by allocating claiming of the children or claiming of specific years. To implement this provision, the proportionate share of the combined adjusted gross income of both parents is rounded to the nearest fraction with a denominator no larger than 5 (i.e. 1/2, 1/3, 2/3, 1/4, 3/4, 1/5, 2/5, 3/5, 4/5). For illustrative purposes, assume father earns $60,000 and mother earns $40,000 of the combined adjusted gross income of $100,000. Father's share of the combined income is 3/5. If father earned $30,000 and mother earned $20,000, then 3/5 would still be the fraction with a denominator of 5 or less that comes closest to father's share of the parents' combined adjusted gross income. The dependency exemption shall therefore be allocated utilizing this fraction. If a parent otherwise entitled to the dependency exemption would derive no tax benefit from claiming it in any given tax year, then the entire exemption for that tax year, and not just the share indicated by the preceding sentence, may be allocated to the parent who would derive a tax benefit for that tax year. An Internal Revenue Service Form 8332 may need to be signed and filed with a parent's income tax return.

The court may deny the right to present or future tax exemption when a history of non-payment of child support exists. The allocation of the exemption may be conditioned upon payment by December 31 of the total court-ordered monthly 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 ~~custodial~~ parent RECEIVING CHILD SUPPORT will need to execute the necessary Internal Revenue Service form (Form 8332) to transfer the exemption. If the ~~noncustodial~~ PAYING parent has paid the current child support, but has not paid the court-ordered arrearage payments, the ~~noncustodial~~ PAYING parent shall not be entitled to claim the exemption.

EXAMPLE: ~~Noncustodial~~ THE PAYING parent's percentage of gross income is approximately 67% (2/3) and ~~custodial~~ THE RECEIVING parent's percentage is approximately 33% (1/3). All payments are current. If there are three children, the ~~noncustodial~~ PAYING parent would be entitled to claim the exemption for two children and the ~~custodial~~ RECEIVING parent would be entitled to claim the exemption for one child. If there is only one child, the ~~noncustodial~~ PAYING parent would be entitled to claim the child two out of every three years, and the ~~custodial~~ RECEIVING parent would claim the child one out of every three years.

For purposes of this section only, a ~~noncustodial~~ PAYING parent 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.

28. CHILD SUPPORT ARREARS

A. When setting an amount for a payment on arrears, the court should take into consideration that interest accrues on the principal balance. If the court sets a payment on arrears less than the amount of the accruing monthly interest, the court shall make a finding why the amount is less than the accruing monthly interest. Upon a showing of substantial and continuing changed circumstances, the court may adjust the amount of payment on arrears.

B. When a current child support obligation terminates, before adjusting the order of assignment to an amount less than the current child support amount and the payment on arrears, the court shall consider the total amount of arrears and the accruing interest, and the time that it will take the obligor to pay these amounts.

29. EFFECTIVE DATE AND GROUNDS FOR MODIFICATION

A. Except for defaults or as otherwise agreed upon by the parties, all child support orders entered after ~~June 30, 2015~~ MARCH 31, 2018 shall be made pursuant to these guidelines, whether they be original orders or modifications of pre-existing orders, unless the court determines otherwise based on good cause shown. In cases of default, the guidelines in effect at the time of filing the action will be used. The parties may agree to use either the guidelines in effect at the time of filing the action or those in effect at the time the order is entered.

B. A substantial variance between an existing child support order and an amount resulting from application of the new guidelines may be considered evidence of a substantial and continuing change of circumstances for purposes of a modification. A variance of at least 15% would be evidence of a substantial and continuing change of circumstances.

1

Schedule of Basic Support Obligations

Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
750	174	255	303	312	372	404
800	185	271	323	360	396	431
850	196	287	341	381	419	456
900	206	301	358	399	439	478
950	216	315	374	418	460	500
1000	225	329	391	436	480	522
1050	235	343	407	455	500	544
1100	245	357	424	473	521	566
1150	255	371	440	492	541	588
1200	264	385	457	510	561	610
1250	274	399	473	528	581	632
1300	284	414	490	547	602	654
1350	293	428	506	565	622	676
1400	303	442	523	584	642	698
1450	313	456	539	602	662	720
1500	323	470	556	621	683	742
1550	332	484	572	639	703	764
1600	342	498	589	657	723	786
1650	351	511	604	675	742	807
1700	360	524	620	692	761	828
1750	369	537	635	709	780	848
1800	379	551	651	727	799	869
1850	388	564	666	744	818	889
1900	397	577	681	761	837	910
1950	406	590	697	778	856	931
2000	415	603	712	796	875	951
2050	424	616	727	812	894	971
2100	433	629	742	829	912	991
2150	442	641	757	845	930	1011
2200	450	654	772	862	948	1031
2250	459	667	786	878	966	1050
2300	468	679	801	895	984	1070
2350	477	692	816	911	1003	1090
2400	486	705	831	928	1021	1109
2450	495	717	845	944	1039	1129

2500	503	730	860	961	1057	1149
2550	512	742	875	977	1075	1169
2600	521	755	890	994	1093	1188
2650	530	768	905	1010	1111	1208
2700	539	780	919	1027	1130	1228
2750	547	793	934	1043	1148	1248
2800	556	806	949	1060	1166	1267
2850	565	818	964	1076	1184	1287
2900	574	831	978	1093	1202	1307
2950	583	844	993	1109	1220	1326
3000	592	857	1008	1126	1239	1347
3050	601	870	1024	1144	1258	1367
3100	610	883	1039	1161	1277	1388
3150	619	896	1055	1178	1296	1409
3200	628	909	1070	1195	1315	1429
3250	637	922	1085	1212	1334	1450
3300	646	935	1101	1230	1353	1470
3350	655	948	1116	1247	1372	1491
3400	663	961	1132	1264	1391	1512
3450	672	974	1147	1281	1409	1532
3500	681	987	1163	1299	1428	1553
3550	690	1000	1178	1316	1447	1573
3600	699	1013	1193	1333	1466	1594
3650	708	1026	1209	1350	1485	1614
3700	717	1039	1224	1367	1504	1635
3750	726	1052	1240	1385	1523	1656
3800	735	1065	1255	1402	1542	1676
3850	744	1078	1270	1419	1561	1697
3900	753	1091	1286	1436	1580	1717
3950	760	1101	1297	1449	1594	1733
4000	765	1108	1306	1458	1604	1744
4050	771	1115	1314	1468	1614	1755
4100	776	1123	1322	1477	1625	1766
4150	781	1130	1330	1486	1635	1777
4200	786	1137	1339	1495	1645	1788
4250	791	1144	1347	1504	1655	1799
4300	796	1152	1355	1514	1665	1810
4350	802	1159	1363	1523	1675	1821
4400	807	1166	1371	1532	1685	1832
4450	812	1173	1379	1541	1695	1842
4500	817	1180	1388	1550	1705	1853
4550	822	1188	1396	1559	1715	1864
4600	827	1195	1404	1568	1725	1875

4650	833	1202	1412	1577	1735	1886
4700	838	1209	1420	1586	1745	1897
4750	843	1216	1428	1596	1755	1908
4800	848	1224	1437	1605	1765	1919
4850	853	1231	1445	1614	1775	1930
4900	858	1238	1453	1623	1785	1940
4950	863	1245	1461	1632	1795	1951
5000	869	1252	1469	1641	1805	1962
5050	874	1259	1477	1650	1815	1973
5100	877	1265	1483	1657	1822	1981
5150	881	1270	1489	1664	1830	1989
5200	885	1275	1495	1670	1837	1997
5250	889	1281	1502	1677	1845	2005
5300	892	1286	1508	1684	1852	2014
5350	896	1291	1514	1691	1860	2022
5400	900	1296	1520	1698	1867	2030
5450	903	1302	1526	1704	1875	2038
5500	907	1307	1532	1711	1882	2046
5550	911	1312	1538	1718	1890	2054
5600	915	1318	1544	1725	1897	2063
5650	918	1323	1550	1732	1905	2071
5700	922	1328	1556	1739	1912	2079
5750	926	1333	1563	1745	1920	2087
5800	930	1339	1569	1752	1927	2095
5850	933	1344	1575	1759	1935	2103
5900	937	1349	1581	1766	1942	2111
5950	941	1354	1587	1773	1950	2120
6000	944	1360	1593	1779	1957	2128
6050	948	1365	1599	1786	1965	2136
6100	952	1370	1605	1793	1972	2144
6150	956	1376	1611	1800	1980	2152
6200	959	1380	1616	1805	1986	2159
6250	962	1384	1620	1810	1991	2164
6300	965	1388	1625	1815	1996	2170
6350	968	1392	1629	1819	2001	2175
6400	971	1395	1633	1824	2006	2181
6450	973	1399	1637	1828	2011	2186
6500	976	1403	1641	1833	2016	2192
6550	979	1407	1645	1837	2021	2197
6600	982	1411	1649	1842	2026	2203
6650	985	1415	1653	1847	2031	2208
6700	988	1418	1657	1851	2036	2213
6750	991	1422	1661	1856	2041	2219

6800	994	1426	1665	1860	2046	2224
6850	997	1430	1670	1865	2051	2230
6900	1000	1434	1674	1869	2056	2235
6950	1002	1438	1678	1874	2061	2241
7000	1005	1442	1682	1879	2066	2246
7050	1008	1445	1686	1883	2071	2252
7100	1011	1449	1690	1888	2077	2257
7150	1014	1453	1694	1892	2082	2263
7200	1017	1457	1698	1897	2087	2268
7250	1020	1461	1702	1901	2092	2274
7300	1023	1465	1706	1906	2097	2279
7350	1024	1466	1708	1908	2099	2281
7400	1026	1468	1710	1910	2101	2284
7450	1027	1470	1712	1912	2103	2286
7500	1029	1472	1714	1914	2106	2289
7550	1030	1474	1716	1916	2108	2291
7600	1032	1476	1718	1918	2110	2294
7650	1033	1478	1719	1921	2113	2296
7700	1035	1479	1721	1923	2115	2299
7750	1036	1481	1723	1925	2117	2301
7800	1038	1483	1725	1927	2119	2304
7850	1039	1485	1727	1929	2122	2306
7900	1041	1487	1729	1931	2124	2309
7950	1042	1489	1731	1933	2126	2311
8000	1044	1491	1732	1935	2129	2314
8050	1045	1492	1734	1937	2131	2316
8100	1047	1494	1736	1939	2133	2319
8150	1048	1496	1738	1941	2136	2321
8200	1050	1498	1740	1943	2138	2324
8250	1051	1500	1742	1946	2140	2326
8300	1053	1502	1744	1948	2142	2329
8350	1054	1504	1745	1950	2145	2331
8400	1055	1505	1747	1952	2147	2333
8450	1058	1509	1751	1956	2152	2339
8500	1063	1516	1759	1965	2161	2349
8550	1068	1522	1767	1973	2171	2360
8600	1072	1529	1774	1982	2180	2370
8650	1077	1536	1782	1991	2190	2380
8700	1082	1543	1790	1999	2199	2391
8750	1087	1549	1798	2008	2209	2401
8800	1092	1556	1806	2017	2218	2411
8850	1096	1563	1813	2025	2228	2422
8900	1101	1570	1821	2034	2238	2432

8950	1106	1576	1829	2043	2247	2443
9000	1111	1583	1837	2051	2257	2453
9050	1116	1590	1844	2060	2266	2463
9100	1120	1597	1852	2069	2276	2474
9150	1125	1603	1860	2077	2285	2484
9200	1130	1610	1868	2086	2295	2494
9250	1134	1616	1874	2093	2302	2503
9300	1137	1620	1879	2099	2309	2509
9350	1140	1624	1884	2104	2315	2516
9400	1143	1629	1889	2110	2321	2523
9450	1146	1633	1894	2116	2327	2530
9500	1149	1637	1899	2121	2334	2537
9550	1152	1642	1904	2127	2340	2543
9600	1155	1646	1909	2133	2346	2550
9650	1158	1650	1914	2138	2352	2557
9700	1161	1655	1920	2144	2358	2564
9750	1164	1659	1925	2150	2365	2570
9800	1168	1664	1930	2156	2372	2578
9850	1171	1669	1936	2162	2379	2585
9900	1174	1674	1941	2169	2385	2593
9950	1178	1678	1947	2175	2392	2600
10000	1181	1683	1953	2181	2399	2608
10050	1185	1688	1958	2187	2406	2615
10100	1188	1693	1964	2194	2413	2623
10150	1191	1698	1969	2200	2420	2630
10200	1195	1703	1975	2206	2427	2638
10250	1198	1707	1981	2212	2434	2645
10300	1202	1712	1986	2219	2441	2653
10350	1205	1717	1992	2225	2447	2660
10400	1207	1720	1996	2229	2452	2665
10450	1210	1724	2000	2234	2457	2671
10500	1213	1728	2004	2238	2462	2676
10550	1215	1731	2008	2243	2467	2681
10600	1218	1735	2012	2247	2472	2687
10650	1220	1738	2016	2252	2477	2692
10700	1223	1742	2020	2256	2482	2698
10750	1226	1745	2024	2261	2487	2703
10800	1228	1749	2028	2265	2492	2708
10850	1231	1753	2032	2270	2497	2714
10900	1233	1756	2036	2274	2502	2719
10950	1236	1760	2040	2279	2507	2725
11000	1239	1763	2044	2283	2511	2730
11050	1241	1767	2048	2288	2516	2735

11100	1244	1771	2052	2292	2521	2741
11150	1246	1774	2056	2297	2526	2746
11200	1249	1778	2060	2301	2531	2752
11250	1251	1781	2064	2306	2536	2757
11300	1254	1785	2068	2310	2541	2762
11350	1257	1788	2072	2315	2546	2768
11400	1259	1792	2076	2319	2551	2773
11450	1262	1796	2080	2324	2556	2778
11500	1264	1799	2084	2328	2561	2784
11550	1267	1803	2088	2333	2566	2789
11600	1270	1806	2092	2337	2571	2795
11650	1272	1810	2096	2342	2576	2800
11700	1275	1814	2100	2346	2581	2805
11750	1277	1817	2105	2351	2586	2811
11800	1280	1821	2109	2356	2591	2817
11850	1283	1825	2114	2361	2597	2823
11900	1286	1829	2119	2366	2603	2830
11950	1289	1833	2123	2372	2609	2836
12000	1292	1838	2128	2377	2615	2842
12050	1295	1842	2133	2383	2621	2849
12100	1298	1846	2138	2388	2627	2855
12150	1301	1850	2143	2393	2633	2862
12200	1304	1854	2147	2399	2638	2868
12250	1306	1858	2152	2404	2644	2874
12300	1309	1863	2157	2409	2650	2881
12350	1312	1867	2162	2415	2656	2887
12400	1315	1871	2167	2420	2662	2894
12450	1318	1875	2171	2425	2668	2900
12500	1321	1879	2176	2431	2674	2906
12550	1324	1883	2181	2436	2680	2913
12600	1327	1887	2186	2441	2686	2919
12650	1330	1891	2190	2447	2691	2926
12700	1333	1896	2195	2452	2697	2932
12750	1336	1900	2200	2457	2703	2938
12800	1338	1904	2205	2463	2709	2945
12850	1341	1908	2210	2468	2715	2951
12900	1344	1912	2214	2473	2721	2957
12950	1347	1916	2219	2479	2727	2964
13000	1350	1920	2224	2484	2732	2970
13050	1353	1924	2229	2489	2738	2977
13100	1356	1929	2233	2495	2744	2983
13150	1359	1933	2238	2500	2750	2989
13200	1362	1937	2243	2505	2756	2996

13250	1365	1941	2248	2511	2762	3002
13300	1367	1945	2252	2516	2768	3008
13350	1370	1949	2257	2521	2774	3015
13400	1373	1953	2262	2527	2779	3021
13450	1376	1958	2267	2532	2785	3028
13500	1379	1962	2272	2537	2791	3034
13550	1382	1966	2276	2543	2797	3040
13600	1385	1970	2281	2548	2803	3047
13650	1388	1974	2286	2553	2809	3053
13700	1391	1978	2291	2559	2815	3059
13750	1393	1982	2295	2564	2820	3066
13800	1396	1986	2300	2569	2826	3072
13850	1399	1991	2305	2575	2832	3079
13900	1402	1995	2310	2580	2838	3085
13950	1405	1999	2315	2585	2844	3091
14000	1408	2003	2319	2591	2850	3098
14050	1411	2007	2324	2596	2856	3104
14100	1414	2011	2329	2601	2861	3110
14150	1417	2015	2334	2607	2867	3117
14200	1420	2019	2338	2612	2873	3123
14250	1422	2024	2343	2617	2879	3130
14300	1425	2028	2348	2623	2885	3136
14350	1428	2032	2353	2628	2891	3142
14400	1431	2036	2357	2633	2897	3149
14450	1434	2040	2362	2639	2903	3155
14500	1437	2044	2367	2644	2908	3161
14550	1440	2048	2372	2649	2914	3168
14600	1443	2052	2377	2655	2920	3174
14650	1446	2056	2381	2660	2926	3180
14700	1448	2060	2385	2665	2931	3186
14750	1451	2064	2390	2669	2936	3192
14800	1454	2068	2394	2674	2941	3197
14850	1457	2072	2398	2679	2947	3203
14900	1460	2076	2402	2684	2952	3209
14950	1463	2079	2407	2688	2957	3214
15000	1466	2083	2411	2693	2962	3220
15050	1468	2087	2415	2698	2968	3226
15100	1471	2091	2419	2703	2973	3231
15150	1474	2095	2424	2707	2978	3237
15200	1477	2099	2428	2712	2983	3243
15250	1480	2102	2432	2717	2988	3248
15300	1483	2106	2436	2722	2994	3254
15350	1485	2110	2441	2726	2999	3260

15400	1488	2114	2445	2731	3004	3266
15450	1491	2118	2449	2736	3009	3271
15500	1494	2122	2453	2741	3015	3277
15550	1497	2125	2458	2745	3020	3283
15600	1500	2129	2462	2750	3025	3288
15650	1502	2133	2466	2755	3030	3294
15700	1505	2137	2471	2760	3036	3300
15750	1508	2141	2475	2764	3041	3305
15800	1511	2145	2479	2769	3046	3311
15850	1514	2148	2483	2774	3051	3317
15900	1517	2152	2488	2779	3056	3322
15950	1519	2156	2492	2783	3062	3328
16000	1522	2160	2496	2788	3067	3334
16050	1525	2164	2500	2793	3072	3339
16100	1528	2168	2505	2798	3077	3345
16150	1531	2171	2509	2802	3083	3351
16200	1534	2175	2513	2807	3088	3356
16250	1536	2179	2517	2812	3093	3362
16300	1539	2183	2522	2817	3098	3368
16350	1542	2187	2526	2821	3103	3373
16400	1545	2190	2530	2826	3108	3379
16450	1547	2194	2534	2830	3114	3384
16500	1550	2198	2539	2836	3119	3391
16550	1553	2202	2544	2841	3125	3397
16600	1556	2206	2548	2846	3131	3403
16650	1559	2211	2553	2852	3137	3410
16700	1562	2215	2558	2857	3143	3416
16750	1565	2219	2562	2862	3148	3422
16800	1568	2223	2567	2867	3154	3429
16850	1570	2227	2572	2873	3160	3435
16900	1573	2231	2577	2878	3166	3441
16950	1576	2235	2581	2883	3172	3447
17000	1579	2239	2586	2888	3177	3454
17050	1582	2243	2591	2894	3183	3460
17100	1585	2247	2595	2899	3189	3466
17150	1588	2251	2600	2904	3195	3473
17200	1590	2255	2605	2909	3200	3479
17250	1593	2259	2609	2915	3206	3485
17300	1596	2263	2614	2920	3212	3491
17350	1599	2267	2619	2925	3218	3498
17400	1602	2271	2623	2930	3223	3504
17450	1605	2276	2628	2936	3229	3510
17500	1608	2280	2633	2941	3235	3516

17550	1610	2284	2638	2946	3241	3523
17600	1613	2288	2642	2951	3246	3529
17650	1616	2292	2647	2957	3252	3535
17700	1619	2296	2652	2962	3258	3541
17750	1622	2300	2656	2967	3264	3548
17800	1625	2304	2661	2972	3270	3554
17850	1628	2308	2666	2978	3275	3560
17900	1630	2312	2670	2983	3281	3567
17950	1633	2316	2675	2988	3287	3573
18000	1636	2320	2680	2993	3293	3579
18050	1639	2324	2684	2999	3298	3585
18100	1642	2328	2689	3004	3304	3592
18150	1645	2332	2694	3009	3310	3598
18200	1648	2336	2699	3014	3316	3604
18250	1650	2340	2703	3019	3321	3610
18300	1653	2345	2708	3025	3327	3617
18350	1656	2349	2713	3030	3333	3623
18400	1659	2353	2717	3035	3339	3629
18450	1662	2357	2722	3040	3344	3635
18500	1665	2361	2727	3046	3350	3642
18550	1667	2365	2731	3051	3356	3648
18600	1670	2369	2736	3056	3362	3654
18650	1673	2373	2741	3061	3368	3661
18700	1676	2377	2745	3067	3373	3667
18750	1679	2381	2750	3072	3379	3673
18800	1682	2385	2755	3077	3385	3679
18850	1685	2389	2759	3082	3391	3686
18900	1687	2393	2764	3088	3396	3692
18950	1690	2397	2769	3093	3402	3698
19000	1693	2401	2774	3098	3408	3704
19050	1696	2405	2778	3103	3414	3711
19100	1699	2409	2783	3109	3419	3717
19150	1702	2414	2788	3114	3425	3723
19200	1705	2418	2792	3119	3431	3729
19250	1707	2422	2797	3124	3437	3736
19300	1710	2426	2802	3130	3442	3742
19350	1713	2430	2806	3135	3448	3748
19400	1716	2434	2811	3140	3454	3755
19450	1719	2438	2816	3145	3460	3761
19500	1722	2442	2820	3150	3466	3767
19550	1725	2446	2825	3156	3471	3773
19600	1727	2450	2830	3161	3477	3779
19650	1729	2453	2833	3164	3481	3784

19700	1732	2456	2836	3168	3485	3788
19750	1734	2459	2839	3172	3489	3792
19800	1736	2462	2843	3175	3493	3797
19850	1738	2465	2846	3179	3497	3801
19900	1740	2467	2849	3183	3501	3806
19950	1742	2470	2853	3186	3505	3810
20000	1744	2473	2856	3190	3509	3815

ARIZONA CHILD SUPPORT GUIDELINES

ADOPTED BY THE ARIZONA SUPREME COURT
EFFECTIVE APRIL 1, 2018

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 children if the parents and children were living together. Each parent contributes his or 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 Support Obligations is based, is contained in the June 27, 2014 report of Center for Policy Research, entitled Economic Review of the Arizona Child Support Schedule.

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 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 5.A and 6.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 child support determined under the guidelines.

E. In appropriate cases, a parent having more of the parenting time may be ordered to pay child support.

F. Monthly figures are used to calculate the child support obligation. Any adjustments to the child support amount shall be annualized so that each month's child 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, a parent requests an adjustment for childcare costs (Section 9.B.1.). The parent incurs childcare costs of $150 per month but only for nine months of the year. The adjustment for childcare 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 $113 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 8, 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 $20,000 where the actual Combined Adjusted Gross Income of the parents is greater than $20,000.

H. The "primary residential parent" is the parent who has parenting time with the child for the greater part of the year.

3. PRESUMPTION

In any action to establish or modify parenting time, 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 20.

4. DURATION OF CHILD SUPPORT

Duration of child support is governed by Arizona Revised Statutes, Sections 25-320 and 25-501, except as provided in Arizona Revised Statutes, Section 25-1304.

Upon entry of an initial or modified child support order, the court shall, or in any subsequent action relating to the child support order, the court may, establish a presumptive date for the termination of the current child support obligation. The presumptive termination date shall be the last day of the month of the 18th birthday of the youngest child included in the order unless the court finds that it is projected that the youngest child will not complete high school by age 18. In that event, the presumptive termination date shall be the last day of the month of the anticipated graduation date or age 19, whichever occurs first. The administrative income withholding order issued by the department or its agent in Title IV-D cases and an Order of Assignment issued by the court shall include the presumptive termination date. The presumptive date may be modified upon changed circumstances.

An employer or other payor of funds honoring an Order of Assignment or an administrative income withholding order that includes the presumptive termination date and is for current child support only, shall discontinue withholding monies after the last pay period of the month of the presumptive termination date. If the Order of Assignment or administrative income withholding order includes current child support and arrearage payment, the employer or other payor of funds shall continue withholding the entire amount listed on the Order of Assignment or administrative income withholding order until further order.

For purposes of determining the presumptive termination date, it is further presumed:

A. That a child not yet in school will enter 1st grade if the child reaches age 6 on or before September 1 of the year in which the child reaches age 6; otherwise, it is presumed that the child will enter 1st grade the following year; and,

B. That a child will graduate in the month of May after completing the 12th grade.

5. 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 26), worker’s compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring 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. Generally, the court should not attribute income greater than what would have been earned from full-time employment. Each parent should have the choice of working additional hours through overtime or at a second job without increasing the child support award. The court may, however, consider income actually earned that 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 should generally not attribute additional income to a parent if that would require an extraordinary work regimen. Determination of what constitutes a reasonable work regimen depends upon all relevant circumstances including the choice of jobs available within a particular occupation, working hours and working conditions.

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, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Nutrition Assistance 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. Ordinary and necessary expenses include one-half of the self-employment tax actually paid.

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. If the reduction in income is voluntary but reasonable, the court shall balance that parent's decision and benefits therefrom against the impact the reduction in that parent's share of child support has on the children's best interest. The court may not attribute income to a person who is incarcerated, but may establish or modify support based on actual ability to pay. In accordance with Arizona Revised Statutes Section 25-320, income of at least minimum wage should generally be attributed to a parent after considering the specific circumstances of the parents to the extent known. This includes such factors as the parents' assets, residence, employment and earnings history, job skills, educational attainment,

literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parents, prevailing earnings level in the local community, and other relevant background factors in the case. If income is attributed to the parent receiving child support, appropriate childcare 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

4. The parent is a current recipient of Temporary Assistance to Needy Families, or

5. A parent is the caretaker of a young child and the cost of childcare is prohibitive.

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.D.7. ("...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 (Federal Tax including Earned Income Tax Credit, Arizona State Tax, and FICA).

6. ADJUSTMENTS TO GROSS INCOME

For purposes of this section, "children of other relationships" means natural or adopted children who are not the subject of this particular child support determination.

Adjustments to gross income for other support obligations are made as follows:

A. The court-ordered amount of spousal maintenance resulting from this or any other marriage, if actually being paid, shall be deducted from the gross income of the parent paying spousal maintenance. Court-ordered arrearage payments shall not be included as an adjustment to gross income.

B. The court-ordered amount of child support for children of other relationships, if actually being paid, shall be deducted from the gross income of the parent paying that child support. Court-ordered arrearage payments shall not be included as an adjustment to gross income.

C. An amount shall be deducted from the gross income of a parent for children of other relationships covered by a court order for whom they are the primary residential parent. The amount of the adjustment shall be determined by a simplified application of the guidelines (defined in example below).

D. An amount may be deducted from the gross income of a parent for support of natural or adopted children of other relationships not covered by a court order. The amount of any adjustment shall not exceed the amount arrived at by a simplified application of the guidelines (defined in example below).

EXAMPLE: A parent having gross monthly income of $2,000 supports a natural or adopted minor child who is not the subject of the child support case before the court and for whom no child support order exists. To use the Simplified Application of the Guidelines, locate $2,000 in the Combined Adjusted Gross Income column of the Schedule. Select the amount in the column for one child, $415. The parent's income may be reduced up to $415, resulting in an Adjusted Gross Income of $1,585.

7. DETERMINING THE ADJUSTED GROSS INCOME OF THE PARENTS

Adjusted Gross Income is gross income minus the adjustments provided in Section 6 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.

8. 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. If the parents' income falls exactly in between two combined adjusted gross income amounts, round up to the nearest combined adjusted income entry on the schedule of basic child support obligations.

EXAMPLE: The Combined Adjusted Gross Income of the parents' is $8,125 which is exactly between $8,100 and $8,150. Round up to the nearest combined adjusted income entry of $8,150 and use this amount as the Basic Child Support Obligation.

If there are more than six children, the amount derived from the schedule of basic support obligations for six children shall be the presumptive amount. The party seeking a greater sum shall bear the burden of proof that the needs of the children require a greater sum.

If the Combined Adjusted Gross Income of the parties is greater than $20,000 per month, the amount set forth for Combined Adjusted Gross Income of $20,000 shall be the presumptive Basic Child Support Obligation. The party seeking a sum greater than this presumptive amount shall bear the burden of proof to establish that a higher amount is in the best interests of the children, taking into account such factors as the standard of living the children would have enjoyed if the parents and children were living together, the needs of the children in excess of the presumptive amount, consideration of any significant disparity in the respective percentages of gross income for each party and any other factors which, on a case by case basis, demonstrate that the increased amount is appropriate.

9. 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 dental or vision insurance coverage, if any (this provision does not imply any obligation of either parent to provide dental or vision insurance). In determining the amount to be added, only the amount of the insurance cost attributable to the children subject of the child support order shall be included. If coverage is applicable to other persons, the total cost shall be prorated by the number of persons covered. The court may decline to credit a parent for medical, dental or vision insurance coverage obtained for the children if the coverage is not valid in the geographic region where the children reside.

EXAMPLE: Through an employment-related insurance plan, a parent provides medical insurance that covers the parent, one child subject of the child support case and two other children. Under the plan, the cost of an employee's individual insurance coverage would be $120. This parent instead pays a total of $270 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 $120 cost of individual coverage from the $270 paid for the "family option" to find the cost of dependent coverage. The $150 remainder then is divided by three - the number of covered dependents. The resulting $50 is added to the Basic Child Support Obligation as the cost of medical insurance coverage for the one child.

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 primary residential parent.

The court shall also specify the percentage that each parent shall pay for any medical, dental or vision costs of the children which are not covered by insurance. For purposes of this paragraph, non-covered "medical" means medically necessary medical, dental or vision care as defined by Internal Revenue Service Publication 502.

Except for good cause shown, any request for payment or reimbursement of uninsured medical, dental or vision costs must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receipt of the request.

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. Childcare Costs

Childcare expenses that would be appropriate to the parents' financial abilities.

Expenses for childcare shall be annualized in accordance with Section 2.F.

A parent paying for childcare may be eligible for a credit from federal tax liability for childcare costs only if the parent has parenting time for the greater part of the year. In an equal parenting time situation, neither party shall be entitled to the credit for the purposes of calculating child support.

Before adding childcare 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 childcare costs.

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

MONTHLY GROSS INCOME OF THE ELIGIBLE PARENT	
ONE CHILD	$2,600
TWO CHILDREN	$3,100
THREE CHILDREN	$3,400
FOUR CHILDREN	$3,550
FIVE CHILDREN	$3,650
SIX CHILDREN	$3,800

If the eligible parent's income is greater than indicated on the above chart, the court may adjust this cost for the federal childcare tax credit if the credit is actually claimed or will be claimed.

For one child with monthly childcare costs exceeding $200, deduct $50 from the monthly childcare amount. For two or more children with total monthly childcare costs exceeding $400, deduct $100 from the monthly childcare amount. See Example One.

For one child with monthly childcare costs of $200 or less, deduct 25% from the monthly childcare amount. For two or more children with total monthly childcare costs of $400 or less, deduct 25% from the monthly childcare amount. See Example Two.

EXAMPLE ONE: For two children, a parent pays monthly childcare costs of $550 for nine months of the year. To adjust for the expected tax credit benefit, first determine whether the average cost~~s~~ of childcare exceeds $400 per month. In this example, because the average cost of $413 ($550 multiplied by 9 months, divided by 12 months) exceeds the $400 maximum for two or more children, $100 per month may be subtracted from the average monthly cost. $313 ($413 - $100) may be added to the Basic Child Support Obligation for adjusted childcare costs.

EXAMPLE TWO: A parent pays monthly childcare costs of $175 for one child. Because this amount is less than the $200 maximum for one child, multiply $175 by 25% ($175 multiplied by 25% = $44). Subtract the adjustment from the monthly average ($175 - $44 = $131). The adjusted amount of $131 may be added to the Basic Child Support Obligation.

Any adjustment for the payment of childcare 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 childcare costs.

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. Extraordinary Child

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.

4. Older Child Adjustment

The average expenditures for children age 12 or older exceed the average expenditures for all children by approximately 10%. Therefore, the court may increase child support for a child who has reached the age of 12 years by an amount up to 10% of the child 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 $459. As much as $46 may be added to the basic child support obligation, for a total of $505. 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 $786. If one of the three children is age 12 or over, assign 1/3 of the Basic Child Support Obligation to the older child ($262). Up to 10% ($26) of that portion of the Basic Child Support Obligation may be added as an older child adjustment, increasing the obligation to $812. NOTE: This prorating method is limited to this section and should not be followed in Section 25.

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

11. ADJUSTMENT FOR COSTS ASSOCIATED WITH PARENTING TIME

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 parenting time. When parenting time is exercised by the parent with less parenting time, a portion of the costs for children normally expended by the primary residential parent shifts to the other parent. Accordingly, unless it is apparent from the circumstances that the parent with less parenting time will not incur costs for the children during parenting time, when proof establishes that parenting time is or is expected to be exercised by that parent, an adjustment shall be made to that parent's proportionate share of the Total Child Support Obligation. To calculate child support in equal parenting time cases, see Section 12.

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

To adjust for the costs of parenting time, first determine the total annual amount of parenting time 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 block of parenting time to arrive at the total number of parenting time days per year. Calculate the number of parenting time days arising from any block of time the child spends with the parent with less parenting time in the following manner:

A. Each block of time begins and ends when that parent receives or returns the child from the primary residential parent or from a third party with whom the primary residential parent left the child. Third party includes, for example, a school or childcare provider.

B. Count one day of parenting time for each 24 hours within any block of time.

C. To the extent there is a period of less than 24 hours remaining in the block of time, after all 24-hour days are counted or for any block of time which is in total less than 24 hours in duration:

1. A period of 12 hours or more counts as one day.

2. A period of 6 to 11 hours counts as a half-day.

4. A period of 3 to 5 hours counts as a quarter-day.

5. Periods of less than 3 hours may count as a quarter-day if, during those hours, the parent with less parenting time pays for routine expenses of the child, such as meals.

EXAMPLES: For the purposes of these examples, mother has parenting time 130 days per year and father is the primary residential parent.

1. Mother receives the child at 9:00 p.m. on Thursday evening and brings the child to school at 8:00 a.m. on Monday morning, from which father picks up the child at 3:00 p.m. on Monday.

    a. 9:00 p.m. Thursday to 9:00 p.m. Sunday is three days.
    b. 9:00 p.m. Sunday to 8:00 a.m. Monday is 11 hours, which equals a half day.
    c. Total is 3 ½ days.

2. Mother picks the child up from school at 3:00 p.m. Friday and returns the child to school at 8:00 a.m. on Monday.

    a. 3:00 p.m. Friday to 3:00 p.m. Sunday is two days.
    b. 3:00 p.m. Sunday to 8:00 a.m. Monday is 17 hours, which equals one day.
    c. Total is 3 days.

3. Mother picks up child from soccer at noon on Saturday, and returns the child to father at 9:00 p.m. on Sunday.

    a. Noon Saturday to noon Sunday is one day.
    b. Noon Sunday to 9:00 p.m. Sunday is 9 hours, which equals ½ day.
    c. Total is 1 ½ days.

If the children have different parenting time schedules, then see Section 16 to determine the parenting time adjustment or to determine if separate worksheets are required. After determining the total number of parenting time days, refer to "Parenting Time Table A" below. The left column of the table sets forth numbers of parenting time days in increasingly higher ranges. Adjacent to each range is an adjustment percentage. The parenting time adjustment is calculated as follows: locate the total number of parenting time days per year in the left column of "Parenting Time Table A" and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 8 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 parenting time.

PARENTING TIME TABLE A	
Number of Parenting Time Days	Adjustment Percentage
0 - 3	0
4 - 20	.012
21 - 38	.031
39 - 57	.050
58 - 72	.085
73 - 87	.105
88 - 115	.161
116 - 129	.195
130 - 142	.253
143 - 152	.307
153 - 162	.362
163 - 172	.422
173 - 182	.486

EXAMPLE: The Basic Child Support Obligation from the Schedule is $667 for two children. After making all applicable adjustments under Section 9, such as an adjustment for one older child, the Total Child Support Obligation is $700 and father's proportionate share is 60%, or $421. Father has parenting time with the children a total of 100 days. On Parenting Time Table A, the range of days for this amount of parenting time is from 88 to 115 days. The corresponding adjustment percentage is .161. Multiply the $667 Basic Child Support Obligation by .161 or 16.1%. The resulting $107 is subtracted from $421 (father's proportionate share of the Total Child Support Obligation), adjusting the child support obligation to $313.

As the number of parenting time days approaches equal time sharing (143 days and above), certain costs usually incurred only in the primary residential parent's household are assumed to be substantially or equally shared by both parents. These costs are for items such as the child's clothing and personal care items, entertainment and reading materials. If this assumption is rebutted by proof, for example, that such costs are not substantially or equally shared in each household, only Parenting Time Table B must be used to calculate the parenting time adjustment for this range of days. Locate the total number of parenting time days per year in the left columns of "Parenting Time Table B" and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 8 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 parenting time.

PARENTING TIME TABLE B	
Number of Parenting Time Days	Adjustment Percentage
143 – 152	.275
153 – 162	.293
163 – 172	.312
173 – 182	.331

12. EQUAL PARENTING TIME

If the time spent with each parent is essentially equal, the expenses for the children are equally shared and adjusted gross incomes of the parents also are essentially equal, no child 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.

EXAMPLE: After making all applicable adjustments under Sections 9 and 13, the remaining child support obligation is $1,500. The parents' proportionate shares of the obligation are $1,000 and $500. To equalize the child support available in both households, deduct the lower amount from the higher amount ($1,000 - $500 = $500), then divide the balance in half ($500 ÷ 2 = $250). The resulting amount, $250, is paid to the parent with the lower obligation.

13. ADJUSTMENTS FOR OTHER COSTS

If a parent pays a cost under Section 9.A. or 9.B. (except 9.B.4), deduct the cost from that parent's Proportionate Share of income to arrive at the Preliminary Child Support Amount.

EXAMPLE: Father pays for medical insurance through his employer. This cost is added to the Basic Child Support Obligation pursuant to Section 9.A, then prorated between the parents to arrive at each parent's proportionate child support obligation. Because the cost has already been paid to a third party (the insurance company), the cost must be deducted from father's child support obligation because this portion of the child support obligation has already been paid.

14. DETERMINING THE CHILD SUPPORT ORDER

Unless the calculation results in a negative number, the court shall order the parent with less parenting time to pay child support in an amount equal to his or her proportionate share of the Total Child Support Obligation. The parent receiving child support shall be presumed to spend his or her share directly on the children.

EXAMPLE: On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Gross Income of $3,120 for one child is $610. To this the court adds $61 because the child is over 12 years of age (10% in this example). The Total Child Support Obligation is $671.

The father's share is 56% of $671, or $373. The mother's share is 44% of $671, or $298, and she has more parenting time than father. Under the court-approved parenting plan, parenting time will be exercised by father for a total of 100 days per year, resulting in an adjustment of $98 ($610 X 16.1%). After adjusting for parenting time, father's share is $275 ($373 less $98). Father shall pay the child support amount of $275 per month. The value of mother's contribution is $298, and she spends it directly on the child.

For all awards, the child support amount shall be rounded to the nearest whole dollar. A rounded amount is not a deviation under Section 20.

If the amount of child support is less than the current clearinghouse fee, the court shall not impose a child support award unless a deviated award is warranted under Section 20. It is not a deviation under Section 20 if an award is not imposed because it is less than the clearinghouse fee.

15. 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 paying parent is financially able to pay the child support order and to maintain at least a minimum standard of living, as follows:

The self-support reserve shall be an amount equal to 80% of the monthly full-time earnings at the current state minimum wage at the time of the order (the self-support reserve amount). Deduct the self-support reserve amount from the paying parent's Adjusted Gross Income, except that the court may deduct from such parent's Adjusted Gross Income for purposes of the self-support reserve test only, court-ordered arrears on child support for children of other relationships or spousal maintenance, if actually paid. If the resulting amount is less than the child support order, the court may reduce the current child support order to the resulting amount after first considering the financial impact the reduction would have on the receiving parent's household. The test applies only to the current child support obligation, but does not prohibit an additional amount to be ordered to reduce an obligor's arrears.

EXAMPLE ONE: Before applying the self-support reserve test, the child support order is calculated under the guidelines to be $492. The adjusted gross income of the paying parent is $1,820 at a minimum wage of $10.50 per hour the self-support reserve amount is $1,456 ($10.50 x 40 hours x 52 weeks = $21,840 ÷ 12 months = $1,820 x 80% = $1,456). Subtracting the self-support reserve amount of $1,456 from the paying parent's adjusted gross income of $1,820 leaves $364. Because this resulting amount is less than the $492 child support order, the court may reduce the child support order to the resulting amount. However, before making any reduction, the court shall examine the self-support capability of the receiving parent, using the same self-support reserve test applied to the paying parent.

EXAMPLE TWO: The receiving parent's proportionate share of the total child support obligation is calculated under the guidelines to be $404. This parent's Adjusted Gross Income is $1,487. Subtracting the self-support reserve of $1,456 from the receiving parent's Adjusted Gross Income of $1,487 leaves $31. Because this resulting amount is less than the parent's proportionate share of the Total Child Support Obligation, it is evident that both parents have insufficient income to be self-supporting. In this situation, the court has discretion to determine whether and in what amount the child support order (the amount the paying parent is ordered to pay) may be reduced.

16. MULTIPLE CHILDREN, DIFFERENT PARENTING PLANS

When each parent exercises more than half of the parenting time with 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 child support to be paid by the parent having the greater child support obligation shall be reduced by the amount of child support owed to that parent by the other parent.

EXAMPLE: (For simplicity, this example does not consider parenting time.) Combined Adjusted Gross Income is $3,000 per month. Father's gross income is $1,000 per month (33.3%) and he has more than half of the time with one child. Mother's gross income is $2,000 per month (66.6%) and she has more than half of the time with the other two children.

Prepare a Parent's Worksheet to determine child support for children in the mother's household. Locate the Combined Adjusted Gross Income figure of $3,000 on the Schedule. Select the child support figure in the column for the two children in this household, $857. Father's share is 33.3% of $857, or $285.

Prepare a Parent's Worksheet to determine child support for the child in the father's household. Locate the Combined Adjusted Gross Income figure of $3,000. Select the child support figure in the column for the one child in this household, $592. Mother's share is 66.6% of $592, or $394.

Mother is obligated to pay father $394 for child support. This amount is reduced by the $285 obligation owed by the father to the mother. Thus, mother must pay $109 per month.

When the parties have children with different parenting plans and one parent does not have more than half of the parenting time with any of the children, prepare only one worksheet. To determine the parenting time cost adjustment for the parent who does not have more than half of the parenting time, use an average of the total number of parenting days. Add the total amount of parenting days for each child. Divide that number by the total number of children.

EXAMPLE: The parties have two minor children, one who lives with mother full-time and one who splits time equally between parents. Prepare one worksheet. When entering the parenting time cost adjustment for father, divide father's total number of parenting days for both children, 182, by the total number of children, two (2). Thus, father's parenting time cost adjustment would be calculated for 91 days.

17. CHILD SUPPORT ASSIGNED TO THE STATE

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

18. TRAVEL EXPENSES ASSOCIATED WITH PARENTING TIME

The court may allocate travel expenses of the child associated with parenting time in cases where one-way travel exceeds 100 miles. 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 parenting time. 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 parenting time 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 child support ordered.

19. 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 child support order except by court order.

20. DEVIATIONS

A. The court shall deviate from the guidelines, i.e., order child 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 child 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 in the Child Support Order, Minute Entry or Child Support Worksheet,

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 or stated on the record pursuant to Rule 69, Arizona Rules of Family Law Procedure (*ARFLP).*

2. All parties have entered into the agreement with knowledge of the amount of child support that would have been ordered under the guidelines but for the agreement,

3. All parties have entered into the agreement free of duress and coercion, and

4. The court complies with the requirements of Section 20.A.

In cases with significant disparity of income between the parents, a deviation may be appropriate.

21. THIRD-PARTY CAREGIVERS

When a child lives with a third-party caregiver by virtue of a court order, administrative placement by a state agency or under color of authority, the third-party caregiver is entitled to receive child support payments from each parent on behalf of the child. When calculating the amount of child support to be awarded to a third-party caregiver, consider the third-party caregiver's expenses under Section 9, but not the third-party caregiver's income.

EXAMPLE: The parties have one child together who is living with a third-party caregiver. Mother has an Adjusted Gross Income of $2,500 per month and father has an Adjusted Gross Income of $2,000 per month. Add both parents' income together for a Total Adjusted Gross Income of $4,500 per month. The Total Basic Support Obligation for one child would be $817. The third-party caregiver pays $500 per month for medical insurance. Place the $500 amount as an additional child support obligation under the third-party column. The parents have no recognized expenses under Section 9. Father should be ordered to pay the caregiver $585 per month and mother should be ordered to pay the caregiver $732 per month.

22. 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.

If the court attributes income above minimum wage income, the court shall explain the reason for its decision.

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.

23. 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.

24. MODIFICATION

A. Standard Procedure

Pursuant to Arizona Revised Statutes Sections 25-327 and 25-503, 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 15% or more from the existing amount. A fifteen percent variation in the amount of the order will be considered 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 child support order. A modification of the medical assignment or responsibility does not need to vary by 15% or more from the existing amount to use the simplified procedure.

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 15% 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 Rule 27, Arizona Rules of Family Law Procedure *(ARFLP).*

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 42, *ARFLP*, 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 44, *ARFLP*, 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.

25. EFFECT OF CESSATION OF CHILD SUPPORT FOR ONE CHILD

If child 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 child support order, a request must be made in writing to the court to recalculate the child support obligation pursuant to these guidelines. The procedure specified in Section 24 may be used for this purpose.

EXAMPLE: The child support order for Combined Adjusted Gross Income of $1,500, with four children is $621. 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 $466. Instead, determine a new child support order by applying the guidelines. (NOTE: This method varies from the one used in Section 9.B.4).

26. INCOME AND BENEFITS RECEIVED BY OR ON BEHALF OF CHILD

A. Income earned or money received by a child from any source other than court-ordered child support shall not be counted toward either parent's child support obligation except as stated herein. However, income earned or money received by or on behalf of a person for whom child support is ordered to continue past the age of majority pursuant to Arizona Revised Statute Sections 25-320.E and 25-809.F may be credited against any child support obligation.

B. Benefits, such as Social Security Disability or Insurance, received by a parent on behalf of a child, as a result of contributions made by the other parent who is ordered to pay child support shall be credited as follows:

1. If the amount of the child's benefit for a given month is equal to or greater than the paying parent's child support obligation, then that parent's obligation is satisfied.

2. Any benefit received by the child for a given month in excess of the child support obligation shall not be treated as an arrearage payment nor as a credit toward future child support payments.

3. If the amount of the child's benefit for a given month is less than the parent's child support obligation, the parent shall pay the difference unless the court, in its discretion, modifies the child support order to equal the benefits being received at that time.

D. Except as otherwise provided in Section 5.B, any benefits received directly, and not on behalf of a child, by either the parent receiving child support or the parent paying child support as a result of his or her own contributions, shall be included as part of that parent's gross income.

27. FEDERAL TAX EXEMPTION FOR DEPENDENT CHILDREN

All the federal and state tax exemptions applicable to the minor children shall be allocated between the parents as they agree, or, in the absence of their agreement, in a manner that allows each parent to claim allowable federal dependency exemptions proportionate to adjusted gross income in a reasonable pattern that can be repeated in no more than 5 years. This may be done by allocating claiming of the children or claiming of specific years. To implement this provision, the proportionate share of the combined adjusted gross income of both parents is rounded to the nearest fraction with a denominator no larger than 5 (i.e. 1/2, 1/3, 2/3, 1/4, 3/4, 1/5, 2/5, 3/5, 4/5). For illustrative purposes, assume father earns $60,000 and mother earns $40,000 of the combined adjusted gross income of $100,000. Father's share of the combined income is 3/5. If father earned $30,000 and mother earned $20,000, then 3/5 would still be the fraction with a denominator of 5 or less that comes closest to father's share of the parents' combined adjusted gross income. The dependency exemption shall therefore be allocated utilizing this fraction. If a parent otherwise entitled to the dependency exemption would derive no tax benefit from claiming it in any given tax year, then the entire exemption for that tax year, and not just the share indicated by the preceding sentence, may be allocated to the parent who would derive a tax benefit for that tax year. An Internal Revenue Service Form 8332 may need to be signed and filed with a parent's income tax return.

The court may deny the right to present or future tax exemption when a history of non-payment of child support exists. The allocation of the exemption may be conditioned upon payment by December 31 of the total court-ordered monthly 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 parent receiving child support will need to execute the necessary Internal Revenue Service form (Form 8332) to transfer the exemption. If the paying parent has paid the current child support, but has not paid the court-ordered arrearage payments, the paying parent shall not be entitled to claim the exemption.

EXAMPLE: The paying parent's percentage of gross income is approximately 67% (2/3) and the receiving parent's percentage is approximately 33% (1/3). All payments are current. If there are three children, the paying parent would be entitled to claim the exemption for two children and the receiving parent would be entitled to claim the exemption for one child. If there is only one child, the paying parent would be entitled to claim the child two out of every three years, and the receiving parent would claim the child one out of every three years.

For purposes of this section only, a paying parent 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.

28. CHILD SUPPORT ARREARS

A. When setting an amount for a payment on arrears, the court should take into consideration that interest accrues on the principal balance. If the court sets a payment on arrears less than the amount of the accruing monthly interest, the court shall make a finding why the amount is less than the accruing monthly interest. Upon a showing of substantial and continuing changed circumstances, the court may adjust the amount of payment on arrears.

B. When a current child support obligation terminates, before adjusting the order of assignment to an amount less than the current child support amount and the payment on arrears, the court shall consider the total amount of arrears and the accruing interest, and the time that it will take the obligor to pay these amounts.

29. EFFECTIVE DATE AND GROUNDS FOR MODIFICATION

A. Except for defaults or as otherwise agreed upon by the parties, all child support orders entered after March 31, 2018 shall be made pursuant to these guidelines, whether they be original orders or modifications of pre-existing orders, unless the court determines otherwise based on good cause shown. In cases of default, the guidelines in effect at the time of filing the action will be used. The parties may agree to use either the guidelines in effect at the time of filing the action or those in effect at the time the order is entered.

B. A substantial variance between an existing child support order and an amount resulting from application of the new guidelines may be considered evidence of a substantial and continuing change of circumstances for purposes of a modification. A variance of at least 15% would be evidence of a substantial and continuing change of circumstances.

Schedule of Basic Support Obligations

Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
750	174	255	303	312	372	404
800	185	271	323	360	396	431
850	196	287	341	381	419	456
900	206	301	358	399	439	478
950	216	315	374	418	460	500
1000	225	329	391	436	480	522
1050	235	343	407	455	500	544
1100	245	357	424	473	521	566
1150	255	371	440	492	541	588
1200	264	385	457	510	561	610
1250	274	399	473	528	581	632
1300	284	414	490	547	602	654
1350	293	428	506	565	622	676
1400	303	442	523	584	642	698
1450	313	456	539	602	662	720
1500	323	470	556	621	683	742
1550	332	484	572	639	703	764
1600	342	498	589	657	723	786
1650	351	511	604	675	742	807
1700	360	524	620	692	761	828
1750	369	537	635	709	780	848
1800	379	551	651	727	799	869
1850	388	564	666	744	818	889
1900	397	577	681	761	837	910
1950	406	590	697	778	856	931
2000	415	603	712	796	875	951
2050	424	616	727	812	894	971
2100	433	629	742	829	912	991
2150	442	641	757	845	930	1011
2200	450	654	772	862	948	1031
2250	459	667	786	878	966	1050
2300	468	679	801	895	984	1070
2350	477	692	816	911	1003	1090
2400	486	705	831	928	1021	1109
2450	495	717	845	944	1039	1129
2500	503	730	860	961	1057	1149

2550	512	742	875	977	1075	1169
2600	521	755	890	994	1093	1188
2650	530	768	905	1010	1111	1208
2700	539	780	919	1027	1130	1228
2750	547	793	934	1043	1148	1248
2800	556	806	949	1060	1166	1267
2850	565	818	964	1076	1184	1287
2900	574	831	978	1093	1202	1307
2950	583	844	993	1109	1220	1326
3000	592	857	1008	1126	1239	1347
3050	601	870	1024	1144	1258	1367
3100	610	883	1039	1161	1277	1388
3150	619	896	1055	1178	1296	1409
3200	628	909	1070	1195	1315	1429
3250	637	922	1085	1212	1334	1450
3300	646	935	1101	1230	1353	1470
3350	655	948	1116	1247	1372	1491
3400	663	961	1132	1264	1391	1512
3450	672	974	1147	1281	1409	1532
3500	681	987	1163	1299	1428	1553
3550	690	1000	1178	1316	1447	1573
3600	699	1013	1193	1333	1466	1594
3650	708	1026	1209	1350	1485	1614
3700	717	1039	1224	1367	1504	1635
3750	726	1052	1240	1385	1523	1656
3800	735	1065	1255	1402	1542	1676
3850	744	1078	1270	1419	1561	1697
3900	753	1091	1286	1436	1580	1717
3950	760	1101	1297	1449	1594	1733
4000	765	1108	1306	1458	1604	1744
4050	771	1115	1314	1468	1614	1755
4100	776	1123	1322	1477	1625	1766
4150	781	1130	1330	1486	1635	1777
4200	786	1137	1339	1495	1645	1788
4250	791	1144	1347	1504	1655	1799
4300	796	1152	1355	1514	1665	1810
4350	802	1159	1363	1523	1675	1821
4400	807	1166	1371	1532	1685	1832
4450	812	1173	1379	1541	1695	1842
4500	817	1180	1388	1550	1705	1853
4550	822	1188	1396	1559	1715	1864
4600	827	1195	1404	1568	1725	1875
4650	833	1202	1412	1577	1735	1886

4700	838	1209	1420	1586	1745	1897
4750	843	1216	1428	1596	1755	1908
4800	848	1224	1437	1605	1765	1919
4850	853	1231	1445	1614	1775	1930
4900	858	1238	1453	1623	1785	1940
4950	863	1245	1461	1632	1795	1951
5000	869	1252	1469	1641	1805	1962
5050	874	1259	1477	1650	1815	1973
5100	877	1265	1483	1657	1822	1981
5150	881	1270	1489	1664	1830	1989
5200	885	1275	1495	1670	1837	1997
5250	889	1281	1502	1677	1845	2005
5300	892	1286	1508	1684	1852	2014
5350	896	1291	1514	1691	1860	2022
5400	900	1296	1520	1698	1867	2030
5450	903	1302	1526	1704	1875	2038
5500	907	1307	1532	1711	1882	2046
5550	911	1312	1538	1718	1890	2054
5600	915	1318	1544	1725	1897	2063
5650	918	1323	1550	1732	1905	2071
5700	922	1328	1556	1739	1912	2079
5750	926	1333	1563	1745	1920	2087
5800	930	1339	1569	1752	1927	2095
5850	933	1344	1575	1759	1935	2103
5900	937	1349	1581	1766	1942	2111
5950	941	1354	1587	1773	1950	2120
6000	944	1360	1593	1779	1957	2128
6050	948	1365	1599	1786	1965	2136
6100	952	1370	1605	1793	1972	2144
6150	956	1376	1611	1800	1980	2152
6200	959	1380	1616	1805	1986	2159
6250	962	1384	1620	1810	1991	2164
6300	965	1388	1625	1815	1996	2170
6350	968	1392	1629	1819	2001	2175
6400	971	1395	1633	1824	2006	2181
6450	973	1399	1637	1828	2011	2186
6500	976	1403	1641	1833	2016	2192
6550	979	1407	1645	1837	2021	2197
6600	982	1411	1649	1842	2026	2203
6650	985	1415	1653	1847	2031	2208
6700	988	1418	1657	1851	2036	2213
6750	991	1422	1661	1856	2041	2219
6800	994	1426	1665	1860	2046	2224

6850	997	1430	1670	1865	2051	2230
6900	1000	1434	1674	1869	2056	2235
6950	1002	1438	1678	1874	2061	2241
7000	1005	1442	1682	1879	2066	2246
7050	1008	1445	1686	1883	2071	2252
7100	1011	1449	1690	1888	2077	2257
7150	1014	1453	1694	1892	2082	2263
7200	1017	1457	1698	1897	2087	2268
7250	1020	1461	1702	1901	2092	2274
7300	1023	1465	1706	1906	2097	2279
7350	1024	1466	1708	1908	2099	2281
7400	1026	1468	1710	1910	2101	2284
7450	1027	1470	1712	1912	2103	2286
7500	1029	1472	1714	1914	2106	2289
7550	1030	1474	1716	1916	2108	2291
7600	1032	1476	1718	1918	2110	2294
7650	1033	1478	1719	1921	2113	2296
7700	1035	1479	1721	1923	2115	2299
7750	1036	1481	1723	1925	2117	2301
7800	1038	1483	1725	1927	2119	2304
7850	1039	1485	1727	1929	2122	2306
7900	1041	1487	1729	1931	2124	2309
7950	1042	1489	1731	1933	2126	2311
8000	1044	1491	1732	1935	2129	2314
8050	1045	1492	1734	1937	2131	2316
8100	1047	1494	1736	1939	2133	2319
8150	1048	1496	1738	1941	2136	2321
8200	1050	1498	1740	1943	2138	2324
8250	1051	1500	1742	1946	2140	2326
8300	1053	1502	1744	1948	2142	2329
8350	1054	1504	1745	1950	2145	2331
8400	1055	1505	1747	1952	2147	2333
8450	1058	1509	1751	1956	2152	2339
8500	1063	1516	1759	1965	2161	2349
8550	1068	1522	1767	1973	2171	2360
8600	1072	1529	1774	1982	2180	2370
8650	1077	1536	1782	1991	2190	2380
8700	1082	1543	1790	1999	2199	2391
8750	1087	1549	1798	2008	2209	2401
8800	1092	1556	1806	2017	2218	2411
8850	1096	1563	1813	2025	2228	2422
8900	1101	1570	1821	2034	2238	2432
8950	1106	1576	1829	2043	2247	2443

9000	1111	1583	1837	2051	2257	2453
9050	1116	1590	1844	2060	2266	2463
9100	1120	1597	1852	2069	2276	2474
9150	1125	1603	1860	2077	2285	2484
9200	1130	1610	1868	2086	2295	2494
9250	1134	1616	1874	2093	2302	2503
9300	1137	1620	1879	2099	2309	2509
9350	1140	1624	1884	2104	2315	2516
9400	1143	1629	1889	2110	2321	2523
9450	1146	1633	1894	2116	2327	2530
9500	1149	1637	1899	2121	2334	2537
9550	1152	1642	1904	2127	2340	2543
9600	1155	1646	1909	2133	2346	2550
9650	1158	1650	1914	2138	2352	2557
9700	1161	1655	1920	2144	2358	2564
9750	1164	1659	1925	2150	2365	2570
9800	1168	1664	1930	2156	2372	2578
9850	1171	1669	1936	2162	2379	2585
9900	1174	1674	1941	2169	2385	2593
9950	1178	1678	1947	2175	2392	2600
10000	1181	1683	1953	2181	2399	2608
10050	1185	1688	1958	2187	2406	2615
10100	1188	1693	1964	2194	2413	2623
10150	1191	1698	1969	2200	2420	2630
10200	1195	1703	1975	2206	2427	2638
10250	1198	1707	1981	2212	2434	2645
10300	1202	1712	1986	2219	2441	2653
10350	1205	1717	1992	2225	2447	2660
10400	1207	1720	1996	2229	2452	2665
10450	1210	1724	2000	2234	2457	2671
10500	1213	1728	2004	2238	2462	2676
10550	1215	1731	2008	2243	2467	2681
10600	1218	1735	2012	2247	2472	2687
10650	1220	1738	2016	2252	2477	2692
10700	1223	1742	2020	2256	2482	2698
10750	1226	1745	2024	2261	2487	2703
10800	1228	1749	2028	2265	2492	2708
10850	1231	1753	2032	2270	2497	2714
10900	1233	1756	2036	2274	2502	2719
10950	1236	1760	2040	2279	2507	2725
11000	1239	1763	2044	2283	2511	2730
11050	1241	1767	2048	2288	2516	2735
11100	1244	1771	2052	2292	2521	2741

11150	1246	1774	2056	2297	2526	2746
11200	1249	1778	2060	2301	2531	2752
11250	1251	1781	2064	2306	2536	2757
11300	1254	1785	2068	2310	2541	2762
11350	1257	1788	2072	2315	2546	2768
11400	1259	1792	2076	2319	2551	2773
11450	1262	1796	2080	2324	2556	2778
11500	1264	1799	2084	2328	2561	2784
11550	1267	1803	2088	2333	2566	2789
11600	1270	1806	2092	2337	2571	2795
11650	1272	1810	2096	2342	2576	2800
11700	1275	1814	2100	2346	2581	2805
11750	1277	1817	2105	2351	2586	2811
11800	1280	1821	2109	2356	2591	2817
11850	1283	1825	2114	2361	2597	2823
11900	1286	1829	2119	2366	2603	2830
11950	1289	1833	2123	2372	2609	2836
12000	1292	1838	2128	2377	2615	2842
12050	1295	1842	2133	2383	2621	2849
12100	1298	1846	2138	2388	2627	2855
12150	1301	1850	2143	2393	2633	2862
12200	1304	1854	2147	2399	2638	2868
12250	1306	1858	2152	2404	2644	2874
12300	1309	1863	2157	2409	2650	2881
12350	1312	1867	2162	2415	2656	2887
12400	1315	1871	2167	2420	2662	2894
12450	1318	1875	2171	2425	2668	2900
12500	1321	1879	2176	2431	2674	2906
12550	1324	1883	2181	2436	2680	2913
12600	1327	1887	2186	2441	2686	2919
12650	1330	1891	2190	2447	2691	2926
12700	1333	1896	2195	2452	2697	2932
12750	1336	1900	2200	2457	2703	2938
12800	1338	1904	2205	2463	2709	2945
12850	1341	1908	2210	2468	2715	2951
12900	1344	1912	2214	2473	2721	2957
12950	1347	1916	2219	2479	2727	2964
13000	1350	1920	2224	2484	2732	2970
13050	1353	1924	2229	2489	2738	2977
13100	1356	1929	2233	2495	2744	2983
13150	1359	1933	2238	2500	2750	2989
13200	1362	1937	2243	2505	2756	2996
13250	1365	1941	2248	2511	2762	3002

13300		1367	1945	2252	2516	2768	3008
13350		1370	1949	2257	2521	2774	3015
13400		1373	1953	2262	2527	2779	3021
13450		1376	1958	2267	2532	2785	3028
13500		1379	1962	2272	2537	2791	3034
13550		1382	1966	2276	2543	2797	3040
13600		1385	1970	2281	2548	2803	3047
13650		1388	1974	2286	2553	2809	3053
13700		1391	1978	2291	2559	2815	3059
13750		1393	1982	2295	2564	2820	3066
13800		1396	1986	2300	2569	2826	3072
13850		1399	1991	2305	2575	2832	3079
13900		1402	1995	2310	2580	2838	3085
13950		1405	1999	2315	2585	2844	3091
14000		1408	2003	2319	2591	2850	3098
14050		1411	2007	2324	2596	2856	3104
14100		1414	2011	2329	2601	2861	3110
14150		1417	2015	2334	2607	2867	3117
14200		1420	2019	2338	2612	2873	3123
14250		1422	2024	2343	2617	2879	3130
14300		1425	2028	2348	2623	2885	3136
14350		1428	2032	2353	2628	2891	3142
14400		1431	2036	2357	2633	2897	3149
14450		1434	2040	2362	2639	2903	3155
14500		1437	2044	2367	2644	2908	3161
14550		1440	2048	2372	2649	2914	3168
14600		1443	2052	2377	2655	2920	3174
14650		1446	2056	2381	2660	2926	3180
14700		1448	2060	2385	2665	2931	3186
14750		1451	2064	2390	2669	2936	3192
14800		1454	2068	2394	2674	2941	3197
14850		1457	2072	2398	2679	2947	3203
14900		1460	2076	2402	2684	2952	3209
14950		1463	2079	2407	2688	2957	3214
15000		1466	2083	2411	2693	2962	3220
15050		1468	2087	2415	2698	2968	3226
15100		1471	2091	2419	2703	2973	3231
15150		1474	2095	2424	2707	2978	3237
15200		1477	2099	2428	2712	2983	3243
15250		1480	2102	2432	2717	2988	3248
15300		1483	2106	2436	2722	2994	3254
15350		1485	2110	2441	2726	2999	3260
15400		1488	2114	2445	2731	3004	3266

15450	1491	2118	2449	2736	3009	3271
15500	1494	2122	2453	2741	3015	3277
15550	1497	2125	2458	2745	3020	3283
15600	1500	2129	2462	2750	3025	3288
15650	1502	2133	2466	2755	3030	3294
15700	1505	2137	2471	2760	3036	3300
15750	1508	2141	2475	2764	3041	3305
15800	1511	2145	2479	2769	3046	3311
15850	1514	2148	2483	2774	3051	3317
15900	1517	2152	2488	2779	3056	3322
15950	1519	2156	2492	2783	3062	3328
16000	1522	2160	2496	2788	3067	3334
16050	1525	2164	2500	2793	3072	3339
16100	1528	2168	2505	2798	3077	3345
16150	1531	2171	2509	2802	3083	3351
16200	1534	2175	2513	2807	3088	3356
16250	1536	2179	2517	2812	3093	3362
16300	1539	2183	2522	2817	3098	3368
16350	1542	2187	2526	2821	3103	3373
16400	1545	2190	2530	2826	3108	3379
16450	1547	2194	2534	2830	3114	3384
16500	1550	2198	2539	2836	3119	3391
16550	1553	2202	2544	2841	3125	3397
16600	1556	2206	2548	2846	3131	3403
16650	1559	2211	2553	2852	3137	3410
16700	1562	2215	2558	2857	3143	3416
16750	1565	2219	2562	2862	3148	3422
16800	1568	2223	2567	2867	3154	3429
16850	1570	2227	2572	2873	3160	3435
16900	1573	2231	2577	2878	3166	3441
16950	1576	2235	2581	2883	3172	3447
17000	1579	2239	2586	2888	3177	3454
17050	1582	2243	2591	2894	3183	3460
17100	1585	2247	2595	2899	3189	3466
17150	1588	2251	2600	2904	3195	3473
17200	1590	2255	2605	2909	3200	3479
17250	1593	2259	2609	2915	3206	3485
17300	1596	2263	2614	2920	3212	3491
17350	1599	2267	2619	2925	3218	3498
17400	1602	2271	2623	2930	3223	3504
17450	1605	2276	2628	2936	3229	3510
17500	1608	2280	2633	2941	3235	3516
17550	1610	2284	2638	2946	3241	3523

17600	1613	2288	2642	2951	3246	3529
17650	1616	2292	2647	2957	3252	3535
17700	1619	2296	2652	2962	3258	3541
17750	1622	2300	2656	2967	3264	3548
17800	1625	2304	2661	2972	3270	3554
17850	1628	2308	2666	2978	3275	3560
17900	1630	2312	2670	2983	3281	3567
17950	1633	2316	2675	2988	3287	3573
18000	1636	2320	2680	2993	3293	3579
18050	1639	2324	2684	2999	3298	3585
18100	1642	2328	2689	3004	3304	3592
18150	1645	2332	2694	3009	3310	3598
18200	1648	2336	2699	3014	3316	3604
18250	1650	2340	2703	3019	3321	3610
18300	1653	2345	2708	3025	3327	3617
18350	1656	2349	2713	3030	3333	3623
18400	1659	2353	2717	3035	3339	3629
18450	1662	2357	2722	3040	3344	3635
18500	1665	2361	2727	3046	3350	3642
18550	1667	2365	2731	3051	3356	3648
18600	1670	2369	2736	3056	3362	3654
18650	1673	2373	2741	3061	3368	3661
18700	1676	2377	2745	3067	3373	3667
18750	1679	2381	2750	3072	3379	3673
18800	1682	2385	2755	3077	3385	3679
18850	1685	2389	2759	3082	3391	3686
18900	1687	2393	2764	3088	3396	3692
18950	1690	2397	2769	3093	3402	3698
19000	1693	2401	2774	3098	3408	3704
19050	1696	2405	2778	3103	3414	3711
19100	1699	2409	2783	3109	3419	3717
19150	1702	2414	2788	3114	3425	3723
19200	1705	2418	2792	3119	3431	3729
19250	1707	2422	2797	3124	3437	3736
19300	1710	2426	2802	3130	3442	3742
19350	1713	2430	2806	3135	3448	3748
19400	1716	2434	2811	3140	3454	3755
19450	1719	2438	2816	3145	3460	3761
19500	1722	2442	2820	3150	3466	3767
19550	1725	2446	2825	3156	3471	3773
19600	1727	2450	2830	3161	3477	3779
19650	1729	2453	2833	3164	3481	3784
19700	1732	2456	2836	3168	3485	3788

19750		1734	2459	2839	3172	3489	3792
19800		1736	2462	2843	3175	3493	3797
19850		1738	2465	2846	3179	3497	3801
19900		1740	2467	2849	3183	3501	3806
19950		1742	2470	2853	3186	3505	3810
20000		1744	2473	2856	3190	3509	3815

Victor Garnice

Public Comment

I have been a family law attorney for over 40 years. The Guidelines formula for parenting time allowance has been and continues to be a destructive feature in the way it is structured.

The present formula has fixed percentages of allowances in a series of steps, each step constituting a range of time measured in days:

PARENTING TIME TABLE A
Number of Parenting Time Days Adjustment Percentage
0 - 3 0
4 - 20 .012
21 - 38 .031
39 - 57 .050
58 - 72 .085
73 - 87 .105
88 - 115 .161
116 - 129 .195
130 - 142 .253
143 - 152 .307
153 - 162 .362
163 - 172 .422
173 - 182 .486

It is further complicated by the contorted definitions of time for this purpose:

B. Count one day of parenting time for each 24 hours within any block of time.
C. To the extent there is a period of less than 24 hours remaining in the block of time, after all 24-hour days are counted or for any block of time which is in total less than 24 hours in duration:
1. A period of 12 hours or more counts as one day.
2. A period of 6 to 11 hours counts as a half-day.
3. A period of 3 to 5 hours counts as a quarter-day.
4. Periods of less than 3 hours may count as a quarter-day if, during those hours, the noncustodial parent pays for routine expenses of the child, such as meals.

The result is an explosion in litigation over parenting time, much of which is artificial and based solely on child support considerations. Litigants engage in what would otherwise be unnecessary hostility and use significant resources, and those of the courts, battling over the minutiae over pickup and return times so as to artificially move from one step to the next. For example, disputes over pick-up and drop-off time to make a parenting time stay at one or the other parent's either five hours or six hours, since the difference of a between a quarter-day and a half-day multiplied by the number of days in a year

can push the parenting time allowance up or down a step or two. For example, a dispute between five hours and six hours multiplied by an exchange once per week can result in an annualized differential of 13 days, enough to raise or lower that parenting time allowance, for example, from .253 to .362.

Often, the parenting time schedules are made unnecessarily complicated as the two competing parents bargain for these tweaks in parenting time out of nothing more than financial greed. Don't think that this is hypothetical or a rare fluke. I see it frequently.

Certainly a parenting time allowance is appropriate. But these artificial steps are not. The solution is to eliminate the steps and have a fixed percentage allowance on a per day basis. So, for example, let's say your daily adjustment percentage is .0015. Parenting time allowance for 87 days would be an annual adjustment percentage of .1305 (.0015 x 87). Under this scheme, parenting time allowance for 88 days would be an annual adjustment percentage of .1320 (.0015 x 88). Parenting time allowance for 89 days would be .1335 (.0015 x 89). Each day would stand on its own and there would be no artificial push to get above or below the next step.

This is a reform that should have been made decades ago but has not been addressed. As a result, there are overcrowded court divisions, overtaxed court and private mediation services and ADR, increased hostility between parents and children whose lives become more disrupted than they would otherwise be as they continue to be used as budgetary pawns.

CSGIRC – Public Hearing Meeting
Public Comment
Meeting date: October 26, 2017

Annestelle Pedreiro

Public Comment

I believe that to maintain the living standard, as the minimum wage increases, child support should also increase accordingly. The cost of living has increased while minimum wage has been stagnate. It is hurting working families and individuals to contribute to the economy if they are struggling to make ends meet. This is also effecting single-parent households who need the appropriate support for their children and families. I think this is a positive step forward to help those in need.

William E. Morris Institute for Justice

3707 North Seventh Street, Suite 300, Phoenix, Arizona 85014

Phone 602-252-3432 **Fax 602-257-8138**

October 25, 2017

To: Committee for an Interim Review of the Child Support Guidelines

Re: Comments to Preliminary Report of the Committee for an Interim Review of the Child Support Guidelines

Dear Chair and Committee Members:

The William E. Morris Institute for Justice ("Institute") submits these comments to the Arizona Supreme Court Committee for an Interim Review of the Child Support Guidelines ("committee"). Recently, the committee published a Preliminary Report and Recommendations ("Preliminary Report") and requested public comment. The Institute is a non-profit program that advocates on behalf of low-income Arizonans and provides its comments pursuant to 45 C.F.R. § 302.56(h)(3) which requires the committee to specifically seek comment from "low-income custodial and non-custodial parents and their representatives." The Institute is a representative of low-income parents in Arizona.

As you are aware, the Child Support Guidelines are used to establish child support throughout Arizona for unmarried, divorcing and divorced parents. Arizona Child Support Guidelines for actions filed after June 30, 2015. A.R.S.§ 25-320, Appendix ("Guidelines"). Many parents who pay or receive child support are low-income and most are not represented by counsel. Our understanding is that approximately 85% of family law litigants in Maricopa County are unrepresented. These parents rely on the income standards set forth in the Guidelines to be fair and just so that their children have the financial resources appropriate to their needs and each parent's ability to pay.

I. The Importance of Child Support

The appropriate determination of child support is an area of critical importance to Arizona families because child support plays an increasingly important role in keeping children out of poverty. A study conducted by the Urban Institute found that 625,000 children nationally would have lived in poverty had they not received child support.

Sorenson, *Child Support Plays an Increasingly Important Role for Poor Custodial Parents*, Urban Institute, at 1, December 17, 2010, http://www.urban.org/url.cfm?ID=412272. Without child support income, these families would need an additional $4.4 billion to escape poverty." *Id.* As little as $100 received in child support each month decreases the number of families returning to public assistance from 30% to 10%. Trotzky, *Child Support and Child Poverty,* Family Law Forum, at 2, 2013, https://www.mnbar.org/docs/default-source/sections/child-support-and-child-poverty.pdf?sfvrsn=4.

In 2015, 51% of all families with children in Arizona had income below 200% of the federal poverty level (the national average is 43%). *Arizona Demographics*, National Center for Children in Poverty, http://www.nccp.org/profiles/profies/state_profile.php?state=AZ&id=6. As this research shows, the award of child support is critical to the reduction of childhood poverty in Arizona.

II. The Institute Supports the Following Committee Recommendations

A. Incarcerated Parents

Federal regulations provide that the Guidelines not treat incarceration as voluntary unemployment. 45 C.F.R. § 302.56(c)(3). Thus, the committee recommends that the court not impute minimum wage to incarcerated parents unless a parent has an actual ability to pay the child support ordered. The Institute supports this recommendation. Parents should not be ordered to pay support during periods of incarceration unless they have the ability to pay because the accrual of child support arrearages during incarceration creates barriers to their successful re-entry into society. However, legal services advocates advise that there are some parents who may be able to pay support because they own businesses that continue to generate income during their incarceration or they have savings and other assets that can be used for the support.

B. Rounding Support to the Nearest Dollar Amount

The Institute supports the committee's recommendation that courts round child support to the nearest whole dollar rather than to the exact amount calculated by the statewide calculator. These provisions streamline the establishment and collection of support.

C. No Support Orders for Amounts Less than the Clearinghouse Fee

The Institute supports the committee's recommendation to not impose a child support court order for less than the monthly clearinghouse fee, which is currently $5. The Institute concurs that in these limited instances, the support ordered will not go to a child and it does not make sense to impose support if it will not benefit a child.

D. Examples of Multiple Children and Different Parenting Plans

The Institute supports the committee's memorializing of the holding in *Mitton* by including in the Guidelines an example of how to calculate parenting time in situations where parenting time differs for multiple children. *Mitton v. Mitton,* 242 Ariz. 201, 394 P.3d 28 (App. 2017). The examples clarify how support should be calculated when children have differing parenting time schedules and will lead to greater consistency in the awards of support when there are multiple children with different parenting plans.

III. The Institute Suggests Changes to the Following Recommendations

A. Global Change in Terminology

The committee recommends that the terms "non-primary parenting time parent" and "primary parenting time parent" be adopted to describe the different types of custodial arrangements available to parents. The Institute opposes the use of these terms. These terms "primary parenting time parent" and "non-primary parenting time parent" are not found A.R.S. § 25-401 (the custody definitional section of Title 25) and they are overly complicated. The Institute recommends that committee use "legal decision-making" and "parenting time" as these are the terms adopted by the legislature and codified in A.R.S. § 25-401(3) and (5). The use of standard definitional terms will alleviate misunderstanding among guideline users, many who are self-represented and may become confused by the use of complicated terms not found in A.R.S. § 25-401.

B. Attribution of Minimum Wage

1. The Attribution of Minimum Wage Should Be Discretionary and the Parents' Specific Circumstances Considered

The current Guidelines provide that "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." *Guidelines,* Section 5(E) at 4. The committee now recommends that attribution of minimum wage income be discretionary. Preliminary Report at 6. The Institute supports the committee's recommendations because there are simply too many instances when the attribution of income to a parent may be unwarranted and unjust for it to be a mandatory provision. The federal regulation upon which Arizona's recommendation is based, describes some of the factors the court should consider when determining whether to attribute income, such as:

> assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers

> willing to hire the non-custodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

45 C.F.R. § 302.56(c)(1)(iii).

The Institute supports the consideration of the above factors and recommends that additional factors be included in the new Guidelines, such as whether a parent is the caretaker of a young child; if affordable child care is available to the caretaking parent; whether the parent has reliable transportation to commute to and from work; and whether the child's schedule permits the caretaking parent to accept work (such as when a child is in school for only a few hours a day). Although these factors are not included in the federal regulation, legal services advocates advise the Institute that these circumstances are frequently the reasons why low-income parents cannot participate in full-time minimum wage work. These would be appropriate factors for court consideration.

2. Full-Time Child Care Expenses Must be Attributed to Caretaking Parents who are Attributed Minimum Wage

It is the Institute's understanding that the general practice throughout the State of Arizona is to attribute minimum wage to both parents. However, the Institute understands that when courts attribute minimum wage to caretaking parents, child care expenses are not always attributed to those caretaking parents. This practice ignores the child care needs of caretaking parents and the costs associated with full-time employment. Working parents need others to care for their children during their working hours and pay others for these services. If a caretaking parent is going to be attributed full-time minimum wage income then that parent must also be attributed the normal and ordinary full-time child care expenses that go along with full-time employment. Legal services advocates advise that the lack of affordable child care is a reason many parents are not employed. The Institute recommends that the attribution of child care be made mandatory when income is attributed to a caretaking parent.

3. TANF Should Remain an Example of When Minimum Wage Should not be Attributed to a Parent

Child support is based upon providing for the needs of the child relative to a parent's ability to pay. For these reasons, being a current recipient of Temporary Assistance to Needy Families ("TANF") currently is and should remain a reason why income is not attributed to a parent who earns less than minimum wage. Presently, the Guidelines contain examples of when minimum wage should not be attributed income to a parent. *Guidelines* at 5(E) at 5. One example is when a parent is a current recipient of TANF. *Id.* In the Preliminary Report, the committee recommends to delete the receipt of TANF as an example of when the court may decline to attribute minimum wage income

to a parent. Preliminary Report at 6-7. The committee provides no reason or rationale for this change.

The Institute requests that the receipt of TANF remain a reason minimum wage income should not be attributed to a parent. Attribution of income is appropriate for cases in which a parent voluntarily impoverishes him or herself in order to avoid paying child support or does not want to work. This is not what happens with the receipt of TANF because a parent must work, unless exempted, as a condition to receive this public benefit. When a parent applies for TANF, the State assesses whether the parent is employable and the conditions under which employment is required. If the parent is employable, the State requires the parent to engage in work-related activities as a condition to receive TANF. A.R.S. § 46-292(B)(2). If a parent is on TANF and not earning minimum wage, it is because the parent has been exempted from the TANF work-related requirement. Family courts should give deference to these employability determinations. The attribution of income to a parent on TANF (who is exempted from full time minimum wage requirements) is inconsistent with the award of public assistance and premises underlying the attribution of income to a parent.

Moreover, when families go on TANF, they must assign, or turn over, their rights to child support to the state as reimbursement for TANF benefits. As stated earlier, the attribution of income to a caretaking parent reduces the payor's support obligation and thus the amount that the payor reimburses the state for the TANF benefits.

C. Self-Support Reserve

Pursuant to federal regulation, Arizona must take into consideration the basic subsistence needs of the noncustodial parent (and at Arizona's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a SSR or some other method determined by Arizona. 45 C.F.R. § 302.56(c)(1)(ii).

Arizona already uses a SSR. The current SSR amount is $1,115, which is based on the 2014 federal poverty level of $973 for a single person that has been "grossed-up." Preliminary Report at 3. The committee now recommends changing how the SSR is calculated in Arizona. Instead of determining the SSR by reference to a certain percentage of the federal poverty Guidelines, the committee recommends that the SSR be established at 80% of full-time minimum wage earnings. *Id.* at 4.

Pursuant to federal regulation, Arizona may consider the subsistence needs of the caretaking parent and the children. 45 C.F.R. § 302.56(c)(1)(ii). Arizona currently does not consider the subsistence needs of the caretaking parent and children. *Guidelines,* Section 15 at 14. The Preliminary Report made recommendations to consider the impact on the caretaking parent but this does not require the committee to consider the

subsistence needs of the family or conduct a SSR test on the caretaking parent. Preliminary Report at 4.

The Institute objects to the establishment of the SSR by exclusive reference to wages because wages by themselves do not always reflect an inability to pay support. Wages are but one factor that determines if a parent has sufficient resources to meet subsistence needs. For example, a parent may meet his needs sufficiently by relying on savings and barter. In addition, a parent earning less than minimum wage may have low or no living expenses and more than sufficient income to meet subsistence needs.

In addition, the Institute recommends that Arizona exercise the discretion found in the federal regulation and perform a SSR test on both parents in each child support case to evaluate and verify that both the paying and receiving parent and children are financially able to maintain at least a minimum standard of living. It is likely that low-income caretaking parents and children are more low-income than paying parents because they have to stretch their limited income among multiple family members. Considering the needs of the entire family is more consistent with the purposes behind the Guidelines which are to "establish a standard of support for children consistent with the reasonable needs of children and the ability of parents to pay." *Guidelines,* Section 1(A) at 1.

Thus, the Institute proposes that the SSR amount be established at amounts up to 80% of the monthly full-time minimum wage earnings after consideration of the parties' actual financial resources, living expenses and subsistence needs. This will allow the court to establish an accurate subsistence SSR amounts based upon the economic circumstances of the entire family.

IV. The Institute Opposes the Following Recommendation Concerning Third-Party Caregivers

Finally, the Institute opposes the committee's recommendation concerning when child support may be awarded to third-party caregivers because the recommendations is inconsistent with Arizona law. The current Guidelines provide support to third parties in the following circumstances:

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

Id., Section 21 at 17.

The committee recommends amending this section to read:

> When a child lives with a third-party caregiver by virtue of a court order, administrative placement by a state agency, OR PLACEMENT BY A PARENT ~~or under color of 25 authority~~, the third-party caregiver is entitled to receive child support payments from each parent on behalf of the child. WHEN CALCULATING THE AMOUNT OF CHILD SUPPORT TO BE AWARDED TO A THIRD-PARTY CAREGIVER, CONSIDER THE THIRD-PARTY CAREGIVER'S EXPENSES UNDER SECTION 9, BUT NOT THE THIRD-PARTY CAREGIVER'S INCOME.

Preliminary Report, Section 21 at 19.

The Institute objects to the committee's amendment of the Guidelines to provide for third-party support under Title 25 when a child is placed in the care of a third-party by a parent. There is no provision in Title 25 that allows support to be established merely because one parent placed the child in the care of a third-party. Arizona law requires there be an established legal relationship. For example, parent-child, guardianship, and legal custody order. While parents have a duty to support their child(ren), third-parties must establish and be awarded a legal interest in the care and custody of a child under Arizona law to establish the right to support of that child. The creation of a legal interest is statutory. Arizona's legislature has not provided in A.R.S. §§ 25-402(B) or 409 for the award of child support to third parties. These sections control the rights and obligations of third-parties under Title 25 and had the legislature intended that third-parties be awarded child support under Chapter 4, Article 1 of Title 25 then the Arizona legislature would have made provision for it.

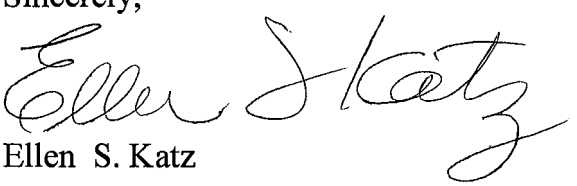
Moreover, the committee appears to have exceeded the scope of the interim review by its recommendation of when a third-party can be awarded support and the standard under which this support may be ordered. The Institute opposes the committee's creation of this third-party caregiver right to support as it is beyond the scope of the interim review as set forth by the terms of the Arizona Supreme Court. Arizona Supreme Court, Administrative Order No. 2017-93 (July 26, 2017). The Administrative Order provided that the purpose of the committee was to "review the impact a higher minimum wage and new federal regulations have on the Child Support Guidelines and make recommendations accordingly to the Guidelines and, if needed, the Arizona Rules of Family Law Procedure." *Id.* at 1. The committee has provided no justification explaining why it reviewed and made this recommendation as to third-party child support and has cited no federal regulation mandating this review. The Institute recommends that this recommendation be withdrawn.

V. Conclusion

The careful consideration of the rights and obligations of parents to their children is of critical importance to low-income persons both to maintain a parent's limited income and to ensure that children are provided with the support they need to mature into productive adults. The Institute thanks the committee for the opportunity to comment on the Interim Review of the Child Support Guidelines and provide suggestions. The Institute requests that the committee review the recommendations and consider the comments contained in this letter.

Th ank you for the opportunity to submit these comments. If you have any questions concerning this letter, please contact Ellen Katz at eskatz@qwestoffice.net.

Sincerely,



Ellen S. Katz

Glenn Halterman

Comments

(SUBMISSION #1 of 4. Unfortunately, the form only provides a limited amount of space to submit comments, and I have more to submit regarding this issue than space allows. Therefore, I am making multiple submissions.)

My comments pertain to the issue of multiple children with different parenting plans. I was the attorney for the father in the Mitton v. Mitton matter (at trial, at the Court of Appeals, and for the Petition for Review at the Supreme Court), which addressed this issue. For what it's worth, I am a Certified Family Law Specialist. (I also apologize for any formatting issues that may be transmitted as a result of the submission of these comments through the website.)

Months ago, when I read the first page of the Mitton opinion (1 CA-CV 15-0769 FC) and saw that the trial court's improper child support calculation was "Vacated and Remanded" it was a good moment. The feeling I had for my new opinion was not unlike the feeling one might have when getting a new pet: I got what I wanted, he was mine, and we were going to be together a long time. However, as I continued to read the opinion and eventually reached the conclusion, I discovered the unfortunate truth: there was sometime very wrong with the decision, I knew it had to be put down, even if that meant losing my new-found companion. So, with the help of a Petition for Review and the members of the Arizona Supreme Court, we took Mitton out back and did what had to be done: the Mitton opinion was depublished.

Based on the draft minutes from the September 21, 2017 meeting of the Committee, despite the depublishing of the opinion, the Committee is planning to memorialize the holding in Mitton by including in the Guidelines an example of calculating parenting time in situations where parenting time differs for multiple children. While I agree with the decision to include an example of how to address multiple children with differing parenting schedules, I do not agree that the holding in Mitton should be the basis of that example. In fact, if the Committee were to ultimately move forward with including the Mitton calculation in the Guidelines, it would effectively be digging up the remains of my former pet in an attempt to give it new life, which would take this from a play on Disney's Old Yeller to a version of Stephen King's Pet Sematary (Mr. King's spelling). However, the Committee should let sleeping dogs – and dead dogs – lie.

The problem with the Mitton formula, which might be referred to as the "average parenting time approach," is that is does not ultimately give the obligor parent the appropriate credit against their support obligation, and will typically result in a support obligation that is far higher than what is contemplated by the Guidelines. The shortcomings of this method of calculation have been noted by at least one other court. In the case of In re Marriage of Blanford, 937 N.E.2d 356 (Ind. App., 2010), the Indiana appellate court stated that the approach of averaging parenting time to determine the parenting time credit "suffers from its own difficulties," noting that by "averaging the parenting time"

among the children the obligor parent may receive "too much or too little credit in calculating his support obligations." We can do better than the Mitton formula.

I am not the only attorney who believes that the Mitton formula is problematic and should be eschewed. As I filed my Petition for Review with the Supreme Court, the Arizona Chapter of the American Academy of Matrimonial Lawyers expressed a willingness to file an amicus brief with respect to Mitton Opinion (which I reasonably anticipated would disapprove of the Court of Appeals' child support formula set forth in Mitton). I also had another had another colleague approach me in the hall and express his disappointment with the formula that the Court of Appeals had set forth and which, until it was depublished, would have been the required method of calculating support. I also believe I can safely say that even my opposing counsel in Mitton did not believe that the formula set forth in the Mitton holding was sound.

If the Mitton formula is not adopted and incorporated into the Guidelines, the void in the Guidelines must still be filled to address the method of calculation with multiple children and different parenting schedules. Three years ago, prior to my involvement in the Mitton case, averaging the different parenting time schedules as the Mitton decision directs would have seemed like a reasonable approach. However, after being forced to look more closely at the issue, I no longer believe that to be the case. In the end, and as a result of my immersion into this matter, I have developed a method of calculation that is consistent with the Guidelines and which I believe should be adopted and included in the Guidelines.

The method of calculation I have come upon I refer to as the "incremental increase approach." The basics of the method are that an initial child support obligation is calculated based on the parenting schedule that is common to the greatest number of children. Then, a second calculation is performed for the child or children that exercise a different parenting time schedule. The second calculation is performed to find the incremental increase of how much additional support should be paid. This is certainly easier to understand when seen in an example. (NOTE: This is not simply a matter of preparing two child support worksheets based on the different parenting schedules and adding them together. That is what the trial court did in Mitton and that method was specifically rejected by the Court of Appeals.)

Here is an example of the incremental increase approach (based on the facts in the Mitton case):

Father's gross monthly income is $6,300 per month. Mother's gross monthly income for child support purposes is $3,700 per month.

Father's share of the insurance costs for the three children is $69 per month. Mother's share of the insurance costs for the three children is $51 per month.

The parties have three children. The parties exercise equal parenting time with two boys ("Twins") and a girl, who is over age 12, ("Daughter") and lives full-time with Mother (i.e., no parenting time exercised with Father).

This approach involves the use of three child support worksheets.

Because the Twins share the parenting time schedule that it common to the greatest number of children

(two), the first worksheet (Worksheet #1) is based on the Twins alone. Based on the parties' equal time with the Twins, Father will have a child support obligation for the Twins of $223.19 per month.

The next calculation will determine how much additional support should be paid for Daughter and involves two child support worksheets.

The second worksheet (Worksheet #2) is based on Mother having two children full-time (no parenting time to Father); this shows in an obligation of $1,064.69. The third worksheet (Worksheet #3) is based on Mother having three children full-time; this results in an obligation of $1,278.00. The obligation from the second worksheet ($1,064.69) is subtracted from the third worksheet ($1,278.00), giving a figure of $213.31, which provides the additional support payment from Father for Daughter's care.

That result ($213.31) is added to the obligation from Worksheet #1 ($223.19), giving a Final Child Support Obligation for Father of $436.50 per month.

This approach of using three worksheets to arrive at a final support amount in the case of multiple children and different parenting plans was utilized in the case of Lawrence v. Webber, 894 A.2d 480, 2006 ME 36 (Me., 2006), in which the parties had a virtually identical parenting time situation as existed in Mitton:
"In conclusion, in this case there are three child support worksheets. The first addresses the two boys, for whom the parties provide substantially equal care, based on three children in the family. The second is the supplemental worksheet addressing the child support requirement for the boys, pursuant to 19-A M.R.S. § 2006(5)(D-1). The third worksheet addresses the daughter, who is in the primary care of her mother, and is based on three children. Because each of the worksheets, on the facts of this case, require the father to pay the mother, the amount of child support calculated from the supplemental worksheet is added to his child support obligation from the third worksheet to establish the father's final child support obligation." Id. at 485.

Just as the court in Lawrence calculated the child support obligation for daughter "based on three children," the incremental increase method above calculates Daughter's obligation based on Daughter being the third child in Mother's household. It does this by determining how much additional support should be paid to a parent if third child (full-time) is added to a household that already has two other children full time. Thus, the "incremental" increase of support - in addition to the two other children - is calculated.

Under the facts as they existed in the Mitton case, the incremental increase approach results in a monthly obligation from Father to Mother of $436.50 per month. Importantly, this method of calculation is true to one of the most basic principles of the Guidelines, which is to apportion that Total Child Support Obligation between the parties in proportion to their respective incomes. The incremental increase approach does this with precision.

The Total Child Support Obligation based on the Mitton facts is $2,138.10. This Total is calculated by taking the Basic Child Support Obligation for 3 children ($1,953.00) and adding the total insurance costs ($120) and the older child adjustment ($65.10). The breakdown of how the Total is allocated between the parties is as follows:

MOTHER'S SHARE OF THE TOTAL SUPPORT OBLIGATION:

CSGIRC - Public Hearing Meeting
Public Comment
Meeting date: October 26, 2017
Mother's share of obligation for Twins spent directly on Twins: $618.31
Mother's payment of insurance for Twins: $34.00
Mother's share of obligation for Daughter spent directly on Daughter: $121.79
Mother's payment of insurance for Daughter: $17.00
TOTAL: $791.10

Mother's share of $791.10 is 37% of the Total Child Support Obligation of $2,138.10, consistent with her 37% share of the parties' combined gross income.

FATHER'S SHARE OF TOTAL SUPPORT OBLIGATION:
Father's share of obligation for Twins spent directly on Twins: $841.50
Father's payment of insurance for Twins: $46.00
Father's payment of support to Mother for Twins: $223.19
Father's payment of support for Daughter: $213.31
Father's payment of insurance for Daughter: $23.00
TOTAL: $1,347.00

Father's share of $1,347.00 is 63% of the Total Child Support Obligation of $2,138.10, consistent with his 63% share of the parties' combined gross income.

Therefore, the incremental increase calculation apportions the parties' respective obligations in accordance with their incomes, consistent with the Guidelines.

In contrast, the average parenting time method from Mitton results in a monthly obligation from Father to Mother of $897.17 (which is based on Father only having an average of 122 parenting days per year ($182.5 + 182.5 + 0 = 365 ÷ 3 ≈ 122)).

This child support obligation of $897.17 is disproportionately high. In fact, if Father did not have any parenting time with any of the children, Father's child support payment to Mother would be $1,278.00. Therefore, the child support obligation with Father having no parenting time is only $380.83 more than the obligation calculated pursuant to the Mitton method, with Father having two out of three children half of the time.

The problems with the Mitton approach become more pronounced when comparing what Father's support obligation would be for two children half the time (or three children half of the time) with the obligation calculated under Mitton.

Based on an equal time share for two children (the Twins), Father's obligation would be $223.19. Adding one additional child (Daughter) and calculating support for three children on a 50/50 schedule would increase Father's obligation to $268.95. Thus, the addition of a third child with equal parenting time only increases Father's support obligation $45.76.

However, as stated above, Father's monthly child support obligation would be $897.17 under the Mitton approach (with Father having equal time with the Twins and no parenting time with Daughter). This amount is $628.22 more than if the parties were exercising equal time with all three children: $897.17 vs. $268.95. In other words, although Daughter's time with Mother only doubles between these calculations, the amount of additional support paid by Father increases almost 14-fold ($628.22 ÷

$45.76 = 13.728). This is not a reasonable result.

This inequity can be demonstrated another way. If the parties have each of the Twins for 15 days per month (which is a sufficiently close approximation for these purposes), Father's child support obligation to Mother is $223.19. If, in addition to the Twins, both parties have Daughter for 15 days per month, Father's obligation increases $45.76 to $268.95. Under the actual parenting time arrangement, with Daughter not having any parenting time with Father, Daughter spends an additional 15 days per month with Mother (i.e., 15 days more than the 50/50 schedule that results in Father's monthly obligation to Mother of $268.95). Even though Mother's parenting time with Daughter only increases by an additional 15 days per month, Father's child support obligation increases $628.22 per month under the Mitton approach. Therefore, the first 15 days per month Daughter is with Mother adds another $45.76 to Father's child support obligation (over what he would pay for the Twins alone), but Daughter's next 15 days per month with Mother adds an additional $628.22 per month to Father's obligation. Clearly, this is an unreasonably disproportionate result.

Moreover, although Father's child support obligation for the Twins with 50/50 parenting time is only $223.19 per month, under the Mitton approach the addition of a third child living full-time with Mother quadruples Father's obligation to $897.19. However, if having two children half the time results in an obligation of $223.19 per month for those two children, then logically having one additional child full time should result in an additional obligation for the "full-time" child that is roughly the same as the obligation for the two "half-time" children. In this case, Mother spends 182.5 parenting days per child with each of the Twins, or 365 parenting days per year between both boys. That is the same number of parenting days Mother spends with Daughter (365). Therefore, the additional monthly child support for Daughter should be approximately the same as what would be ordered for the Twins alone. As such, based simply on this reasoning (and not taking into account the economy of scale present in the Guidelines) Father's total child support obligation should be no more than $223.19 x 2 = $446.38.

In fact, based on the incremental increase approach, the amount Father should be paying Mother for his support of all three children is $436.50.

As shown above, taking an average of the parenting time under Arizona's Guidelines has the effect of granting too little credit to the obligor parent. This unfair result occurs because taking an average of the parenting time exercised with each of the children results in a fictitious parenting time figure. Based on the Mitton approach, it is assumed that Father spends the same amount of time with each child: 122 days. On its face, this is a false assumption. Father does not spend 122 days with all three of his children; he spends 182.5 days with two of his children and no parenting days with a third child. The average parenting time approach assumes that Father only has children in his home one-third of the time. However, Father actually has two of his children in his home half the time. Likewise, the Mitton approach also assumes that Mother has all three children in her care two-thirds of the time (243 days per year). However, Mother actually only has two of the children half of the time and another child full time. Therefore, while averaging the parenting time may be an easy approach to calculating support, it is not an accurate approach, as noted in Blanford.

In addition, based on the Mitton approach, and the 122 days of average parenting time credit Father would be deemed to have, Father would only receive a 19.5% reduction in his child support obligation attributable to his parenting time (a reduction of only $380.84 from his Total Child Support Obligation of $1,347.00). Therefore, the Mitton average parenting time method assumes that Father only spends

$380.84 directly on the children while they are in his care; Father is expected to satisfy the remainder of his $1,347.00 child support share by paying $69.00 for insurance and a $897.17 cash payment to Mother.

In contrast, if Father had equal time with all three of the children, Father would receive a parenting time credit of $1,009.05 – the amount he would be presumed to spend directly on the care of the children. The remainder of Father's Total Child Support Obligation would be satisfied by a $69.00 insurance payment and a direct cash payment to Mother of $268.95. Again, under the Mitton approach, Father's would only receive a $380.84 parent time credit – the amount he is presumed to spend directly on the children. Thus, under the Mitton approach, Father is expected to spend $628.21 ($1,009.05 - $380.84 = $628.21) per month less in his own household – and consequently $628.21 less on the two children that live with him half of the time – because Daughter spends 15 additional days in Mother's home each month. The average parenting time approach also results in Mother having $1,637.27 per month available to spend directly on the children in her care, based on the $740.10 the Guidelines presume she spends on the children directly, plus the $897.17 Father pays to Mother. Therefore, under the Mitton average parenting time approach, Mother has $1,637.27 per month to spend directly on the children which they are in her care, while Father only has $380.84 per month to spend directly on the children while they are in his care. Thus, of the $2,018.10 that is allocated by the Mitton approach to be spent directly on the children in each household (the Total Child Support Obligation $2,138.10 less the combined amount paid by the parties for insurance $120.00), 83.66% of the funds are available for Mother's household and only 16.34% of the funds are available for Father's household. Clearly, the average parenting time approach disproportionately, and negatively, affects the Twins who are in Father's care 50% of the time.

On the other hand, the incremental increase approach avoids such a drastic reallocation of resources while appropriately affording Mother the lion's share of the funds to spend on the children while they are in her care, since she has more children to support in her household. Ultimately, under in incremental increase approach, Mother would have $1,176.60 to spend directly on the children, and Father would have $841.50; as a percentage, 58.30% of the funds would be available for Mother's household and 41.70% of the funds would be available for Father's household. This allocation is far fairer than the Mitton calculation and is consistent with the Guidelines. Moreover, as set forth above, this method precisely allocates the Total Child Support Obligation between the parties in proportion to the respective shares of the parties' combined gross income. Therefore, Father's method of calculation is not only fair, but it is true to the Guidelines. I would ask the Committee to consider the adoption of this approach.

I appreciate the Committee's consideration of these comments and would be happy to provide additional supporting documentation for review.

Final Report and Recommendations of the Committee for an Interim Review of the Child Support Guidelines

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