

**CHILD SUPPORT STATUTE REVIEW COMMITTEE REPORT**

**EXHIBITS REFERENCED IN REPORT**

**STATE BAR OF NEVADA**

**FAMILY LAW SECTION**

**August 1, 1992**

ESTABLISHMENT OF APPROPRIATE  
OBJECTIVE STANDARDS FOR SUPPORT

The Commission examined, investigated and studied the feasibility of the establishment of appropriate objective standards for support.

It is the intent of the Commission in determining a parent's child support obligation that the court shall consider the following: the health, relative economic condition, financial circumstance, income, including wages, and earning capacity of the parties, including the children; the manner of living to which the parties have been accustomed when they were living under the same roof and the equity inherent in the situation. As a result of the discussion and analysis of the problems involved in standards for support, the following recommendations are made.

Recommendations

The Commission recommends the philosophy embodied in the Washington and Income Shares Formula in conjunction with the California Uniform Schedule of Child Support with certain modifications and additions. (See Exhibit "B" attached hereto.)

Children should receive the same proportion of parental income in their present households that they would have received in the absence of a dissolution (or non-formation).

This tenet provides a consistent basis for treatment of a range of additional factors, such as income of current spouse, other dependents, and child care expenses. Modifications and additions to the philosophy set forth in the Washington and Income Shares Formula include:

1. Mandatory submission of income tax returns in all cases involving the support of children both at the initial hearing on child support and at any review hearing.

2. After twelve (12) weeks of unemployment, judges should issue contempt citations, orders to show cause, or order jail time when appropriate.

3. Funding for the enlargement of the Child Support Division of the District Attorney's offices in Nevada is critical to the success of support enforcement. For every one dollar (\$1.00) the State of Nevada expends for this purpose, in Clark County, it realizes seven dollars and eighty cents (\$7.80). In addition, funding for mediation and counseling services is critical in the areas of child support custody and visitation. All matters relating to child support must be handled in a timely manner with specific instructions spelled out by judges or masters to avoid undue hardship on children. Incentives received by the District Attorneys from the federal government is recommended to be returned into the child support program of the county for the enhancement of the child support enforcement program rather than into the county general fund.

4. All personnel, including but not limited to judicial, legal or mediatory, dealing with domestic relations matters involving children must receive training in this specialized field. Use of trained professionals at the Master and Referee levels by the Judiciary would greatly enhance service in domestic relations, including visitation, custody and support cases.

5. The power to issue contempt orders must be given to Masters who hear and make recommendations on the cases.

6. Employers in URESA or wage assignment cases must be made responsible for notifying the proper office of termination or resignation of an obligor parent.

7. Penalties must be established against employers who collude with obligor parents/employees for the purpose of non-payment of child support.

8. Coercive measures, including but not limited to jail sentences and property seizures, should be used as a means of collecting child support and arrearages when appropriate.

9. Consideration should be given to the reimbursement of interest costs incurred by the custodial parent as a result of non-payment of child support.

10. Every effort should be made in the mediation process to insure that in those cases where it is economically feasible for the non-custodial parent to provide for higher education the court or mediators or masters so order the continuation of support for four (4) years of college or vocational

educational funding.

11. Authorities have concluded that it is not in the best interests of children to live in luxury part of the year and poverty the other part of the year. Therefore, the Commission recommends the bi-ennial review of the income status of custodial and non-custodial parents for the purpose of maintaining a stable standard of living for children and to review custody and visitation issues. During the review consideration should be given to changes in the cost of living, ages and needs of the children. It is recommended that the Commission remain constituted to study the feasibility and method by which a bi-ennial review can be accomplished.

12. All support orders must include a fair and enforceable provision for medical, dental, optical and other special health needs of children.

13. Nevada shall enact no statute of limitations upon arrearages in child support.

14. The Commission recommends the creation of a Domestic Relations Court to handle all cases involving children.

Any situations not covered in Nevada Revised Statutes will be subject to Public Law 98-378, 98th Congress.

List of Actions/Recommendations

1. The Child Support Formula will be based on a percentage of income that will arrive at the child support figure.  
Nancy Angres made the motion; seconded by John McGroarty; motion carried; none opposed.
2. Whatever percentage we arrive at, it will be based on gross income.  
Nancy Angres motioned; seconded by Myrna Williams; motioned carried; none opposed.
3. Include both incomes, custodial and non custodial parents, in arriving at the ultimate amount that is considered in the percentage.  
Amendment: to include just cases where shared custody above 146 days, we go to the shared income approach but under 146 days, it would be a strictly percentage basis of the non custodial parent; absent extraordinary circumstances in special cases.  
Courtenay Swain motioned; seconded by Tom Severns. Following discussion on the motion, Judy Smith motioned to include the amendment; seconded by John McGroarty. Motion carried; Myrna Williams abstained.
4. In conjunction with the motion just passed (Recommendation #3), "where there is a typical case of joint custody of one parent and reasonable visitation by the other parent, that we go with the strict percent of gross income of the non custodial parent".  
Nancy Angres motioned; seconded by John McGroarty; motioned carried; none opposed.
5. Whatever percentage we agree on, the percentage increase with the number of children to be supported.  
Motioned by Nancy Angres; seconded by Myrna Williams; motion carried; none opposed.
6. There will be a straight percentage without fluctuation based upon income in all Child Support Orders subject to discretion of the court to vary it based upon findings of fact.  
Myrna Williams motioned; seconded by John McGroarty; motion carried; Courtenay Swain abstained.

7. The appeal of the Nevada Supreme Court Opinion (Wagoner vs Tillingshast, 1986, Advanced Opinion #55, issued June 20, 1986) was discussed. The Opinion was interpreted to say that in every case where a Master in an URESA case, and further interpreted to apply to all Master/Referee cases, there must be a hearing before the District Judge on that same case before it can be signed by the District Judge whether it has been objected to or not; i.e., there would be no need for the Master/Referee System if we must also have a second independent hearing. Following thorough discussion, the motion was made by Nancy Angres, seconded by Gloria Handley, that we request the Legislative Counsel Bureau to draft a bill in reference to having a mandatory Master/Referee System put into place in both Clark and Washoe Counties, plus two Circuit Masters to oversee all URESA, domestic relations, paternities, medical, juvenile, and probate hearings and that the findings of the Master/Referee, unless objected to within 10 days, shall become final. Discussion on the motion resulted in Judy Smith, seconded by Myrna Williams amending the motion to include "at least two (Circuit Master/Referees) for the Small Counties". Motion and amendment carried; none opposed.  
  
Thorough discussion on the motion as a whole, resulted in the Commission tabling the above motion for further consideration.
8. There shall be a presumption that the basic needs of the child are met within the Formula absent good cause shown. The presumption can be rebutted if it is shown the needs of the child are not met by application of the Formula; motion and second unknown; motion carried.
9. Any unreimbursed ordinary, extraordinary or remedial medical health care expenses shall be borne equally by the parents.  
Courtenay Swain motioned; seconded by Nancy Angres; motion carried; Judy Smith and Myrna Williams opposed.
10. The minimum child support in any case will be no less than \$100 per month, per child, or the Formula amount, whichever amount is greater absent specific findings of fact by the court. Willful under-employment or unemployment does not eliminate the duty of support pursuant to these guidelines. The motion included the Formula being put into the NRS.  
William Furlong motioned; seconded by Judy Smith; motion carried; none opposed.
11. NRS to be changed to read as follows: Determination of amount to be paid; any court establishing or enforcing an order for the support of a child in determining the amount to be paid shall consider the Formula as set forth in NRS \_\_\_\_ (?); additional factors which may be considered in adjusting child support upon specific findings of the court, are:

List of Actions/Recommendations

11. (Cont'd)

1. Health Insurance.
2. Child Care.
3. Special educational needs of the child.
4. Age of the child.
5. Responsibility of the parents for support of others.
6. Value of services contributed by the custodial parent.
7. Assistance paid by public agencies to support child.
8. Reasonable related expenses of the mother's pregnancy and confinement.

Judy Smith motioned; seconded by Tom Severns; motion carried; none opposed.

12. Amended the motion made last week (Commission Meeting June 16, 17, 1986) to read: If an award falls 5% above or below the dollar amount set by the Formula, there must be a finding of fact on the part of the Judge.

Courtenay Swain motioned to amend the motion; seconded by Nancy Angres; motion carried; none opposed.

13. Put in the statute a section that states any stipulated settlement involving child support must comply with the Formula.

Nancy Angres motioned; seconded by Kenneth Peele; motion carried; none opposed.

14. We utilize the Wisconsin Formula that they established regarding percentages:

- 17% for 1 child
- 25% for 2 children
- 29% for 3 children
- 31% for 4 children
- 2% for each additional child (beyond 4 children)

Nancy Angres motioned; seconded by Myrna Williams. Lengthy and thorough discussion on the motion resulted in amendment of the motion by Nancy Angres; seconded by Kenneth Peele, to:

Increase the percentage of one child from 17% to 18%; on the final motion as a whole, it was voted that the "Nevada Formula establish percentages as:



List of Actions/Recommendations

14. (Cont'd)

18% for 1 child  
25% for 2 children  
29% for 3 children  
31% for 4 children  
2% more for each additional child.

Motion was carried; none opposed.

15. Thorough discussion was made of Page 3 of the Calculation of Joint Physical Custody, wherein one parent has a situation of shared custody of 40% or more; the Formula would take 17% of each parent's gross income, then calculate what the support should be, and reduce proportionately according to the shared custody.

Following discussion, Nancy Angres moved that the Formula would be changed and all the other forms and explanation would come out; the Formula would only contain: Proportional parental support; number of days annually the children are in each parent's custody; the percentage of the year in each parent's custody; the father's obligation; the mother's obligation; then depending on which parent had the most custody, would get the support; the form to be adopted and utilized in determining shared custody support.

Williams moved to amend the motion to reflect 18% (the Nevada Formula) and seconded the motion; motion carried; none opposed.

16. The Commission discussed the automatic review and/or frequent times for minimum level obligors. Discussion resulted in the Commission deciding the review could be performed administratively and as far as the IV-D System, we take the cases in periodically and then as far as the non-IV-D cases, we could probably incorporate that in our simplified petition for modification and enforcement for support.

No motion was required or made.

17. Following discussion and explanation that many women and children remain within the welfare system, Myrna Williams proposed that the Commission ask William Furlong to institute a study to see if the cost of extending medical care to children of working poor mothers to keep them out of the welfare system, would be cost effective by the savings that would be made on the welfare grants.

Mr. Furlong advised he would have to consult with the Welfare Administrator and would try to submit a summary of same; the Commission did not require or make a motion on this item.

List of Actions/Recommendations

18. Following discussion of the recommendations of the Subcommittee on the subject of Visitation, the following actions were taken: Chairperson Swain explained we have a statute on presumption of joint custody already and what we want to achieve is the intent that both parents are equally responsible for that child; that visitation is as much an obligation as child support; and she hoped we could open with a statement to that effect; i.e., a reaffirmation of the statutory presumption of joint custody and the recognition of this Commission of the obligation of the parent to visitation and child support. Members were in agreement. Discussion of the form in which the reaffirmation would be presented resulted in Chairperson Swain asking that the Commission agree on the basics to go into the general Preamble, and she would then take the basics, put them together and mail to each Member, requesting comments, changes, etc. The Members agreed. The basics agreed to, were:
- a. Reaffirm the statutory presumption of joint custody.
  - b. Emphasize the obligation of both parents to visitation and child support.
  - c. The right of each parent to take an active role in the development and decision making process.
  - d. Everything that will be contained in this report is intended to be in the best interests of children and if there is something contained in the report that would not serve the best interests of the children, we feel the courts should have the discretion to make that determination; how this is a tool to relieve the burden from the courts and further, we are seeking the ability of the courts to make judgments consistently and fairly.
19. The Commission recommended a study to measure the feasibility and effectiveness of implementing mandatory mediation in all custody and visitation cases.  
Courtenay Swain motioned; seconded by Smith; motion carried; none opposed.
20. In any cases where the parents cannot agree to a time sharing formula, the Maricopa County guidelines absent good cause should be implemented by the court.  
Nancy Angres motioned; seconded by William Furlong; motion carried; none opposed.
21. All court orders relating to custody and visitation must be specific and enforceable absent good cause.  
Nancy Angres motioned; seconded by Myrna Williams; motion carried; none opposed.

List of Actions/Recommendations

22. Reaffirm all current statutes imposing criminal or civil penalties for willful withholding of visitation or support.  
  
Courtenay Swain motioned; seconded by Kenneth Peele; motion carried; none opposed.
23. In cases where the non custodial parent lives outside the 200 mile radius, any objections to scheduled visitations should be filed 45 days prior to departure and that the custodial parent should not be allowed to circumvent visitation with children without good cause and a timely hearing.  
  
Courtenay Swain motioned; seconded by Myrna Williams; motion carried; none opposed.
24. The custodial parent should be required to obtain permission from the non custodial parent before moving with the intent to change the residence of the child outside the jurisdiction of the court in which the divorce was granted. If the permission is denied, an application must be made to the court.  
  
Nancy Angres motioned; seconded by William Furlong; motion carried; Myrna Williams and Judy Smith abstained.
25. Discussion was held that no child may be registered in a public school in Nevada under a name other than their birth name without proof of legal change of name. Following discussion, no action was taken.

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NEVADA CHILD SUPPORT ENFORCEMENT COMMISSION

List of Recommendations

1. All Members agreed on the inclusion of absent good cause shown, or compelling circumstances-type language in terms of the use of the guidelines; i.e., unless there is good cause shown or compelling reasons not to use the formula, the Judge will follow it and if he chooses not to, he must cite the specific findings as to why. This would apply to ongoing support, arrearages and medical expenses, including medical expenses in arrearages.

Nancy Angres made the motion to approve the recommendation; John McGroarty seconded the motion and it was carried.

2. Members agreed on the application of the Formula to be applied to all child support cases regardless of the nature of the case.

Nancy Angres motioned; seconded by Judy Smith; motion carried; no one opposed.

3. A pilot program be put into place in which Guardian Ad Litem or representatives serve without pay; this person must be unrelated to the child; to serve in all cases where children are involved.

Nancy Angres moved for adoption of the recommendation; William Furlong seconded; motion carried.

4. If an award falls 5% above or below the standard, there must be a finding of fact on the part of the Judge.

William Furlong moved for recommendation; John McGroarty seconded; motion carried.

5. Recommended that it be placed in the NRS that there be life long support for a handicapped child unless the child became self supporting or for a child who will never reach self-sufficiency (the child had to be handicapped before reaching the age of majority).

John McGroarty motion for recommendation; Seconded by Judy Smith; motion carried.

List of Recommendations (Cont'd)

6. We recommend that penalties be strengthened in reference to non payment of child support in cases where child support is not collected through income withholding and 30 days arrearage accrues and in this case, we recommend contempt with immediate jail sentence.

Myrna Williams moved for recommendation; Judy Smith seconded; motion carried.

7. The SIIS System cooperate fully with the Child Support Division to put into place a Disability Insurance Intercept System, similar to the Unemployment Insurance Benefit Intercept System.

William Furlong moved for adoption of the recommendation; Judy Smith seconded; motion carried.

8. Recommendation that professional and occupational licenses should be issued or renewed only if provision is made for ongoing support and a schedule is negotiated for child support arrearages.

Nancy Angres made the motion; Judy Smith seconded; motion carried.

9. Recommendation that we publish a consumer handbook to inform the public of relevant laws and procedures, written in plain English and Nevada, specific.

Nancy Angres moved for adoption; William Furlong seconded; motion carried.

10. Recommendation for training for Judges and Court personnel in reference to the Formula, funding to be sought through the Judicial Council of the National College of Juvenile and Family Court Judges.

Nancy Angres moved for approval of the recommendation; seconded by Judy Smith, motion carried; none opposed.

List of Recommendations (Cont'd)

11. Recommendation that the drafting of a Petition Form to allow either parent, in simple precise language and without an attorney, to petition for modification or enforcement of a court order having to do with child support or visitation.

Myrna Williams moved for the recommendation; seconded by William Furlong; motion carried.

Nancy Angres motioned for amendment, for recommendation to include enforcement of the court order as well as modification.

John McGroarty seconded the amendment; amendment carried.

12. Recommendation a public education program including but not limited to school curriculum, referencing responsibilities of parenting and the consequences of divorce be instituted.

John McGroarty motioned; William Furlong seconded; motion carried.

13. Recommendation that the Employment Security Department accept the responsibilities of collecting and distributing funds intercepted from unemployment benefits and the distribution of these funds be made within 30 days, pursuant to the court

Motion for the recommendation carried.

14. Recommendation that contempt of court be imposed for willful withholding or falsification of financial information regarding child support information by either party involved.

Nancy Angres moved for recommendation; seconded by John McGroarty; motion carried.

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[(b)] Whenever there is a material change in the information given in the statement required under this section.

3. Failure of the responsible parent to comply fully with this section is a misdemeanor

4. Any responsible parent who swears falsely to a material fact in any written statement required by this section is guilty of perjury.

#### NEW SECTION TO NRS IN NEW CHILD SUPPORT CHAPTER

1. The court must apply the child support formula established in this statute in any case involving the support of children, including court-approved stipulated settlements.

2. It is presumed that the basic needs of the children are met by this formula. The presumption may be rebutted by evidence proving that the needs of the children are not met by the formula.

3. If the dollar amount of the child support award is 5 percent greater or 5 percent less than the amount established by the formula, the court must make specific findings of fact as to the basis for the deviation from the formula.

4. Unreimbursed ordinary, extraordinary or remedial health care expenses must be borne equally by the parents.

5. Willful underemployment or unemployment is not sufficient cause to deviate from the formula.

6. The child support formula is based upon the gross income of the non-custodial parent. The formula is as follows:

18% of gross income for one child

25% of gross income for two children

29% of gross income for three children

31% of gross income for four children

2% more of gross income for each additional child.

The minimum amount that may be ordered in any case, regardless of the formula, is \$100 per month per child.

7. If there is shared custody between the parents in which physical custody of both parents exceeds 146 days per year but is less than 182.5 days per year, the gross income of both parents must be considered and the child support paid to the parent with the majority of physical custody will be adjusted according to the following schedule:

	Mother	Father
(a) Gross Income	\$ _____	\$ _____
(b) Parental Support Obligation [Formula in Subsection 6]	\$ _____	\$ _____
(c) Number of Days Annually Children in Parent's Custody	_____	_____
If less than 146 days no adjustment is made.		
(d) Percentage of Year Children in Custody of Each Parent	_____	_____

(e) Monthly Responsibility for Support of Parent with Least Physical Custody to be Paid to Parent with Most Physical Custody (line 4, parent with most custody, X line 2, parent with least custody) \$ \_\_\_\_\_

8. If the parents have joint custody with equal time periods with the children, the following adjustment to child support must be used:

	<u>Mother</u>	<u>Father</u>
Gross Income	\$ _____	\$ _____
Parental Support Obligation [formula in Subsection 6]	\$ _____	\$ _____
Monthly Responsibility of Support (Parent with most income support obligation minus parent with least income support obligation)		\$ _____

The parent with the most income will pay child support to the parent with less income in order to maintain the child's standard of living.

9. Additional factors which may be considered by the court in adjusting the child support amount upon specific findings of fact include, but are not limited to:

- (a) Health insurance;
- (b) Child care;
- (c) Special education needs of the children;
- (d) Age of the children;
- (e) Responsibility of the parents for support of others;
- (f) Value of services contributed by the custodial parent;
- (g) Assistance paid by public agencies to support the children;
- (h) Reasonably related expenses of the mother's pregnancy and confinement.



the computing of its incentive payments.

Exemption Criteria. N/A.

Effective Date. Not stated.

Implications. Selected states' incentive payments could rise.

#### Study of Child Rearing Costs

Current Law. N/A.

New Law. The Secretary is required, by grant or contract, to conduct a study of the patterns of expenditures on children in two-parent families, in single-parent families in which the parents were never married, and in single-parent families following divorce or separation. The study is to give particular attention to the relative standard of living in households in which both parents and all children do not live together. The Secretary must submit a report to Congress with recommendations for legislative, administrative, or other actions.

Exemption Criteria. N/A

Effective Date. Report must be presented to Congress by October 13, 1990.

Implications. The results of this study could inform state choices with respect to child support award guidelines, and could lead to greater federal prescription regarding guidelines.

#### Collection and Reporting of CSE Data

Current Law. The Secretary is required to collect and report to the Congress, annually, on a long list of data items from states.

New Law. This provision adds to the list the following data items (statistics) by state, separately stated for families receiving and not receiving AFDC:

- o paternity determination;
- o location of an absent parent for purposes of establishing a support order;
- o establishment of a support order; and
- o location of an absent parent for the purpose of enforcing or modifying an existing support order.

In each of the above items, the data must indicate the number of cases in the state IV-D agency caseload needing the service and the number of cases for which the service has been provided.

Exemption Criteria. N/A.

Effective Date. None stated.

Implications This provision requires a new kind of case action tracking and accounting by states that is closely related to the provision requiring prompt state response to requests for assistance (i.e., new performance standards for timeliness).

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## National Governors' Association

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# InfoLetter

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November 8, 1988

STATE OF NEVADA  
EXECUTIVE SECRETARY  
RICHARD H. BROWN  
NOV 14 1988

### THE FAMILY SUPPORT ACT OF 1988: WELFARE REFORM CHILD SUPPORT ENFORCEMENT PROVISIONS

NOV 14 A9:46

#### BACKGROUND

In the spring of 1986, the Governors formed a ten-state task force to develop a welfare reform policy that would enable the Governors to shape the course of the welfare reform debate in Congress. In February 1987, the Governors overwhelmingly endorsed a policy that would turn what is now primarily a payments system with a minor work component into one that is first and foremost a jobs system backed up by an income assistance component. The Governors' policy stressed the importance of strengthening the nation's child support enforcement system and creating a new national education, training, and employment program to provide critical services to welfare clients to enable them to become self-sufficient, economically independent citizens.

#### CONGRESSIONAL ACTION

The Governors' policy was transmitted to the House and Senate where it was incorporated into bills encompassing the Governors' ideas about welfare reform. Over the past two years, NGA worked with Congress to produce a consensus on welfare reform, which was passed in September by a vote of 96-1 in the Senate and 347-53 in the House. The President signed the bill on October 13.

#### STATE ISSUES

This InfoLetter reviews only the child support enforcement provisions (Title I) of the welfare reform law. The Job Opportunities and Basic Skills Training Program (Title II) was reviewed in an October 5, 1988 InfoLetter, and the Medicaid extension provisions (Title III) were reviewed in an October 11 InfoLetter. The discussion that follows summarizes current law, where appropriate, as a context for understanding state responsibilities under the new law; the exemption criteria; the effective date; and implications for state activities. References to IV-D cases and IV-D orders mean those cases and orders receiving services from the state child support agency, but not those receiving services from private attorneys.

#### Immediate Income Withholding

Current Law. The 1984 amendments to the Social Security Act required states to impose income withholding on all new IV-D child support orders when the equivalent of one month's support payment is in arrears (i.e. late), or sooner if the state chose to or the absent parent requested withholding. Another provision required that every support order issued or modified in a state (regardless of whether the order was pursued through

private attorneys or the child support agency) include a clause that would automatically trigger income withholding upon evidence that the parent was the equivalent of one-month in arrears, or sooner if the absent parent or state agency elected. This ensured that neither the absent parent nor the state agency had to return to court to activate income withholding.

**New Law: Provision 1.** The new provision requires the states to provide for immediate income withholding on all child support orders issued or modified under the jurisdiction of the Child Support Enforcement (CSE) agency, regardless of whether support payments are in arrears. Thus, income withholding will be automatic and immediate for all IV-D cases (those receiving services from the CSE agency), but not for child support cases established or modified through private attorneys (non-IV-D cases). The latter will continue to be subject to the 30-day arrears "trigger."

**Exemption Criteria.** Cases can be exempted where:

- o one of the parties (either the absent or custodial parent or the state) demonstrates, and the court or administrative process finds, good cause not to require such withholding; or
- o the parties (absent parent, custodial parent and state) establish a written agreement providing for an alternative arrangement.

However, cases not subject to immediate withholding will become subject to it, regardless of whether there is an arrearage, on the earliest of:

- o the date the absent parent requests such withholding;
- o the date the custodial parent requests it and the state approves the request;  
or
- o any earlier date the state may select.

**Effective Date.** November 1, 1990

**New Law: Provision 2.** A second provision in income withholding requires states to extend immediate income withholding to all other support orders issued after January 1, 1994, regardless of whether a parent has applied for CSE agency (IV-D) services.

**Exemption Criteria.** None.

**Effective Date.** January 1, 1994

**New Law: Provision 3.** The third provision in income withholding requires the Secretary of the Department of Health and Human Services to study and report on the administrative feasibility, cost implications, and other effects of requiring immediate income withholding for all child support orders in a state.

**Exemption Criteria.** N/A

**Effective Date.** Secretary must submit report to Congress by October 12, 1991.

**Implications.** Some states have experienced difficulty in assigning sufficient staff to review all their old IV-D cases for the purpose of instituting wage withholding, thus delaying their compliance with current law (i.e. the 1984 amendments). Further, even where orders were reviewed to provide for wage withholding, implementation has faced

cumbersome; 1) due process requirements for advance notice to absent parents; 2) notices to employers; and 3) machinery in state agencies to receive payments from absent parents, account for them, and disburse them to custodial parents and their children. The new law will intensify these difficulties. States must plan early for the review and modification of all orders issued in the past, as well as all orders that will be issued between now and October 31, 1990. Implementation of immediate income withholding must occur on all child support orders receiving services from the CSE agency on November 1, 1990, and must be incorporated into all new orders issued on or after November 1, 1990. States should also plan for regular communication with their public and private employers during 1990, alerting them to the impending requirements and responsibilities.

### Disregard Applicable to Timely Child Support Payments

**Current Law.** The 1984 Deficit Reduction Act required that, beginning in fiscal 1985, the initial \$50 of current support collected on behalf of AFDC families be "passed through" to the families. Prior to this law, the state would have retained the full amount of the support payment to repay itself for current or past AFDC benefit payments to the family. As a result of the 1984 law, millions in pass-through dollars were distributed to AFDC families, causing a substantial decrease in savings to both the federal and state governments during fiscal 1985.

**New Law.** This provision clarifies current law by requiring states to disregard, for purposes of eligibility for AFDC, not only the first \$50 of child support payments for a given month received in that month, but also the first \$50 collected for prior months but received at one time, if the absent parent made the payments in the month when due.

**Exemption Criteria.** None.

**Effective Date.** January 1, 1989.

**Implications.** This clarification is designed to remedy the problem of employers withholding income from several months' of an absent parent's paychecks, but delaying transmittal of the withheld amounts to the child support agency. The effect of the new law will be that some AFDC custodial parents will be entitled to a disregard of multiple \$50 payments in a single month. Thus, the recovery of AFDC payments through child support collections may be shown to decline slightly in fiscal 1989 for both the federal and state governments. The decline is expected to be minimal compared to that experienced during fiscal 1985.

### State Guidelines for Child Support Award Amounts

**Current Law.** The 1984 amendments required state child support commissions to develop/adopt guidelines (descriptive and numeric criteria) to compute child support award amounts. The guidelines were to be made available to judges and other administrative officials with the power to determine child support awards, but their use was not mandatory. No prescription for guidelines was included in the law, so states have adopted several different guidelines (formula).

**New Law: Provision 1.** The welfare reform bill requires that guidelines be used by judges and other administrative officials to set award amounts, unless they are rebutted (i.e., rebuttable presumption) by a written finding that their application would be unjust or inappropriate in a particular case. States are still free to adopt any guidelines they

choose, but the guidelines must be reviewed at least once every four years to ensure their continued appropriateness.

Exemption Criteria. None.

Effective Date. October 12, 1989.

Implications. State executive branch staff will need to work with judicial staff to ensure they are apprised of the state's guidelines and of the requirement that judges use them in setting support orders. Initially, this may require official communication from the Governor to the state court administrator and chief justice of the state supreme court.

New Law: Provision 2. A second provision requires states to develop and effect procedures to review and adjust in accordance with the guidelines, any child support order being enforced under Title IV-D, if either parent or the state CSE agency requests a review and the state determines the review is needed.

Exemption Criteria. No case need be reviewed and adjusted if neither parent nor the state requests it. However, see below for later mandate.

Effective Date. October 12, 1990.

New Law: Provision 3. States must develop and effect procedures to periodically review and adjust all IV-D child support orders (in accordance with the guidelines) without awaiting a specific parental or state agency request, no later than 36 months after establishment of the order (initial award) or the most recent review, unless:

Exemption Criteria.

- o in the case of a child receiving AFDC, the state determines such a review would not be in the best interests of the child, and neither parent has requested the review, or
- o in other cases (non-AFDC), neither parent has requested review.

Effective Date. October 12, 1993.

New Law: Provision 4. Another subsection of this part requires the secretary of HHS to complete a study to determine the impact on child support awards and the courts of requiring each state to periodically review all child support orders in effect in the state.

Exemption Criteria. N/A

Effective Date. Secretary must complete study by October 1990.

Implications. To summarize the foregoing provisions, states have one year to mandate the use of their guidelines on judges and other administrative officers who set child support awards; two years to prepare for review and modification of all IV-D cases in which either parent or the state requests it; and five years to prepare for review and modification of all IV-D cases every three years (with certain exceptions). The first task is to notify all judges and other administrative officers who handle divorce, custody, and child support matters that they must begin using the state's guideline by October 1989. The second, and more labor intensive task, will be to train and deploy staff to use the guidelines to review and adjust all IV-D cases where a parent or the state requests it, by October 1990. Finally, even if the Secretary's report concludes that states should not be

required to review all child support orders in the state, the Congress would have to agree with the conclusion and change the law since it now mandates reviews for IV-D orders.

New Law: Provision 5. Finally, the HHS Secretary is required to approve four state demonstration projects to test model procedures for reviewing child support award amounts. States approved for these demonstration projects will be paid 90 percent of reasonable costs in conducting the demonstrations, as an additional payment under Title IV-D. The costs of the demonstrations will not be included in other administrative costs for the purpose of computing a state's entitlement to federal incentive payments.

Exemption Criteria. N/A.

Effective Date. Secretary must approve four demonstration project (applications) by April 1, 1989. The projects must begin by September 30, 1989, and be conducted through September 30, 1991. The Secretary must report the results to Congress by March 31, 1992.

#### Timing of Notice of Support Payment Collections

Current Law. All AFDC individuals who have assigned child support rights to the state, must be notified at least annually of the amount of support payments the state has collected on their behalf and distributed to the state to offset its AFDC payments.

New Law. Notification to the individuals will have to be made monthly.

Exemption Criteria. Where the Secretary determines monthly notification would be an unreasonable administrative burden, quarterly notification will be permitted.

Effective Date. January 1, 1992.

Implications. This provision carries a heavy paperwork burden and requires very timely accounting procedures by state CSE agencies. However, states have four years to plan and implement these procedures.

#### Establishment of Paternity

Current Law. States are required to try to establish paternity, as an essential prerequisite to establishing a support award and collecting. There are no current legislative prescriptions for performance, although non-compliance with general paternity requirements can be identified through the federal audit process and result in financial penalties to states.

New Law: Provision 1. The welfare reform bill contains five substantive provisions regarding paternity, the most significant of which is the setting of quotas for paternity establishment. The state must meet the quotas to avoid compliance penalties. The standard or quota each state must meet is called the paternity establishment percentage (PE%). The PE% is calculated by dividing the number of children across the state who are born out of wedlock and are receiving AFDC payments or IV-D services (in a given fiscal year) into the number of children across the state who are born out of wedlock and are receiving AFDC payments or IV-D services and for whom paternity has been established in that same fiscal year. Thus,

Number of children receiving AFDC or IV-D services born out of wedlock, with paternity established\*

\_\_\_\_\_ = PE%

Number of children receiving AFDC or IV-D services born out of wedlock.

The PE% quota that states will be required to meet must equal or exceed 50 percent; or be 3 percentage points greater than fiscal 1988's PE% in each successive year beginning with fiscal 1990; or be equal to the national average PE%, whichever is lower.

**Exemption Criteria.** Children eligible for AFDC due to death of a parent are excluded from the count, as are children for whom good cause is found not to cooperate in paternity establishment.

**Effective Date.** October 1, 1991.

**Implications.** States that have not already done so will have to create reliable statewide data collection systems for counting the number of children born out of wedlock each year. Then they must compute the number of children in AFDC and non-AFDC households (who are receiving child support services from the state agency) who are born out of wedlock, and separate those for whom paternity has been established in fiscal 1988 from those for whom it has not. The law states that the Secretary must collect the data necessary to implement the requirements of this subsection and, for fiscal 1988, if full year data are not available, may determine the states' PE% on the basis of data collected for the last quarter of that fiscal year or the first quarter of fiscal 1989.

**New Law: Provision 2.** A second subsection requires the states to have procedures requiring the child and all other parties in a contested paternity case to submit to genetic testing upon the request of any party (including the state agency).

**Exemption Criteria.** A party can be exempted from this requirement if good cause is found for refusing to cooperate.

**Effective Date.** November 1, 1989.

**Implications.** Genetic tests can cost several hundred dollars per case, but the new law provides 90 percent federal match for state expenditures incurred in laboratory costs for establishing paternity.

**New Law: Provision 3.** A third subsection permits states to impose a fee for performing genetic tests upon any individual not receiving AFDC payments.

**Exemption Criteria.** None in law, but the Secretary must issue regulations on this fee provision, which could include some exemption criteria.

**Effective Date.** November 1, 1989.

\*The numerator includes only active cases.



Implications. This provision allows states to recover their 10 percent of the genetic test costs, in certain cases.

New Law: Provision 4. A fourth subsection "encourages" states to establish and implement a simple civil process permitting alleged fathers to voluntarily acknowledge paternity, as well a civil procedure for establishing paternity in contested cases.

Exemption Criteria. N/A.

Effective Date. October 13, 1988.

Implications. Under current practice, a significant number of fathers are willing to acknowledge paternity when confronted with the allegation, but must still go through a formal court proceeding to do so. The new law would ease the process for acknowledgement, thus reducing case processing time and expense.

New Law: Provision 5. A final subsection clarifies a provision in the 1984 amendments, which required states to permit paternity establishment at any time before a child's eighteenth birthday. That law was designed to abrogate some state statutes of limitation, which prohibited paternity establishment after a child's second or fifth birthdays, for example. The new law provides for paternity establishment for any child who was not yet eighteen years old on August 16, 1984, regardless of current age. The new law further applies to any child who was under 18 years old on August 16, 1984, and for whom a paternity action was brought but dismissed, because a statute of limitations of less than 18 years was then in effect in the state.

Exemption Criteria. None.

Effective Date. October 13, 1988.

Implications. This provision will require states to reopen an unknown number of closed cases, and open anew certain cases for whom paternity establishment had been thought to be legally impossible.

#### Prompt State Response to Requests for Child Support Assistance

Current Law. The 1984 amendments required states to implement "expedited processes" to speed up court procedures in the establishment of child support orders and enforcement of those orders. At state option, expedited processes may be used in establishing paternity. The timeliness standard for these processes required that 90 percent of the cases be processed (from time of filing to time of disposition) in three months; 98 percent in six months; and 100 percent in twelve months.

New Law: The welfare reform statute expands timeliness standards to encompass activities that precede those requiring court action. Thus, it requires that performance standards for state IV-D programs include standards establishing time limits on the state's acceptance of, and response to, requests for assistance in establishing and enforcing support orders. The standards for acceptance and response apply to requests from states (as in interstate cases), political subdivisions, or individuals receiving AFDC or requesting IV-D services (including non-AFDC cases).

Exemption Criteria. None in law, but some may be provided in regulation.

Effective Date. August 13, 1989. The Secretary, by December 13, 1988, must establish an advisory committee, including representatives of governors, state welfare

administrators, and state child support enforcement directors, to be consulted before issuing regulations on new standards. Following consultation with the advisory committee, the Secretary must issue proposed regulations by April 13, 1989 (for a 60-day comment period) and final regulations by August 1, 1989.

Implications. The new standards on timely acceptance of, and response to, requests for child support enforcement services will be more extensive than the current expedited process standards. The standards will become part of the audit criteria, and thus a subject for fiscal sanctions. State policymakers with an interest in this area should encourage their governor, state welfare administrator or child support director to volunteer to serve on the Secretary's advisory committee.

#### Prompt State Distribution of Child Support Collections

Current Law. None.

New Law. New performance standards must establish time limits governing the period within which states must distribute child support collections to families, welfare agencies, and foster care agencies.

Exemption Criteria. None.

Effective Date. August 1, 1989. Secretary must issue proposed regulations by April 13, 1989, and final regulations by August 1, 1989.

#### Automated Statewide Data Processing Systems

Current Law. Over the past several years, states have had the opportunity to seek approval from HHS for Advance Planning Documents (APD) for automated statewide data processing systems. With approved APDs, states became eligible and received 90 percent federal matching funds for the design, development and installation of automated systems. To date 40 states have had APDs approved and are in various stages of developing their systems. Two state systems are complete and have been certified by HHS for full-scale operation.

New Law. The opportunity has now become a mandate. The act requires states that do not have an operational statewide automated data processing system in effect on October 13, 1988, meeting the requirements spelled out in the Social Security Act, to submit an APD to the Secretary for review and approval and to have in effect an approved system.

Finally, the new law will eliminate on September 30, 1995, the special 90 percent federal matching funds for state expenditures on planning, design, development, installation, or enhancement of data processing systems.

Exemption Criteria. The Secretary may waive requirements for approval of an APD if:

- o the state demonstrates to his satisfaction that it has an alternative system(s) that enables the state to be in substantial compliance with the act's requirements; and
- o the waiver meets the criteria of Section 1115 regarding demonstration projects; or

- o the state provides assurances that steps will be taken to otherwise improve the state's child support enforcement program.

**Effective Date.** Affected states must submit Advance Planning Documents by October 1, 1991. The Secretary must review and approve within nine months of state submittal. The approved system must be operating by October 1, 1995, when the 90 percent federal funding ends, or suffer an audit penalty.

**Implications.** States without currently approved Advance Planning Documents have three years to develop them. State systems staff should request copies of APD guidelines from the Family Support Administration. An important note: Though the law states that the 90 percent funding is available for design, development, and installation of such systems, it has been the policy of the Family Support Administration to promote the transfer of existing systems (or components thereof) from one state to another. Consult with FSA regional representatives as to expected policy and practice under the new law.

Finally, the design of automated systems in support of the myriad, complex child support enforcement activities requires extensive needs assessment and consultation with user groups. The necessary interfaces between the child support, AFDC, Medicaid, and foster care programs, as well as with the state revenue and unemployment insurance departments (to name a few), must be taken into consideration. States are therefore advised not to wait until October 1991 to complete and submit their Advance Planning Documents.

#### Additional Information Source for Parent Locator Service

**Current Law.** The Social Security Act granted to the Secretary of HHS the authority to provide, upon request, the Social Security number, most recent address, and place of employment of any absent parent, in an effort to identify their whereabouts. The Secretary was to obtain the information from HHS files or records, if available and, if not, from the files and records maintained by any of the departments or agencies of the United States or any state. To date, the U.S. Department of Labor has been unwilling to provide assistance in accessing state files.

**New Law.** The Secretary of Labor is specifically required to enter into an agreement with the Secretary of HHS to provide prompt access to the wage and unemployment compensation claims information maintained by or for the U.S. Department of Labor or state employment security agencies.

Further, state employment security agencies are required to take such actions (as provided in the agreement between the secretaries of HHS and DOL) as necessary to enable the secretary of HHS to obtain prompt access to any wage and unemployment compensation claims information (including information useful in locating an absent parent or such parent's employer) for use in carrying out the CSE program. Failure of a state to comply with this requirement, results in the withholding of federal Title III (unemployment insurance) payments to the state employment security agency until substantial compliance is found.

**Exemption Criteria.** None

**Effective Date.** January 1, 1990. The secretaries must enter into a written agreement by January 13, 1989.

**Implications.** Governors need to apprise state employment security directors of the mandate to comply with this provision (i.e. to cooperate with requests for information

from HHS on absent parents and employers) and of the consequences of failure to comply.

#### Use of Social Security Numbers to Identify Parents

Current Law. States may use the Social Security numbers (and require individuals to furnish such identification) of any individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within its borders.

New Law. In the administration of any law involving the issuance of a birth certificate, each state must require each parent to furnish his or her Social Security number or numbers. Such numbers will not be recorded on the birth certificate. The state must make the numbers available to the CSE agency for use only in child support enforcement.

Exemption Criteria. Individual cases can be exempted if the state finds good cause not to require it (in accordance with regulations to be issued by the secretary).

Effective Date. November 1, 1990.

Implications. State officials should plan and make provision for obtaining, verifying, and recording the social security number of both parents of any baby born in the state after October 30, 1990, or sooner at state option.

#### Commission on Interstate Child Support

Current Law: N/A.

New Law. The act establishes a new Commission on Interstate Child Support, with four members each appointed by leadership of the House and Senate, and seven members appointed by the Secretary. The commission is to submit a report to the Congress containing recommendations for improving the interstate establishment and enforcement of child support awards and for revising the Uniform Reciprocal Enforcement of Support Act.

Effective Date. Members must be appointed to the commission by July 1, 1989. The commission will hold one or more national conferences on interstate reform during fiscal 1990. The Commission must report to Congress by May 1, 1991, and terminate on July 1, 1991.

#### Cost of Interstate Enforcement Demonstrations Excluded in Computing Incentive Payments

Current Law. States are entitled to federal incentive payments -- financial rewards above and beyond the regular federal matching payments -- for achieving specified cost/collection ratios in their child support programs. In computing incentive payments owed to given states, support which is collected by one state on behalf of custodial parents living in another state (i.e. an interstate case), is treated as having been collected by both states.

New Law. The law is clarified to exclude the costs a state incurs in carrying out an interstate demonstration project from its cost-collections ratio and thus from

## U.S. COMMISSION ON INTERSTATE CHILD SUPPORT

*Text of commission's summary of recommendations approved at recent meetings, issued February 18, 1992.*

### TENTATIVE RECOMMENDATIONS OF THE FULL COMMISSION

The U.S. Commission on Interstate Child Support met five times between September 1991 and February 1992 to review recommendations made by the legal, operations and funding, and communication committees of the Commission, as well as some recommendations made by individual Commissioners. Many of those recommendations were tentatively approved. This summary represents the gist of the approved recommendations. **Recommendations the body of which appears in boldface were approved at the January 17-19, 1992 meeting in Portland, Oregon. Recommendations the body of which appears [in italics] were approved at the February 15-16, 1992 meeting in the Washington, DC area.** (An index of topics is provided at the end of the summary.) The Commission will meet in March 1992 to vote on final approval of the recommendations. The report to Congress based on the recommendations is due in May 1992.

#### 1. Jurisdiction to Establish and Modify a Support Obligation and Choice of Law

a. The Commission recommends that Congress pass a statute requiring states to give full faith and credit to out-of-state child support orders, including on-going child support orders, so long as the rendering court or administrative agency had personal jurisdiction over the parties. States shall give full faith and credit prospectively to a child-support order of another state and the appropriate authorities shall enforce according to its terms, and shall not modify unless they obtain jurisdiction to modify.

b. States, at the risk of losing federal funding, must have statutes that list the following bases of jurisdiction over a nonresident party:

1. the party engaged in an act of intercourse in the forum state that may have led to the conception of the child for whom parentage and support establishment is sought;
2. the party resided with the child during the child's lifetime in the forum state;
3. the party resided in the forum state and provided support for the child, either prenatal expenses or support after the child's birth;

4. the party resided in the forum state at the time of filing of the action;

5. the party was served with process within the forum state;

6. the party submitted to the jurisdiction of the forum state by consent, general appearance or filing a pleading that effectively waives jurisdictional defenses;

7. the party filed an assertion of parentage with a state putative father registry maintained by the forum state;

8. any basis consistent with the constitutions of the forum state and the United States for the exercise of personal jurisdiction.

c. Congress should make a finding that consistent with its powers contained in the Due Process Clauses of the Fifth and Fourteenth Amendments, the Commerce Clause, the General Welfare Clause and the Full Faith and Credit Clause of the U.S. Constitution, a state where a child is domiciled is declared to have satisfied due process when asserting jurisdiction over a nonresident defendant who is the parent or presumed parent of the child in a parentage or support action. An expedited review to the U.S. Supreme Court from a federal district court is included. **If the U.S. Supreme Court upholds the constitutionality of child-state jurisdiction in child support cases, then Congress should require all states to include explicitly a "child-state" long-arm provision.**

d. A state that has properly asserted jurisdiction retains continuing, exclusive jurisdiction over the parties as long as: 1) the child or either party resides in that state; or, 2) all the parties consent to another state asserting jurisdiction.

e. When two or more actions are pending in different states, the last state where the child has resided for a consecutive six-month period (the home state) can claim to be the state of exclusive jurisdiction, if the action in the home state was filed before the time expired in the other state for filing a responsive pleading, and a responsive pleading challenging jurisdiction was filed.

f. If a state no longer has continuing jurisdiction, then any other state that can claim jurisdiction may assert it.

g. The law of the forum state applies in child support cases, unless the forum state interprets or enforces an

order rendered in another state, in which case the rendering state's law applies in the interpretation of the terms of its order, except in cases in which a statute of limitations may foreclose collection of some or all of outstanding child support arrearages, the longer of the forum or rendering state's limitations statute shall apply.

## **2. Uniform Interstate Family Support Act**

- a. The Commission endorses UIFSA in principle.
- b. Congress should require each state to pass UIFSA verbatim, including a long-arm provision similar to the one contained in the November 1991 draft, or risk losing federal funding.

## **3. Expansion of the Federal Parent Locate System and State Cooperative Agreements for Locate**

a. To facilitate the gathering and use of locate information the Commission recommends that the federal Office of Child Support Enforcement expand the Federal Parent Locate System to provide a national network that builds on the comprehensive statewide CSE systems states are developing and would allow states to:

1. Locate persons who owe a child support obligation or for whom an obligation is being established by:

A. accessing the records of other state CSE agencies and sources of locate information directly from one computer system to another, and

B. accessing federal sources of locate information in the same fashion.

2. Query the files of other states to determine whether there are other orders and obtain the details of those orders.

3. Provide for both on-line and batch processing of locate requests, with on-line access restricted to cases in which the information is needed immediately (i.e., court appearances) and batch processing used to "troll" databases to locate persons or update information periodically.

4. Direct locate requests to individual states or federal agencies, broadcast requests to selected states, or broadcast cases to all states when there is no indication of where the source of needed information is.

5. Require that the network provide for a maximum of 48 hour turnaround times for information to be broadcast and returned to the requesting state.

6. Query the registry of child support orders for public and private cases maintained at the state level by the state court or the CSE agency. This registry would maintain information on each child support order in the state to include regular updates on payments and location of the obligor.

7. Provide ready access to courts of the information on the network by location of a terminal in the court.

b. In order that the locate process be effective, the Commission recommends that the U. S. Department of Health and Human Services conduct a requirements analysis within the year. This analysis should utilize information HHS has obtained from states regarding plans for statewide automated child support systems.

c. It is envisioned that the locate requests and responses and the W-4 reporting transmissions would operate in the same network.

## **4. Locate**

a. The resources of the Federal Parent Locate Service should be expanded to include information from the quarterly estimated taxes filed by individuals.

b. OCSE should develop regulations regarding the release of address information to both parents that address the child's need to maintain contact with both parents and the safety concerns of the children and families. States should assist obligors in obtaining information through their state parent locator service needed for the establishment and enforcement of visitation rights of children of both parents.

c. *Congress should restrict access to the locate system to location for parentage establishment, child support establishment, modification and enforcement and child visitation/PKPA purposes only and require OCSE to develop rules and regulations governing access to the system, including reasonable fees for services provided.*

d. No state should participate in NCIC or NLETS unless it provides the child support enforcement agency with an ORI number and access to such systems.

e. Federal legislation should define parent location to include residence address, employer, assets, and income.

f. Federal legislation should require that each state have on-line or batch processing access to various data bases, including a state's:

1. tax department;
2. motor vehicle department;
3. employment security department;
4. crime information system;
5. bureau of corrections;
6. occupational/professional licensing department;
7. secretary of state's office;
8. private credit reporting agencies;
9. bureau of vital statistics; and
10. department that administers public assistance (AFDC, food stamps, Medicaid, etc.)

g. States shall have and use laws that permit automated or nonautomated access by IV-D agencies for child support enforcement to the following agencies:

1. Records of recreational licenses of resident or non-resident applicants.
2. Records of real and personal property including transfers of property.
3. Records of state and local tax departments, including information on a person's residence address, employer, income and assets.
4. Records of publicly-regulated utilities, including cable companies.
5. Records of marriages, births and divorces of residents.

h. Every state shall allow interstate locate access to these data bases through the network.

i. The FPLS should investigate accessing federal data banks not already linked to FPLS, and should have the authority to pursue agreements with those departments or

agencies that have data bases FPLS deems more-than-marginally useful to locate efforts. All federal departments and agencies must cooperate with OCSE to provide access to the selected data bases.

j. Employers should be required to report wage and address information to state and federal agencies in a timely manner. This reporting requirement should be phased in with the implementation of state automated systems. The IRS guidelines on reporting of tax information based on number of employees of the business should be followed.

k. States shall have and use laws that require unions and their hiring halls to cooperate with child support agencies by providing information on the residence address, employer, employer address, wages and medical insurance benefits of union members.

#### 5. National Reporting of New Hires

a. The Commission recommends that a system of reporting of new employees be developed by requiring employers to provide a copy of the every new employee's W-4 form (revised to include information on child support obligations) to a state agency.

b. W-4 form would be completed by the new employee and would include a statement of whether a child support obligation is owed and if so where and the amount.

c. Employers would immediately withhold the support based on the information included on the W-4 and the support order provided by the obligor until notified differently by the state that has the current order.

d. States shall have and use laws that provide for fines for obligors who fail to report child support obligations on the W-4 form at time of employment.

e. States shall have and use laws that provide for fines for employers who fail to withhold the child support obligation and disburse it the payee of record within 10 calendar days of the date of the payroll.

f. Employers would transmit all W-4 information to the state agency that receives employers' quarterly employment reports, which would enter all support-related information and make it available for matches with the IV-D agency file and for broadcasting over the network to other states for confirmation of the information or to identify child support obligations that had not been reported by the new hire.

g. States shall have and use laws that provide for minimum fines for employers who fail to forward W-4 forms to the state agency within 10 calendar days of the date of the payroll.

h. States would be required to confirm the child support withholding or to notify the employer in cases where the employee had not correctly reported on the W-4 using a standard Wage Withholding Notice developed by the federal Office of Child Support Enforcement.

i. Private cases would be accessed via the central registry of child support orders maintained by the state. Such a registry would be established and maintained by the state IV-D agency and the order for support would be included in the registry upon the request of either party choosing to opt in. Nothing would prohibit a state from

including other nonIV-D cases in the Registry of Support Orders (e.g., opt-out private cases or all private cases).

j. Cases being processed under Title IV-D would be automatically a part of the registry.

k. The central registry would be required to route the new hire matches to the enforcing authority in a IV-D case and to the payee or the payee's designee in a nonIV-D case. If the payee desired additional services from the IV-D agency to implement the withholding by sending notice to the employer, the payee would be required to apply for IV-D services.

l. States would be required to update the information in their files (automated and manual) with the information from the network unless more recent information existed in the file.

m. State law would allow the child state to notify the employer directly about wage withholding without a need for registration of the order in the employer's state.

n. Employers would forward child support deducted from obligor's pay to the state child support agency in the rendering state, or to the family (with reports to the state), using electronic funds transfer.

*o. The federal government should amend the W-2 form to include a separate box for and a specific report of the amount of child support withheld for each employee. The employer must report the child support information on the W-2.*

*p. It should be a federal crime for an employer to embezzle an obligor's income that was purported to be withheld for the benefit of the obligee.*

#### 6. Service of Process

a. States are encouraged to use innovative service of process techniques that ensure that process reaches defendants in parentage and child support actions.

b. States are encouraged to use service methods such as certified mail, first-class mail, facsimile transmission or express mail delivery.

c. States shall have laws that require that out-of-service in parentage and child support actions be conducted in a nondiscriminatory manner, similar to the manner used in intrastate cases.

d. Every branch of the U.S. military and every other federal government agency, department or similar entity shall designate an agent for service of process in parentage and child support actions for its employees who are stationed outside of the United States or its territories. Service on the designated agent as published in the Code of Federal Regulations shall have the same effect and bind the employee to the same extent as actual service on the employee. However, an employee may assert any state or federal claim to a continuation or a stay of the case, including any relief available under the Soldiers and Sailors Civil Relief Act of 1940.

e. Every employee of the federal government as defined in 42 U.S.C. section 659 shall be available for civilian service of process regardless of the location of his or her workplace at his or her duty station in parentage and



child support actions. The federal government shall publish in the Code of Federal Regulations uniform rules that provide that its employees can be served with civilian process by, or in a timely manner similar to, civilian service methods.

#### **7. Notice to Agencies and Custodial Parents**

a. State child support agencies in the forum state are mandated to provide notice to obligees of all hearings in which child support obligations might be established or modified. Such notice should be provided in a timely fashion to allow obligees the opportunity to attend and present evidence to deciding officials, however a decisionmaker may render a decision regardless of the obligee actually receiving the notice if the agency attempted to serve notice on the obligee. Lack of notice on the obligee may not be used as a ground for delay.

b. *The IV-D agency or the court in the responding state shall ensure that copies of decisions are transmitted to the initiating tribunal and the custodial parent within the time limits required by federal law. If the copy is not transmitted within [20] days after its issuance, the [petitioner's] attorney or the support enforcement agency shall cause the copy to be sent.*

c. Notice requirements apply to IV-D AFDC and non-AFDC cases.

#### **8. Statewide Uniformity**

a. States shall be required by federal statute to have a uniform, integrated, statewide IV-D system.

b. Within a state, a party seeking both parentage determination and support establishment in a judicial proceeding may bring a joint parentage/support action in a single cause of action.

c. Within a state, a court or agency has continuing jurisdiction over the case until that court or agency relinquishes jurisdiction after another court or agency that the other court or agency has accepted jurisdiction in the county where the child resides, or the parties consent to be bound by another court or agency that can assert jurisdiction.

d. States shall provide for transfer of cases for purposes of enforcement and modification to the city, county or district where the child resides without the need for refiling by the plaintiff or re-serving the defendant.

e. Within a state, a court or agency that hears support claims shall have statewide jurisdiction over the parties, and the support orders issued by the court or agency shall have statewide effect for enforcement purposes.

f. As a basis for parentage or child support jurisdiction, within a state, no military or civilian federal employee loses his or her state residential status while stationed outside the state unless the employee selects another state as a residential state for tax purposes.

g. A state must have laws that visitation denial is no defense to support enforcement and that the defense of nonsupport is not available as a defense when visitation is at issue.

h. All state laws that are the subject or result of the Commission's recommendations and subsequent congress-

sional legislation shall apply equally to cases brought pursuant to Title IV-D of the Social Security Act and outside of Title IV-D of the Social Security Act, unless Congress explicitly states otherwise.

#### **9. Parentage**

a. Within a state, the venue for parentage determination shall be in the county of residence of the child when the child and the alleged parent reside in different counties within the state.

b. The Commission recommends that Congress require that states have laws that provide in intrastate as well as interstate cases:

1. for parentage actions to proceed without joining the named child in the action; a state's law regarding privity of the parties will govern the res judicata effect of nonjoinder;

2. that parentage cases be treated as civil cases, including the use of a preponderance of the evidence standard for proving parentage;

3. a statutory presumption of parentage based on a threshold percentage of likelihood or exclusion of parentage based on genetic test results; if a state does not enact a presumption, a presumption based on an OCSE regulation shall apply;

4. for a resolution of parentage, or dismissal without prejudice, against a noncooperative party who had refused to submit to an order by a tribunal for parentage testing;

5. states are precluded from making it a crime to father a child out of wedlock;

6. for temporary support appropriate under the substantive law of the forum state;

7. that a finding of parentage is res judicata to the same extent to which any other civil judgment is entitled in the forum state;

8. signature lines for fathers on birth certificates, which once signed by the father, create a rebuttable presumption of paternity;

9. for a simple, civil consent procedure;

10. for the power to enter a default order in parentage cases upon showing of a prima facie case, and credible evidence of service of process on the defendant, without requiring the personal presence of the petitioner;

11. that the time period in which to object to a genetic test procedure or its results is limited to a certain number of days prior to trial;

12. that a verified written report of a parentage testing expert shall be admitted as evidence of the truth of the matters it contains; nothing precludes a party from calling an expert upon timely request;

13. that allow for the automatic admission into evidence of pre-natal or post-natal parentage-testing bills. Each bill is prima facie evidence of the amount incurred on behalf of the child for the procedures included in the bill;

14. for the automatic admission into evidence of health care bills, if copies of the bills are provided to the opposing party at least a certain number of days



before trial and no objections are made, to prove the truth of the matter stated.

15. that a signed, verified statement of parentage is sufficient to sustain the entry of a parentage order without requiring the personal appearance of the petitioner;

16. that states are precluded from imposing criminal penalties on persons solely for conceiving a child while not married to the partner.

c. In addition, states are encouraged to have:

1. nonadversarial procedures for parentage establishment, including hospital outreach, consent procedures, and child birth and parenting programs; *OCSE shall provide enhanced FFP at the 90% level for these activities.*

2. written material available at schools, hospitals, IV-D agencies, health departments, Medicaid agencies, etc.

## 10. Interstate Evidence

a. National subpoena —

1. A national subpoena duces tecum with nationwide reach shall be developed by the federal government for use by local and state child support agencies and non-IV-D support litigants to reach income information pertaining to all private and public employees and income recipients, whether obligee or obligor, regardless of the location of the income source.

2. The scope of the subpoena is limited to the prior twelve months of income or evidence of accumulated earnings to date. The income source may honor the subpoena by timely mailing the information to a supplied address on the subpoena. If the income source does not honor the subpoena, a hearing may be held in the income source's state; the income source bears the burden of specifying the reasons for not honoring the subpoena.

3. Defenses allowable are the national security nature of the information, the person was not owed income by the income source during the three-month period, and the absence of a written, photographic or electronic accounting of the information.

4. Information provided pursuant to the subpoena shall be admitted once offered to prove the matters asserted therein.

b. Copies of orders — Any certified copy of an out-of-state order, decree or judgment related to child support or parentage, shall be admissible in another forum if it is regular on its face. Any person resisting the introduction of the order has the burden to prove the lack of authenticity of the document. The forum shall give full faith and credit to the terms of the order by a court or an administrative agency.

c. Copies of pay records or pay history — Congress shall pass a simplified certification and admissibility procedure for child support cases.

d. Discovery — Out-of-state depositions, interrogatories, admissions of fact and other discovery documents shall be admitted once offered in a parentage or child support

hearing to prove the truth of the matters asserted in the documents if regular on their face and if they comply with the appropriate discovery rule or law of the state where the discovery was conducted.

e. Parentage evidence — Written, videotaped or audio-taped evidence related to a parentage or child support shall be admitted into evidence, once it is offered and the person admitting parentage is positively identified as the person who is alleged to be the parent, to prove the truth of the matter asserted.

f. Transmission of evidence — Evidence transmitted from one state to another by telephone, teleconferencing, facsimile machines or other non-stenographic means is admissible.

1. States shall allow the introduction of electronically-transmitted information and faxed documents to a court or administrative agency to determine the amount of the obligation and terms of the order. Electronically-transmitted records of payment that are regular on their face shall be admitted once offered in a parentage or child support hearing to prove the truth of the matter asserted.

2. States must provide procedures for litigants in an interstate parentage or child support administrative or judicial action to participate by telephonic means.

## 11. Fair Credit Reporting Act

The Fair Credit Reporting Act should be amended to allow for the use of credit reports from credit reporting agencies by IV-D agencies to obtain information relevant to the setting of an initial or modified support award, without necessity of a court order.

## 12. Guidelines

a. Guideline Commission —

1. Congress should appoint a National Child Support Guideline Commission no later than January 15, 1995, for the purpose of studying the desirability of national child support guidelines.

2. Should the Commission determine that a national guideline is advisable, the Commission should develop for Congressional consideration a national child support guideline that is based on its study of various guideline models, deficiencies and needed improvements.

b. Guideline principles —

1. States shall provide that the application of guidelines is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstance. States may set time limitations on the frequency one has to seek a review.

2. States are required to have available upon certification of their CSE system or 1995, whichever is earlier, procedures for the administrative (computer-generated) calculation of the amount of support to which a child is entitled based on the state's child support guideline for review purposes.

3. States must provide that the nonAFDC custodial parent must agree to the review and modification of a

child support award. The agency should notify the custodial parent of the time for a review and request an "opt out." Custodial parents who wish to pursue the modification would be advised of a recalculated support amount and given an opportunity to "opt out" if for any reason they did not want to pursue the modification.

**c. Guideline elements —**

1. State child support guidelines shall take into account work-related or job-training-related child care expenses of either parent or the children of these parents; and, health insurance and related uninsured health care expenses, and school expenses incurred on behalf of the child of these parents.

2. States are encouraged to formulate a policy regarding:

A) whether or not a remarried parent's spouse's income affects a support obligation; and,

B) the costs of multiple family child-raising obligations, other than those children for whom the action was brought.

C) It may be preferable to have the policy declared explicitly in the guidelines. If the policy is that the support award amount should be altered because of consideration of these factors, then the formula for calculating the alteration under the guidelines should be explicitly stated.

**13. Duration of Support**

a. States shall mandate a continuing support obligation by one or both parents until the latter of when a child:

1) reaches the age of eighteen, or

2) graduates from secondary school or its equivalent, unless that child marries, or is otherwise emancipated by a court of competent jurisdiction.

b. States shall provide that child support tribunals have the discretionary power to order child support, payable to the adult child as a rebuttable presumption, at least up to the age of twenty-two for a child enrolled in an accredited post-secondary or vocational school or college and who is a student in good standing. Both parents are responsible for post-secondary school support based on each parent's ability to pay. States are encouraged to set criteria for tribunals to use when determining whether a particular case is suitable for extension of the support duty.

c. States shall provide for child support to continue beyond the child's age of majority if the child is disabled and unable to support him or herself, and the disability arose during the child's minority. Courts should consider the effect of child support received on means-tested governmental benefits and whether to credit governmental benefits against a support award amount.

d. Nothing in this section shall be construed as limiting a state from providing a more extensive duration statute.

**14. Presumed Addresses of Obligor and Obligee**

a. States must have laws that provide that obligors must

keep the court informed of their current residence address.

b. It shall be presumed for the purpose of providing sufficient notice in any support-related action other than the initial notice in an action to adjudicate parentage or establish a support order that the last residential address of the party given the appropriate agency or court is the current address of the party, unless a party in good faith provides a more accurate address, which then becomes the presumed address.

c. States must have laws that provide for service by first class mail at the address of record of the court.

**15. Social Security Numbers**

a. Social security numbers of the persons applying for a marriage license shall be listed on the license by each applicant's name.

b. Social security numbers of the obligor and the individual obligee shall be listed on all child support orders.

**16. Court Management Practices**

a. Uniform terms — States' decisionmakers shall use, and honor, certified federal forms that contains the support order abstract. States shall give full faith and credit to the terms listed on the order/abstract. The abstract may be registered on the order/abstract registry for the purpose of identifying new employment. Terms on the form shall include:

1. the date that support payments are to commence;

2. the circumstances upon which support payments are to terminate;

3. the amount of current child support expressed as a sum certain, arrearages expressed as a sum certain as of a certain date, and any payback schedule for the arrearages;

4. whether the support award is in a lump sum (nonallocated) or per child;

5. if the award is lump sum, the event causing a change in the support award and the amount of any change;

6. other expenses, such as those for child care and health care;

7. social security numbers of the parents;

8. names of all the children covered by the order;

9. dates of birth and social security numbers of the children;

10. court identification (FIPS code, name and address) of the court issuing the order;

11. health-care support information;

12. party to contact when additional information is obtained.

b. Individual calendaring — Courts are encouraged to use individual calendaring for child support cases (scheduling cases before the same judge or quasi-judicial officer who last heard the case).

c. Scheduling of court hearings — Courts are encouraged to consider parents' work schedules and the need

for child care and schedule hearings for a specific time of day as opposed to the present practice in some courts of scheduling all cases for one time in an early morning or afternoon session.

d. Access to forums — States are encouraged to provide resources for alternative times and places for the hearing of child support and paternity cases.

e. Preferential trial settings — States are encouraged to have procedures that allow preferential trial settings in parentage proceedings, which give parentage proceedings a scheduling priority over other civil cases.

f. Preserving bonds — Courts are encouraged, when establishing child support awards and seeking solutions to child support problems to be sensitive to preserving the child's emotional bonds and/or need for healthy contact with both parents.

g. *Administrative Change in Payee* — *In IV-D cases, a change in payee may not require a court hearing or order to take effect and may be done administratively, as long as a statement by a IV-D official is included in the court or administrative file documenting the change.*

#### **17. State Child Support Agencies Standards and Practices**

##### **a. Staffing standards —**

The federal Office of Child Support Enforcement should be required to conduct staffing studies for each state child support program and report such results to the Congress and the state officials. States would be required to provide staff at the level of the study.

##### **b. Agency Advocacy —**

1. *Every IV-D agency shall advocate to promote the greatest economic security possible for children within the obligor's ability to pay.*

2. *States should clarify whom their IV-D attorneys represent.*

3. *All communication with parents and all legal pleadings should be consistent with whatever position is taken regarding who the client is of the IV-D attorney.*

##### **c. Administrative Procedures —**

*States are encouraged to simplify the child support process and make it more accessible by using administrative procedures where possible.*

##### **d. Administrative Subpoenas —**

1. *Every IV-D agency shall have the power to issue subpoenas that require the person served to produce and deliver documents to or to appear at a court or administrative agency on a certain date.*

2. *States shall have the power to sanction a person for failing to obey the subpoena's command.*

##### **e. Fair hearings —**

*States shall provide fair hearings, or a formal, internal complaint review process similar to state fair hearings.*

##### **f. Automatic monitoring —**

*States are strongly encouraged to develop, as quickly as possible, automatic monitoring of child support.*

##### **g. Enforcing one's order —**

*States shall honor requests from other states to modify or enforce their existing orders pertaining to child support, whether the out-of-state request is pursuant to a UIFSA petition, inter-state action transmittal or other method. A responding state shall not require the filing of UIFSA by an initiating state that is requesting that the responding state modify or enforce its order.*

##### **h. Agency access —**

*State and local child support agencies shall ensure that:*

1. *IV-D services are not denied to an applicant solely because of the applicant's nonresidency in that state.*

2. *offices are in easily-accessible locations near public transportation,*

3. *hours of operation for the office allow parents to meet with attorneys and casework staff without the necessity of taking time off from work,*

4. *office environments are conducive to the parent being able to discuss legal and personal matters in privacy and without distraction (private interview rooms and child care facilities),*

5. *applications for child support services are available at intake points for the AFDC and Food Stamp programs, and*

6. *in the case of AFDC applicants, states explain that services are mandatory upon approval of the application and that the applicant is eligible for IV-D services while AFDC eligibility is being determined. All application fees would be deferred pending eligibility determination.*

7. *IV-D agencies should communicate via phone or in person if possible or necessary with custodial parents before any administrative or judicial hearing to ensure that they have complete, accurate and needed information.*

8. *in the case of Food Stamp applicants, there would be no application requirement for IV-D services as a condition for receiving or applying for Food Stamps.*

##### **i. Agency disclosure —**

*State IV-D agencies shall be required to provide the following to AFDC and nonAFDC custodial parents:*

1. *a written description of available services and statements articulating the priority of distribution and the degree of confidentiality of information;*

2. *a statement that before the IV-D agency consents to a dismissal with prejudice or a reduction of arrearages, the IV-D agency must provide notice to the last known address of the obligee at least 30 days before dismissal or reduction;*

3. *written quarterly reports on case status to be provided to the custodial parent;*

##### **j. Sufficient resources —**

*The federal and state governments should provide IV-D agencies adequate funding to provide effective and efficient services.*

##### **k. Available information —**

1. *OCSE should develop prototype brochures that*

explain the services available to parents from the state and local child support enforcement agency.

A. These brochures should be specific as to the types of services (locate, legal and administrative actions to establish and enforce, modification, collection, monitoring and tracking, tax refund offset, etc.), describe the mandated time frames for action to be taken and, the contain the procedures used to apply for services including fees for services.

B. All brochures should be reviewed for comprehension by the parents who might apply for services. It is recommended that a sixth grade reading level be used as the basis for all written material.

C. States should be encouraged to adapt this material to their own operations to provide specific information to the parent.

2. OCSE should develop model public service announcements for use by states in publicizing the availability of child support services on local television and radio. In addition OCSE should develop model news releases that states could use to announce major developments in the program provide on-going information of the availability of services and details of new programs.

#### *1. Standards for Handling Interstate Cases —*

*The federal government shall promulgate regulations requiring states to establish standards and procedures for IV-D processing of interstate child support cases, including:*

*1. Time frames for preparing, filing and prosecuting interstate cases.*

*2. A requirement that every UIFSA petition be reviewed for completeness prior to filing by an attorney or other appropriate staff within the state child support agency, whose name, agency, and telephone number shall appear on the petition.*

*3. A requirement that every UIFSA petition filed in an responding state and referred to that state's child support agency be promptly assigned to a staff attorney or other staff member in the agency, who shall oversee (be responsible for) the diligent prosecution of the case.*

*4. A requirement that the child support agency of the responding state perform the following procedures in connection with an interstate case:*

*A. When the case is received by the agency, make and document reasonable efforts to contact the non-resident parent concerning the case;*

*B. Notify the non-resident parent of the date and time of any court hearings, court decisions, and other significant developments in the case;*

*C. Arrange for the out-of-state parent to be available for telephonic communication at the time of the Court hearing;*

*D. Make reasonable and timely efforts to update information contained in the UIFSA petition prior to any court hearing;*

*E. Request prompt dismissal of cases which cannot*

*be successfully prosecuted, with notice to the initiating state.*

*5. A requirement that the state attorney to whom an interstate child support case has been assigned and who is responsible for the diligent prosecution of the case, shall sign all pleadings and other papers filed with the Court; be responsible for assuring that essential discovery is conducted prior to the court hearing; limit the number of continuances requested; and generally supervise the prosecution of the case.*

*6. A requirement that such child support enforcement agency review cases periodically for compliance with court orders and, in the event of non-compliance, promptly request and/or prosecute enforcement proceedings.*

*7. Require periodic review of the performance of staff, including attorneys, and their compliance with the standards and guidelines for handling and prosecution of interstate cases.*

#### *l. Public relations —*

*1. All material developed by federal and state child support agencies should avoid the stereotype that all obligors are male and all obligees are female.*

*2. State child support agencies are encouraged to establish ongoing communication with local Chambers of Commerce to improve understanding of, and compliance with, income withholding for child support.*

#### *m. Private attorney and pro se obligee access —*

*1. Private attorneys and pro se obligees shall be given access to state locate resources, tax refund offsets (state and federal), and other "public" enforcement techniques through the child support enforcement agency, with appropriate privacy safeguards for the information provided. The cost of such services must be disclosed to the custodial parent prior to the provision of any service.*

#### *18. Direct Income Withholding*

*a. Whenever a state issues an income withholding order, and the employer's whereabouts are known, the party seeking the withholding may send by first-class mail an income withholding order/notice to the employer, regardless of the state in which the employer is located. In IV-D cases, the state would send an informational copy of the appropriate order/notice to the state in which the obligor is employed. The order/notice would be based on a standardized, federal form stating that the terms of the order must be followed unless the employer wants to risk tax penalties.*

*b. To challenge the order, the employee can file a petition in his or her state of employment for an expedited review of his or her defenses based on mistake of fact. In a IV-D case, if for any reason the withholding order is not paid according to its terms, the IV-D agency in the state in which the obligor is employed must provide the obligee with the same IV-D services as if the case were an intrastate IV-D case.*

*c. Withheld money shall be sent by the employer to the*

payee listed on the order, preferably by electronic funds transfer.

d. When the W-4 system is implemented, a protocol should be established for employers who feel that the information provided on the W-4 form regarding the child support payee's name and address and case identification is insufficient.

e. A federal definition of income shall define which sources of income are to honor the withholding order, and whether CCPA limits apply to that form of income. The definition includes the noncustodial parent's earnings or other periodic entitlements to money without regard to source, including workers' compensation.

f. Regarding priority of distribution for current support:

1. when there are multiple withholding orders affecting the same obligor, each child should receive his or her per capita share of the amount of income subject to withholding;

2. A) the presumptive priority of withholding under a child support or income withholding order shall be:

i) payments on current support obligations,

ii) payments of premiums for health insurance and/or unreimbursed medical costs, and

iii) payments on past due child support obligations.

B) The custodial parent may request an alternative priority.

C) This priority would be used for allocation of funds in multiple support orders and/or allocation of payments related to the CCPA.

## 19. Enforcement

### a. Licenses —

#### 1. Driver's licenses and car registrations —

A. Issuance or renewal — States shall have laws that mandate that vehicle registration and driver's licenses not be issued or renewed to applicants who are the subject of outstanding failure to appear or bench warrants, or capiases related to child support or parentage that appear on the state crime information system, until the warrant is removed from the system. A temporary license may be issued for up to 30 days in an interstate warrant case. All driver's licenses and vehicle license registrations shall reflect the social security number or the employer identification number of the applicant.

B. Receipt of warrant information — When an in-state or out-of-state child support warrant is broadcast on the national child support locate system, other interstate system or state system and that information is received by the motor vehicle department in the state in which the person for whom the warrant was issued holds a driver's license or vehicle registration, the motor vehicle department shall show cause order to that person asking that he demonstrate why his or her driver's license or vehicle registration ought not be suspended until the warrant is removed from the broadcast

system. Such persons who are the subject of the warrant would be entitled to a temporary license or registration pending the show cause hearing or the removal of the warrant from the broadcast system, whichever occurs first.

### 2. Occupational and professional licenses —

A. FTAs and bench warrants — States shall have laws that mandate that state occupational licensing and regulating departments and agencies not issue or renew professional or business licenses of applicants who are the subject of outstanding failure to appear or bench warrants, or capiases related to child support or parentage that appear on the state crime information system, until the warrant is removed from the system.

B. Delinquencies — The federal government and states shall mandate that federal, state and local occupational licensing and regulating departments and agencies not issue or renew occupational, professional or business licenses of obligors who are delinquent in their child support obligation, until the pro se obligee, the obligee's attorney or a state prosecutor responsible for child support enforcement consents to, or a court that is responsible for the order's enforcement orders, the release of the hold on the license. The federal government and states shall have procedures for supplying obligors with temporary licenses for up to 30 days from the date of suspension or denial, during which time an expedited inquiry and review will be conducted. The federal government shall waive its sovereign immunity claims by statute for this limited purpose and cooperate fully with local and state officials regarding license issuances or renewals.

### b. Criminal forfeiture cases —

When an obligor has been convicted of a crime that results in the forfeiture of property, the forfeited property or its proceeds is to be distributed to satisfy any child support arrearage, before any other federal or state obligation or other creditors' claims, but after all attendant seizure, storage and sale costs are deducted. The child support agency is given notice of all property forfeitures and given a reasonable time to confirm the existence of a child support arrearage.

### c. Liens —

1. Certificates of title — States shall have laws for the systematic, universal placement of liens for child support arrearages on property registered under certificate of title.

A. States shall have a method for regularly updating the value of the lien or allow for an expedited inquiry to and response from a governmental payee for proof of the amount of the arrears, with an expedited method of challenging the arrearage claimed or securing a release from the lien upon fulfilling the support obligation.

B. This lien has precedence over all other liens on the vehicle title other than a purchase money security

compel testimony in civil child support cases where the defendant claims a Fifth Amendment privilege against self-incrimination; the use immunity once granted shall bar federal or other state prosecution for criminal non-support based on the testimony given in the civil case in which use immunity was granted.

## 22. Health-Care Support

- a. The federal government should define health care support to include health insurance available at reasonable costs, unreimbursed health-care expenses, and payments of premiums for insurance coverage carried by the parent(s) ordered to provide the insurance.
- b. Congress should remove the effects of ERISA preemption of state regulation regarding health insurance availability, obtainment and enforcement for children, through the amendment of ERISA if necessary.
- c. States shall have and use laws that create a rebuttable presumption that the obligee shall have the right to choose the appropriate health-care insurance for the children, provided the insurance coverage and cost are reasonable based on an evaluation of the proposed insurance plan and any other plans available to the obligee or obligor.
- d. The premium cost and noncovered health care expenses must be apportioned between the obligee and obligor pursuant to a formula included in the forum state's child support guideline. Any insurance premium or sum certain health care expense for which the obligor is responsible shall be included in the support order.
- e. States are required to provide that insurance plans operating under state law (insurance carriers and self-insured employers):
  1. mandate that a child of the obligor be an eligible dependent under any health plan regardless of whether the child is living with, receiving principal support from the obligor, or being claimed as a tax dependent,
  2. mandate that a child who is claimed as a federal tax dependent of a caretaker shall be considered an eligible dependent under any health plan,
  3. prohibit coverage exclusion of any child by reason of the child's geographic proximity to the insured place of employment,
  4. prohibit coverage exclusion of any child because was born to or outside of a marriage,
  5. mandate that plans provide for carrier cooperation with the custodial parent and state agencies and direct reimbursement to the parent who paid for the medical service or to the state agency seeking third party liability collection to offset Medicaid expenditures, and
  6. prohibit pricing discrimination based on marital status.
- f. The federal tax code shall prohibit an employer who has been found to have exclusions prohibited above from claiming its share of the benefit as a deduction on federal income tax return.
- g. States must require an obligor to provide, within 30 days of the order, written proof to the obligee and/or the state IV-D agency that insurance has been obtained or an application made for insurance, and the date the insurance coverage is to take effect. The obligee under the order may act in the place of the insured, including the right to make direct application for insurance, and to make claims and sign claim forms to the extent the obligor could. Employers shall provide the plan information, application forms, and claim forms to and cooperate with the obligee.
- h. States must mandate that welfare benefit plans include the following provisions:
  1. the employer or union shall release to the obligee or the IV-D agency, upon request, information on the dependent coverage including the name of the insurer, and
  2. the employer or union or insurer shall provide all necessary reimbursement forms to the obligee,
  3. the employer or union shall provide claim forms and enrollment cards to the obligee and honor the signature of the obligee on the claim form.
- i. State law must provide that judges shall quantify "reasonable cost" in the order providing for medical support.
- j. Employers must be required to provide notice to the custodial parent for children of any termination or change in benefit of an insurance plan under which children in the parent's care are covered, or loss tax-deductible status for their insurance premium cost. The IV-D agency or the obligee must provide notice of the mailing address to the employer.
- k. Coverage must be extended to the children who are beneficiaries of ordered health coverage within the same period of time for enrollment allowable for other major changes in circumstances, without waiting for the open enrollment period.
- l. The federal W-4 form is to be amended to include a statement that the obligor has health-care insurance available and that this information be a part of the information broadcast to states.
- m. Federal law shall require interlocking agreements in insurance plans to require that each plan honors health-care orders from all states.
- n. Federal law governing the Medicaid and the CHAMPUS programs should provide that states be allowed to cover custodial parents and children for whom a medical support obligation has been established, if no insurance is available at a reasonable cost, with the person(s) ordered to pay paying the cost of the premium.
- o. Income withholding orders should be expanded to include health-care insurance information. The order shall be binding on the employer or union that provides insurance to its employees or members. The order would specify the coverage and the quantified amount of income that can be deducted to cover the cost of the premium. The order as it pertains to health-care insurance may be served on either the obligee's or obligor's employer or union, whoever was ordered to obtain the coverage.
- p. IV-D agencies should receive full federal financial participation for activities related to health-care support.



### 23. Young Parents

- a. Federal and state policy should help families, schools and agencies become sources of support to young parents.
- b. Schools should provide courses at least as early as junior high level that focus on sexual responsibility and parenting.
- c. Federal and state agencies should provide services not only to young mothers but to young fathers, including education, job training, parenting classes, and counseling.
- d. Child support agencies should institute public education campaigns directed toward young people on the rights and responsibilities of parenting, and the benefits of parentage establishment.
- e. Even if the alleged father does not have an immediately-available income source, child support agencies should establish parentage as soon as possible in order to help the father develop a sense of personal responsibility — both financially and emotionally — for the child.
- f. Where appropriate, courts should recognize noncash contributions of minor payors — such as child care, participation in education and training programs designed to increase future earnings — as legitimate ways to meet parental obligations.
- g. The federal government and the states should consider funding demonstration projects whereby child support agencies provide special outreach and services to young mothers and fathers.
- h. State and local jurisdictions are encouraged to establish interdisciplinary task forces to address teenage pregnancy and young parenthood that include such people as representatives of child support and family service providers, social service programs, schools, religious groups, and young parents.
- i. Innovative young parent programs should be recognized.
- j. States are encouraged to give standing to a father to initiate a parentage action.
- k. Child support agencies are encouraged to ensure that a minor has the benefit of advice from a guardian ad litem or attorney before signing a written acknowledgment of paternity that has the effect of a legal adjudication of parentage.

### 24. Indian Children and Tribal Courts

- a. Congress' intent should be that Indian children residing on reservations have the same rights to support as children receive who live off of a reservation, and that jurisdictional issues do not prevent any Indian child from receiving the support to which he or she is entitled.
- b. Congress should resolve jurisdictional issues regarding state and tribal court orders similarly to the full faith and credit approach taken in the Indian Child Welfare Act.
- c. The Bureau of Indian Affairs and OCSE should be appropriately funded to administer efforts to enforce child support on Indian reservations.
- d. In the long term, IV-D requirements should apply to

Indian tribes at 100% federal funding. In the short term, two-year demonstration projects should be given to those states that demonstrate their commitment to children through the successful use of child abuse prevention programs, community organization projects and other proven family and child centered programs that evidence that children are a high priority in tribal community planning.

- e. Tribes without written constitutions and codes should in writing provide assurance that their courts have the power to adjudicate parentage and child support claims.
- f. Intergovernmental tribal agreements are encouraged.
- g. Indian tribes should be included in the definition of "state" in URESA (UIFSA).
- h. Congress needs to monitor Indian child support programs.
- i. Congress should include tribes in the definition of employers who are subject to income withholding orders.
- j. Congress or DHHS should fund a study to produce genetic marker frequency data on Indians.
- k. Tribal and state governments should:
  1. have a joint task force to study problems of service of process;
  2. cooperate on the production of a tribal court manual for child support;
  3. discuss regularly concerns of the respective judiciary and bar associations regarding child support enforcement;
  4. provide continuing legal education for the tribal court bar on child support.
- l. The continuity of family as perceived by Indian children shall be protected and preserved by the Indian courts, including promoting healthy contact with both parents, absent credible evidence indicating the contrary.

### 25. International Cases

- a. States are encouraged to enter into statements of reciprocity with foreign nations and Canadian provinces for parentage determination, and the establishment, modification and enforcement of child support awards.
- b. The United States is encouraged to adopt the U.N. Convention of 1956.

### 26. Interstate Compacts

- a. States are encouraged to develop interstate compacts to resolve regional problems with interjurisdictional case coordination, by innovative approaches that allow, for example, direct case handling of an out-of-state case, recognition of out-of-state warrants, process servers' reach across state lines, expedited, informal acknowledgment of contiguous-jurisdiction-produced evidence and orders, and shared access to local locate information not usually readily-available to out-of-state agencies.
- b. Interstate compacts would receive 90% federal funding participation for the states that enter into them, for activities during the planning and implementation stages.

## 27. Bankruptcy

a. The Bankruptcy Code should be amended to allow parentage and child support case establishment, modification and enforcement to proceed without interruption after the filing of the bankruptcy petition. The automatic bankruptcy stay should not bar or affect any part of any action pertaining to child support.

b. The Bankruptcy Code should be amended to state that the debt owed to child support creditors is to be treated as a debt outside the Chapter 12 or 13 Plan, unless the child support creditor opts to be part of the Plan; estate assets may be reached while in the trustee's control to satisfy the support debt.

## 28. Collection and Distribution of Support

a. States are encouraged to work with employers and obligors to transfer payments through the Electronic Funds Transfer system of the Automated Clearing House. States are also encouraged to allow payments to be made:

1. from the obligor's bank account based on a pre-authorized agreement,
2. by the obligor in check or money order made payable to the child support agency, or
3. by deduction from the credit card account of the obligor based on pre-authorized agreement.

b. Congress by statute should direct the Secretary of HHS to promulgate regulations that require states to have and use laws that contemplate either one central collection, accounting and disbursement point within a state or several local collection and disbursement points throughout the state for IV-D cases. If a state chooses to have local collection, the local points must be both the point of collection and disbursement for nonAFDC cases, with a payment record electronically-transmitted to the state central office.

c. States are encouraged to reconsider priorities of distribution between parents and states regarding arrearages, giving weight to the importance of giving money to the family first.

d. States, under risk of losing federal funding, shall distribute child support collected, other than through a tax offset procedure, in the following priority:

1. to a current month's child support obligation;
2. to debts owed the family (non-AFDC arrearages); if any rights to child support were assigned to the state then any arrearages that accrued after the child no longer receives AFDC are to be distributed to the family; states may include any pre-assignment family-debt at this priority;
3. to reimburse the state making the collection for any AFDC debts incurred under the assignment of rights under IV-A;
4. to reimburse other states for AFDC debts (in the order in which they were incurred). The collecting state would be required to continue to enforce the order until all such debts are satisfied and to transmit the collections and identifying information to the other state.

5. Subject to 6, the priority of distribution of interest mirrors the distribution priority for the child support installment or AFDC grant on which the interest accrued.

6. A state's right to retain interest on assigned support is limited to the grant amount paid by that state. All additional interest is to be distributed to the obligee.

e. Federal law should require states, which have not already done so, to enact statutes limiting any claims for the child's portion of the AFDC reimbursement they may have against a noncustodial parent to the amount specified as child support under a court or administrative order.

f. Congress through GAO or CBO (or through a non-profit contractor that has not had and does not now have a contract with a federal or state child support agency) should analyze the distribution system and authorize one or more pilot projects for the distribution of arrearages (both pre- and post-AFDC) first to the family, then to the collecting state for AFDC reimbursement, and then to any other state with an AFDC reimbursement claim. A cost/benefit analysis as well as a welfare/Medicaid/food stamp cost-avoidance analysis shall be done by the pilot projects, as well as an analysis of the family impact including a present value dollar valuation of the distribution scheme. Congress should mandate this priority scheme if it shows a benefit. The projects should be in states that allow for the indefinite tolling of the statute of limitations on AFDC debts and the nondischargeability of the AFDC debt in bankruptcy.

g. Contingent on a cost/benefit analysis and an analysis of cost avoidance by CBO given to the Commission of the impact on families and the government, the Commission recommends that the federal income tax code be revised to provide the following priority of tax refund offsets to satisfy debts: 1) child support to a family (non-AFDC arrearages); 2) federal tax debts; 3) child support owed to a state or local government (AFDC arrearages); and 4) remaining debts delineated in their remaining order in IRC section 634. In the interim before the study's report is disseminated, the above priority for offset distribution shall be the Commission's recommended distribution scheme.

h. The \$50 pass-through (disregard) in AFDC cases, once paid, shall not count as income for any means-tested program.

i. The federal government shall be required to give states upon request waivers to adopt fill-the-gap policies, which states are encouraged to adopt. Fill-the-gap programs allow the AFDC recipient to retain the child support collected in addition to the AFDC grant up to the poverty level.

## 29. Funding and Incentives for Child Support Agencies

a. The Commission recommends that federal incentive formulas for states be developed that would include the following principles:

1. Mandating balanced programs that serve AFDC and non-AFDC families,



2. Requiring the reinvestment of federal incentives in the CSE program, which may be used to pay the state's share of the FFP match but which shall not be used to reduce the state appropriation or funding for the CSE program below that of the previous year's budget,

A. Including in any revised incentive structure a transition plan to protect states from decreases in revenue during a budget cycle, and

B. Including in any revision a "promise of stability" that would provide for a minimum period of time during which the criteria in the formula would be used,

b. The Commission recommends that Congress fund a study to be conducted by an independent body to investigate the feasibility, the costs and the benefits of the following:

1. Encouraging states to centralize functions at the state level,

2. Abolishing minimum incentives to states (i.e., no incentive for collection to cost ratios of 6%) and the requirement that incentive funds be passed to local child support agencies,

3. Exploring incentive formula that are based on increases in FFP for states that exceed performance criteria instead of the present percentage of collections formula.

4. Promoting quality control.

5. Tying incentive amounts to various performance criteria, including criteria that are independent of AFDC collections.

c. For the purposes of FFP and incentives, child support shall be defined to include, without limitation, periodic and lump sum payments for current and past-due economic support, payments of health insurance premiums and non-covered costs for the benefit of the child(ren), payments for provision of child care and payments for educational expenses. This definition is separate from the state's definition of child support under its guidelines. A state shall be entitled to full FFP and incentive payments for collecting all forms of child support.

d. States may not assess charges for IV-D services against the custodial parent, above the application fee. Such fees may be collected from a person other than the custodial parent only after current and past-due support and interest are collected.

### 30. Placement and Role of the Federal Child Support Agency

a. The Commission recommends that:

1. The federal Office of Child Support Enforcement exert leadership in the administration of the child support program. OCSE should recognize that its priorities set the agenda and influence the manner in which state and local child support agencies provide services to parents.

2. OCSE be headed by an Assistant Secretary who reports directly to the Secretary. The post would require Senate confirmation.

3. OCSE be required to initiate and actively pursue with other federal agencies, such as the Department of Defense, efforts to coordinate and provide input on federal legislation.

4. HHS be required to provide final regulations prior to the date on which states are required to implement a federal mandate. If the Secretary does not complete the final regulations on time, states should be required to implement federal laws by passing state laws, developing state policies and procedures, and implementing changes in systems. Any audit of the state for periods after the effective date but prior to the issuance of final regulations should be done on the basis of federal statutes only.

5. Congress should include a date by which final regulations should be published as a part of each federal mandate.

6. OCSE be required to review state policies, procedures, staffing, and organizational structure, including cooperative agreements annually and provide the state with a written assessment of the manner in which the state is conforming with the state plan. The assessment would include any problems noted and any potential penalties that would be imposed if the state is found out of compliance in the regular or special audits.

7. OCSE should have its own legal counsel.

8. the \$50 pass through be treated as one-half IV-A and one-half IV-D and that OCSE's budgetary process and annual report to Congress reflect this allocation.

9. in the OCSE budget and its annual report to Congress, OCSE develop and use a reporting methodology that reflects cost-avoidance on behalf of the IV-D program as well as cost recovery.

### 31. National Advisory Committee for Child Support Enforcement

a. The Commission recommends that the Congress establish an Advisory Committee to provide guidance to the federal Office of Child Support Enforcement. This committee should have an independent budget authorized by the Congress and appropriated directly to the Committee.

b. The Committee would provide oversight on the implementation of federal laws and regulations and operation of federal, state and local child support programs, provide forums for identification of problems experienced by parents, state agencies, courts, and the private bar, and report to the Secretary and the Congress on problems and solutions.

c. The Committee should be appointed by the Congress and the Secretary of the Department of Health and Human Services. Members should be appointed to include the following groups and/or individuals:

1. AFDC recipients,
2. state child support agencies,
3. state human service agencies,
4. judges,
5. court administrators,
6. business and labor organizations,
7. state legislators,

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# CHILD SUPPORT BY HOURLY WAGES, AVERAGE MONTHLY SALARIES, AND ANNUAL INCOMES

Presumes 40-hour week, 52-week year

HOURLY WAGE	AVERAGE MONTHLY SALARY	ANNUAL INCOME	18% ONE CHILD	25% TWO CHILDREN	29% THREE CHILDREN	31% FOUR CHILDREN	33% FIVE CHILDREN
\$3.50	\$606.67	\$7,280.00	\$109.20	\$151.67	\$175.93	\$188.07	\$200.20
\$3.75	\$650.00	\$7,800.00	\$117.00	\$162.50	\$188.50	\$201.50	\$214.50
\$4.00	\$693.33	\$8,320.00	\$124.80	\$173.33	\$201.07	\$214.93	\$228.80
\$4.25	\$736.67	\$8,840.00	\$132.60	\$184.17	\$213.63	\$228.37	\$243.10
\$4.50	\$780.00	\$9,360.00	\$140.40	\$195.00	\$226.20	\$241.80	\$257.40
\$4.75	\$823.33	\$9,880.00	\$148.20	\$205.83	\$238.77	\$255.23	\$271.70
\$5.00	\$866.67	\$10,400.00	\$156.00	\$216.67	\$251.33	\$268.67	\$286.00
\$5.25	\$910.00	\$10,920.00	\$163.80	\$227.50	\$263.90	\$282.10	\$300.30
\$5.50	\$953.33	\$11,440.00	\$171.60	\$238.33	\$276.47	\$295.53	\$314.60
\$5.75	\$996.67	\$11,960.00	\$179.40	\$249.17	\$289.03	\$308.97	\$328.90
\$6.00	\$1,040.00	\$12,480.00	\$187.20	\$260.00	\$301.60	\$322.40	\$343.20
\$6.25	\$1,083.33	\$13,000.00	\$195.00	\$270.83	\$314.17	\$335.83	\$357.50
\$6.50	\$1,126.67	\$13,520.00	\$202.80	\$281.67	\$326.73	\$349.27	\$371.80
\$6.75	\$1,170.00	\$14,040.00	\$210.60	\$292.50	\$339.30	\$362.70	\$386.10
\$7.00	\$1,213.33	\$14,560.00	\$218.40	\$303.33	\$351.87	\$376.13	\$400.40
\$7.25	\$1,256.67	\$15,080.00	\$226.20	\$314.17	\$364.43	\$389.57	\$414.70
\$7.50	\$1,300.00	\$15,600.00	\$234.00	\$325.00	\$377.00	\$403.00	\$429.00
\$7.75	\$1,343.33	\$16,120.00	\$241.80	\$335.83	\$389.57	\$416.43	\$443.30
\$8.00	\$1,386.67	\$16,640.00	\$249.60	\$346.67	\$402.13	\$429.87	\$457.60
\$8.25	\$1,430.00	\$17,160.00	\$257.40	\$357.50	\$414.70	\$443.30	\$471.90
\$8.50	\$1,473.33	\$17,680.00	\$265.20	\$368.33	\$427.27	\$456.73	\$486.20
\$8.75	\$1,516.67	\$18,200.00	\$273.00	\$379.17	\$439.83	\$470.17	\$500.50
\$9.00	\$1,560.00	\$18,720.00	\$280.80	\$390.00	\$452.40	\$483.60	\$514.80
\$9.25	\$1,603.33	\$19,240.00	\$288.60	\$400.83	\$464.97	\$497.03	\$529.10
\$9.50	\$1,646.67	\$19,760.00	\$296.40	\$411.67	\$477.53	\$510.47	\$543.40
\$9.75	\$1,690.00	\$20,280.00	\$304.20	\$422.50	\$490.10	\$523.90	\$557.70
\$10.00	\$1,733.33	\$20,800.00	\$312.00	\$433.33	\$502.67	\$537.33	\$572.00
\$10.25	\$1,776.67	\$21,320.00	\$319.80	\$444.17	\$515.23	\$550.77	\$586.30
\$10.50	\$1,820.00	\$21,840.00	\$327.60	\$455.00	\$527.80	\$564.20	\$600.60
\$10.75	\$1,863.33	\$22,360.00	\$335.40	\$465.83	\$540.37	\$577.63	\$614.90
\$11.00	\$1,906.67	\$22,880.00	\$343.20	\$476.67	\$552.93	\$591.07	\$629.20
\$11.25	\$1,950.00	\$23,400.00	\$351.00	\$487.50	\$565.50	\$604.50	\$643.50
\$11.50	\$1,993.33	\$23,920.00	\$358.80	\$498.33	\$578.07	\$617.93	\$657.80
\$11.75	\$2,036.67	\$24,440.00	\$366.60	\$509.17	\$590.63	\$631.37	\$672.10
\$12.00	\$2,080.00	\$24,960.00	\$374.40	\$520.00	\$603.20	\$644.80	\$686.40
\$12.25	\$2,123.33	\$25,480.00	\$382.20	\$530.83	\$615.77	\$658.23	\$700.70
\$12.50	\$2,166.67	\$26,000.00	\$390.00	\$541.67	\$628.33	\$671.67	\$715.00

HOURLY WAGE	AVERAGE MONTHLY SALARY	ANNUAL INCOME	18% ONE CHILD	25% TWO CHILDREN	29% THREE CHILDREN	31% FOUR CHILDREN	33% FIVE CHILDREN
\$12.75	\$2,210.00	\$26,520.00	\$397.80	\$552.50	\$640.90	\$685.10	\$729.30
\$13.00	\$2,253.33	\$27,040.00	\$405.60	\$563.33	\$653.47	\$698.53	\$743.60
\$13.25	\$2,296.67	\$27,560.00	\$413.40	\$574.17	\$666.03	\$711.97	\$757.90
\$13.50	\$2,340.00	\$28,080.00	\$421.20	\$585.00	\$678.60	\$725.40	\$772.20
\$13.75	\$2,383.33	\$28,600.00	\$429.00	\$595.83	\$691.17	\$738.83	\$786.50
\$14.00	\$2,426.67	\$29,120.00	\$436.80	\$606.67	\$703.73	\$752.27	\$800.80
\$14.25	\$2,470.00	\$29,640.00	\$444.60	\$617.50	\$716.30	\$765.70	\$815.10
\$14.50	\$2,513.33	\$30,160.00	\$452.40	\$628.33	\$728.87	\$779.13	\$829.40
\$14.75	\$2,556.67	\$30,680.00	\$460.20	\$639.17	\$741.43	\$792.57	\$843.70
\$15.00	\$2,600.00	\$31,200.00	\$468.00	\$650.00	\$754.00	\$806.00	\$858.00
\$15.25	\$2,643.33	\$31,720.00	\$475.80	\$660.83	\$766.57	\$819.43	\$872.30
\$15.50	\$2,686.67	\$32,240.00	\$483.60	\$671.67	\$779.13	\$832.87	\$886.60
\$15.75	\$2,730.00	\$32,760.00	\$491.40	\$682.50	\$791.70	\$846.30	\$900.90
\$16.00	\$2,773.33	\$33,280.00	\$499.20	\$693.33	\$804.27	\$859.73	\$915.20

NOTE: Below this line, percentage support for one child exceeds the presumptive ceiling of NRS 125B.070.

\$16.25	\$2,816.67	\$33,800.00	\$507.00	\$704.17	\$816.83	\$873.17	\$929.50
\$16.50	\$2,860.00	\$34,320.00	\$514.80	\$715.00	\$829.40	\$886.60	\$943.80
\$16.75	\$2,903.33	\$34,840.00	\$522.60	\$725.83	\$841.97	\$900.03	\$958.10
\$17.00	\$2,946.67	\$35,360.00	\$530.40	\$736.67	\$854.53	\$913.47	\$972.40
\$17.25	\$2,990.00	\$35,880.00	\$538.20	\$747.50	\$867.10	\$926.90	\$986.70
\$17.50	\$3,033.33	\$36,400.00	\$546.00	\$758.33	\$879.67	\$940.33	\$1,001.00
\$17.75	\$3,076.67	\$36,920.00	\$553.80	\$769.17	\$892.23	\$953.77	\$1,015.30
\$18.00	\$3,120.00	\$37,440.00	\$561.60	\$780.00	\$904.80	\$967.20	\$1,029.60
\$18.25	\$3,163.33	\$37,960.00	\$569.40	\$790.83	\$917.37	\$980.63	\$1,043.90
\$18.50	\$3,206.67	\$38,480.00	\$577.20	\$801.67	\$929.93	\$994.07	\$1,058.20
\$18.75	\$3,250.00	\$39,000.00	\$585.00	\$812.50	\$942.50	\$1,007.50	\$1,072.50
\$19.00	\$3,293.33	\$39,520.00	\$592.80	\$823.33	\$955.07	\$1,020.93	\$1,086.80
\$19.25	\$3,336.67	\$40,040.00	\$600.60	\$834.17	\$967.63	\$1,034.37	\$1,101.10
\$19.50	\$3,380.00	\$40,560.00	\$608.40	\$845.00	\$980.20	\$1,047.80	\$1,115.40
\$19.75	\$3,423.33	\$41,080.00	\$616.20	\$855.83	\$992.77	\$1,061.23	\$1,129.70
\$20.00	\$3,466.67	\$41,600.00	\$624.00	\$866.67	\$1,005.33	\$1,074.67	\$1,144.00
\$20.25	\$3,510.00	\$42,120.00	\$631.80	\$877.50	\$1,017.90	\$1,088.10	\$1,158.30
\$20.50	\$3,553.33	\$42,640.00	\$639.60	\$888.33	\$1,030.47	\$1,101.53	\$1,172.60
\$20.75	\$3,596.67	\$43,160.00	\$647.40	\$899.17	\$1,043.03	\$1,114.97	\$1,186.90
\$21.00	\$3,640.00	\$43,680.00	\$655.20	\$910.00	\$1,055.60	\$1,128.40	\$1,201.20
\$21.25	\$3,683.33	\$44,200.00	\$663.00	\$920.83	\$1,068.17	\$1,141.83	\$1,215.50
\$21.50	\$3,726.67	\$44,720.00	\$670.80	\$931.67	\$1,080.73	\$1,155.27	\$1,229.80
\$21.75	\$3,770.00	\$45,240.00	\$678.60	\$942.50	\$1,093.30	\$1,168.70	\$1,244.10
\$22.00	\$3,813.33	\$45,760.00	\$686.40	\$953.33	\$1,105.87	\$1,182.13	\$1,258.40
\$22.25	\$3,856.67	\$46,280.00	\$694.20	\$964.17	\$1,118.43	\$1,195.57	\$1,272.70
\$22.50	\$3,900.00	\$46,800.00	\$702.00	\$975.00	\$1,131.00	\$1,209.00	\$1,287.00

HOURLY WAGE	AVERAGE MONTHLY SALARY	ANNUAL INCOME	18% ONE CHILD	25% TWO CHILDREN	29% THREE CHILDREN	31% FOUR CHILDREN	33% FIVE CHILDREN
\$22.75	\$3,943.33	\$47,320.00	\$709.80	\$985.83	\$1,143.57	\$1,222.43	\$1,301.30
\$23.00	\$3,986.67	\$47,840.00	\$717.60	\$996.67	\$1,156.13	\$1,235.87	\$1,315.60

NOTE: Below this line, percentage support for two children exceeds the presumptive ceiling of NRS 125B.070.

\$23.25	\$4,030.00	\$48,360.00	\$725.40	\$1,007.50	\$1,168.70	\$1,249.30	\$1,329.90
\$23.50	\$4,073.33	\$48,880.00	\$733.20	\$1,018.33	\$1,181.27	\$1,262.73	\$1,344.20
\$23.75	\$4,116.67	\$49,400.00	\$741.00	\$1,029.17	\$1,193.83	\$1,276.17	\$1,358.50
\$24.00	\$4,160.00	\$49,920.00	\$748.80	\$1,040.00	\$1,206.40	\$1,289.60	\$1,372.80
\$24.25	\$4,203.33	\$50,440.00	\$756.60	\$1,050.83	\$1,218.97	\$1,303.03	\$1,387.10
\$24.50	\$4,246.67	\$50,960.00	\$764.40	\$1,061.67	\$1,231.53	\$1,316.47	\$1,401.40
\$24.75	\$4,290.00	\$51,480.00	\$772.20	\$1,072.50	\$1,244.10	\$1,329.90	\$1,415.70
\$25.00	\$4,333.33	\$52,000.00	\$780.00	\$1,083.33	\$1,256.67	\$1,343.33	\$1,430.00
\$25.25	\$4,376.67	\$52,520.00	\$787.80	\$1,094.17	\$1,269.23	\$1,356.77	\$1,444.30
\$25.50	\$4,420.00	\$53,040.00	\$795.60	\$1,105.00	\$1,281.80	\$1,370.20	\$1,458.60
\$25.75	\$4,463.33	\$53,560.00	\$803.40	\$1,115.83	\$1,294.37	\$1,383.63	\$1,472.90
\$26.00	\$4,506.67	\$54,080.00	\$811.20	\$1,126.67	\$1,306.93	\$1,397.07	\$1,487.20
\$26.25	\$4,550.00	\$54,600.00	\$819.00	\$1,137.50	\$1,319.50	\$1,410.50	\$1,501.50
\$26.50	\$4,593.33	\$55,120.00	\$826.80	\$1,148.33	\$1,332.07	\$1,423.93	\$1,515.80
\$26.75	\$4,636.67	\$55,640.00	\$834.60	\$1,159.17	\$1,344.63	\$1,437.37	\$1,530.10
\$27.00	\$4,680.00	\$56,160.00	\$842.40	\$1,170.00	\$1,357.20	\$1,450.80	\$1,544.40
\$27.25	\$4,723.33	\$56,680.00	\$850.20	\$1,180.83	\$1,369.77	\$1,464.23	\$1,558.70
\$27.50	\$4,766.67	\$57,200.00	\$858.00	\$1,191.67	\$1,382.33	\$1,477.67	\$1,573.00
\$27.75	\$4,810.00	\$57,720.00	\$865.80	\$1,202.50	\$1,394.90	\$1,491.10	\$1,587.30
\$28.00	\$4,853.33	\$58,240.00	\$873.60	\$1,213.33	\$1,407.47	\$1,504.53	\$1,601.60
\$28.25	\$4,896.67	\$58,760.00	\$881.40	\$1,224.17	\$1,420.03	\$1,517.97	\$1,615.90
\$28.50	\$4,940.00	\$59,280.00	\$889.20	\$1,235.00	\$1,432.60	\$1,531.40	\$1,630.20
\$28.75	\$4,983.33	\$59,800.00	\$897.00	\$1,245.83	\$1,445.17	\$1,544.83	\$1,644.50
\$29.00	\$5,026.67	\$60,320.00	\$904.80	\$1,256.67	\$1,457.73	\$1,558.27	\$1,658.80
\$29.25	\$5,070.00	\$60,840.00	\$912.60	\$1,267.50	\$1,470.30	\$1,571.70	\$1,673.10
\$29.50	\$5,113.33	\$61,360.00	\$920.40	\$1,278.33	\$1,482.87	\$1,585.13	\$1,687.40
\$29.75	\$5,156.67	\$61,880.00	\$928.20	\$1,289.17	\$1,495.43	\$1,598.57	\$1,701.70

NOTE: Below this line, percentage support for three children exceeds the presumptive ceiling of NRS 125B.070.

\$30.00	\$5,200.00	\$62,400.00	\$936.00	\$1,300.00	\$1,508.00	\$1,612.00	\$1,716.00
\$30.25	\$5,243.33	\$62,920.00	\$943.80	\$1,310.83	\$1,520.57	\$1,625.43	\$1,730.30
\$30.50	\$5,286.67	\$63,440.00	\$951.60	\$1,321.67	\$1,533.13	\$1,638.87	\$1,744.60
\$30.75	\$5,330.00	\$63,960.00	\$959.40	\$1,332.50	\$1,545.70	\$1,652.30	\$1,758.90
\$31.00	\$5,373.33	\$64,480.00	\$967.20	\$1,343.33	\$1,558.27	\$1,665.73	\$1,773.20
\$31.25	\$5,416.67	\$65,000.00	\$975.00	\$1,354.17	\$1,570.83	\$1,679.17	\$1,787.50
\$31.50	\$5,460.00	\$65,520.00	\$982.80	\$1,365.00	\$1,583.40	\$1,692.60	\$1,801.80
\$31.75	\$5,503.33	\$66,040.00	\$990.60	\$1,375.83	\$1,595.97	\$1,706.03	\$1,816.10
\$32.00	\$5,546.67	\$66,560.00	\$998.40	\$1,386.67	\$1,608.53	\$1,719.47	\$1,830.40
\$32.25	\$5,590.00	\$67,080.00	\$1,006.20	\$1,397.50	\$1,621.10	\$1,732.90	\$1,844.70

HOURLY WAGE	AVERAGE MONTHLY SALARY	ANNUAL INCOME	18% ONE CHILD	25% TWO CHILDREN	29% THREE CHILDREN	31% FOUR CHILDREN	33% FIVE CHILDREN
\$32.50	\$5,633.33	\$67,600.00	\$1,014.00	\$1,408.33	\$1,633.67	\$1,746.33	\$1,859.00
\$32.75	\$5,676.67	\$68,120.00	\$1,021.80	\$1,419.17	\$1,646.23	\$1,759.77	\$1,873.30
\$33.00	\$5,720.00	\$68,640.00	\$1,029.60	\$1,430.00	\$1,658.80	\$1,773.20	\$1,887.60
\$33.25	\$5,763.33	\$69,160.00	\$1,037.40	\$1,440.83	\$1,671.37	\$1,786.63	\$1,901.90
\$33.50	\$5,806.67	\$69,680.00	\$1,045.20	\$1,451.67	\$1,683.93	\$1,800.07	\$1,916.20
\$33.75	\$5,850.00	\$70,200.00	\$1,053.00	\$1,462.50	\$1,696.50	\$1,813.50	\$1,930.50
\$34.00	\$5,893.33	\$70,720.00	\$1,060.80	\$1,473.33	\$1,709.07	\$1,826.93	\$1,944.80
\$34.25	\$5,936.67	\$71,240.00	\$1,068.60	\$1,484.17	\$1,721.63	\$1,840.37	\$1,959.10
\$34.50	\$5,980.00	\$71,760.00	\$1,076.40	\$1,495.00	\$1,734.20	\$1,853.80	\$1,973.40
\$34.75	\$6,023.33	\$72,280.00	\$1,084.20	\$1,505.83	\$1,746.77	\$1,867.23	\$1,987.70
\$35.00	\$6,066.67	\$72,800.00	\$1,092.00	\$1,516.67	\$1,759.33	\$1,880.67	\$2,002.00
\$35.25	\$6,110.00	\$73,320.00	\$1,099.80	\$1,527.50	\$1,771.90	\$1,894.10	\$2,016.30
\$35.50	\$6,153.33	\$73,840.00	\$1,107.60	\$1,538.33	\$1,784.47	\$1,907.53	\$2,030.60
\$35.75	\$6,196.67	\$74,360.00	\$1,115.40	\$1,549.17	\$1,797.03	\$1,920.97	\$2,044.90
\$36.00	\$6,240.00	\$74,880.00	\$1,123.20	\$1,560.00	\$1,809.60	\$1,934.40	\$2,059.20
\$36.25	\$6,283.33	\$75,400.00	\$1,131.00	\$1,570.83	\$1,822.17	\$1,947.83	\$2,073.50
\$36.50	\$6,326.67	\$75,920.00	\$1,138.80	\$1,581.67	\$1,834.73	\$1,961.27	\$2,087.80
\$36.75	\$6,370.00	\$76,440.00	\$1,146.60	\$1,592.50	\$1,847.30	\$1,974.70	\$2,102.10
\$37.00	\$6,413.33	\$76,960.00	\$1,154.40	\$1,603.33	\$1,859.87	\$1,988.13	\$2,116.40

NOTE: Below this line, percentage support for four children exceeds the presumptive ceiling of NRS 125B.070.

\$37.25	\$6,456.67	\$77,480.00	\$1,162.20	\$1,614.17	\$1,872.43	\$2,001.57	\$2,130.70
\$37.50	\$6,500.00	\$78,000.00	\$1,170.00	\$1,625.00	\$1,885.00	\$2,015.00	\$2,145.00
\$37.75	\$6,543.33	\$78,520.00	\$1,177.80	\$1,635.83	\$1,897.57	\$2,028.43	\$2,159.30
\$38.00	\$6,586.67	\$79,040.00	\$1,185.60	\$1,646.67	\$1,910.13	\$2,041.87	\$2,173.60
\$38.25	\$6,630.00	\$79,560.00	\$1,193.40	\$1,657.50	\$1,922.70	\$2,055.30	\$2,187.90
\$38.50	\$6,673.33	\$80,080.00	\$1,201.20	\$1,668.33	\$1,935.27	\$2,068.73	\$2,202.20
\$38.75	\$6,716.67	\$80,600.00	\$1,209.00	\$1,679.17	\$1,947.83	\$2,082.17	\$2,216.50
\$39.00	\$6,760.00	\$81,120.00	\$1,216.80	\$1,690.00	\$1,960.40	\$2,095.60	\$2,230.80
\$39.25	\$6,803.33	\$81,640.00	\$1,224.60	\$1,700.83	\$1,972.97	\$2,109.03	\$2,245.10
\$39.50	\$6,846.67	\$82,160.00	\$1,232.40	\$1,711.67	\$1,985.53	\$2,122.47	\$2,259.40
\$39.75	\$6,890.00	\$82,680.00	\$1,240.20	\$1,722.50	\$1,998.10	\$2,135.90	\$2,273.70
\$40.00	\$6,933.33	\$83,200.00	\$1,248.00	\$1,733.33	\$2,010.67	\$2,149.33	\$2,288.00
\$40.25	\$6,976.67	\$83,720.00	\$1,255.80	\$1,744.17	\$2,023.23	\$2,162.77	\$2,302.30
\$40.50	\$7,020.00	\$84,240.00	\$1,263.60	\$1,755.00	\$2,035.80	\$2,176.20	\$2,316.60
\$40.75	\$7,063.33	\$84,760.00	\$1,271.40	\$1,765.83	\$2,048.37	\$2,189.63	\$2,330.90
\$41.00	\$7,106.67	\$85,280.00	\$1,279.20	\$1,776.67	\$2,060.93	\$2,203.07	\$2,345.20
\$41.25	\$7,150.00	\$85,800.00	\$1,287.00	\$1,787.50	\$2,073.50	\$2,216.50	\$2,359.50
\$41.50	\$7,193.33	\$86,320.00	\$1,294.80	\$1,798.33	\$2,086.07	\$2,229.93	\$2,373.80
\$41.75	\$7,236.67	\$86,840.00	\$1,302.60	\$1,809.17	\$2,098.63	\$2,243.37	\$2,388.10
\$42.00	\$7,280.00	\$87,360.00	\$1,310.40	\$1,820.00	\$2,111.20	\$2,256.80	\$2,402.40

7/14/92

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U.S. Department of Labor  
Bureau of Labor Statistics  
Washington, D.C. 20212

Consumer Price Index

All Urban Consumers - (CPI-U)

U.S. city average

All items

1967=100

YEAR	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEP.	OCT.	NOV.	DEC.	1st HALF	2nd HALF	AVG.
1971	119.2	119.4	119.8	120.2	120.8	121.5	121.8	122.1	122.2	122.4	122.6	123.1	122.9	122.9	121.3
1972	123.2	123.8	124.0	124.3	124.7	125.0	125.5	125.7	126.2	126.6	126.9	127.3	127.0	127.0	125.3
1973	127.7	128.6	129.8	130.7	131.5	132.4	132.7	133.1	135.5	136.6	137.6	138.5	138.4	138.4	133.1
1974	139.7	141.5	143.1	143.9	145.5	146.9	148.0	149.9	151.7	153.0	154.3	155.4	155.4	155.4	147.7
1975	156.1	157.2	157.8	158.6	159.3	160.6	162.3	162.8	163.6	164.6	165.6	166.3	166.3	166.3	161.2
1976	166.7	167.1	167.5	168.2	169.2	170.1	171.1	171.9	172.6	173.3	173.8	174.3	174.3	174.3	170.5
1977	175.3	177.1	178.2	179.6	180.6	181.8	182.6	183.3	184.0	184.5	185.4	186.1	186.1	186.1	181.5
1978	187.2	188.4	189.8	191.5	193.3	195.3	196.7	197.8	199.3	200.9	202.0	202.9	202.9	202.9	195.4
1979	204.7	207.1	209.1	211.5	214.1	216.6	218.9	221.1	223.4	225.4	227.5	229.9	229.9	229.9	217.4
1980	233.2	236.4	239.8	242.5	244.9	247.6	247.8	249.4	251.7	253.9	256.2	258.4	258.4	258.4	246.8
1981	260.5	263.2	265.1	266.8	269.0	271.3	274.4	276.5	279.3	279.9	280.7	281.5	281.5	281.5	272.4
1982	282.5	283.4	283.1	284.3	287.1	290.6	292.2	292.8	293.3	294.1	295.6	296.4	296.4	296.4	289.1
1983	293.1	293.2	293.4	295.5	297.1	298.1	299.3	300.3	301.8	302.6	303.1	303.5	303.5	303.5	298.4
1984	305.2	306.6	307.3	308.8	309.7	310.7	311.7	313.0	314.5	315.3	315.5	315.5	315.5	315.5	311.1
1985	316.1	317.4	318.8	320.1	321.3	322.3	322.8	323.5	324.5	325.5	326.6	327.4	327.4	327.4	322.2
1986	328.4	327.5	326.0	325.3	326.3	327.9	328.0	328.6	330.2	330.5	330.8	331.1	331.1	331.1	328.4
1987	333.1	334.4	335.9	337.7	338.7	340.1	340.8	342.7	344.4	345.3	345.8	345.7	345.7	345.7	340.4
1988	346.7	347.4	349.0	350.8	352.0	353.5	354.9	356.6	358.9	360.1	360.5	360.9	360.9	360.9	354.3
1989	362.7	364.1	366.2	368.8	370.8	371.7	372.7	373.1	374.6	376.2	377.0	377.6	377.6	377.6	371.3
1990	381.5	383.3	385.5	386.2	386.9	389.1	390.7	394.1	397.5	400.0	400.7	400.9	400.9	400.9	391.4
1991	403.1	403.8	404.3	405.1	406.3	407.3	408.0	409.2	411.1	411.5	412.7	413.0	405.0	410.9	408.0
1992	413.8	415.2	417.2	417.9	418.6	419.9	408.0	409.2	411.1	411.5	412.7	413.0	405.0	410.9	408.0

EXHIBIT

9



CHILD SUPPORT AWARD LEVELS IN HYPOTHETICAL CASES  
(AVERAGE LOW AND HIGH AWARDS FOR 50 STATES & THE DISTRICT OF COLUMBIA)

	Actual Award (Lowest Actual Award)	Award Needed for Child to Have Equal Living Standard	Percentage Change for Children & Mother from Pre-Divorce Standard of Living	Percentage Change for Father from Pre-Divorce Standard of Living	Percentage Difference Between Children & Mother's Household & Father's Household Post-Divorce	Percentage Difference Between Father's Household & Mother's Household Post-Divorce	Disposable Income in Children's Household Divided by Poverty Level That Household	Disposable Income in Father's Household Divided by Poverty Level That Household	Difference in Ratio to Poverty Level	Percentage Award is of Ideal Award Needed for Equal Living Standard	Percentage of Father's Gross Income Paid in Support	Percentage Child Support Award Represents of Children & Mother's Gross Income
<b>HYPOTHETICAL #1</b>												
Father's Annual Gross: \$51,062	\$ 7,971	\$ 9,319	- 21	- 13	- 04	05	3.67	4.67	1.00	86	16	21
Father's Federal Tax: \$12,348	L \$ 4,624	\$10,013	- 31	- 02	- 16	19	3.36	5.54	2.18	46		
Mother's Annual Gross: \$30,024	H \$11,166	\$ 9,234	- 12	- 23	06	- 07	3.98	4.02	.05	121		
Mother's Federal Tax: \$4,235	<b>NEVADA</b>											
1 Child, Age 4	\$5,345	\$10,013	- 22	- 13	- 05	06	3.82	4.94	1.12	83		
Childcare Cost: \$3,000												
<b>HYPOTHETICAL #2</b>												
Father's Annual Gross: \$42,751	\$ 9,380	\$18,006	- 44	60	- 38	79	1.50	3.17	1.67	52	22	65
Father's Federal Tax: \$7,520	L \$ 6,736	\$18,129	- 55	82	- 49	104	1.23	3.63	2.40	37		
Mother's Annual Gross: \$0, Exempt	H \$15,513	\$18,907	- 23	16	- 14	30	2.15	2.39	.24	82		
85,000 Alimony	<b>NEVADA</b>											
2 Children	\$10,688	\$18,907	- 41	54	- 34	73	1.65	3.18	1.53	57		
Ages 9 & 15												
Childcare Cost: \$0												
<b>HYPOTHETICAL #3</b>												
Father's Annual Gross: \$16,134	\$ 5,941	\$ 8,303	- 28	- 05	- 13	15	1.97	3.00	1.03	72	17	32
Father's Federal Tax: \$8,414	L \$ 3,952	\$ 8,180	- 36	04	- 23	26	1.74	3.30	1.56	48		
Mother's Annual Gross: \$12,801	H \$ 9,212	\$ 8,143	- 12	- 23	06	- 07	2.34	2.38	.05	113		
Mother's Federal Tax: \$398	<b>NEVADA</b>											
1 Child, Age 2	\$6,144	\$8,889	- 29	- 04	- 14	16	2.02	3.18	1.16	69		
Childcare Cost: \$2,137												
<b>HYPOTHETICAL #4</b>												
Father's Annual Gross: \$24,162	\$ 8,526	\$15,297	- 47	133	- 44	144	.61	1.87	1.25	56	15	100
Father's Federal Tax: \$3,526	L \$ 6,762	\$14,458	- 59	173	- 57	186	.49	2.25	.82	43		
Mother's Annual Gross: \$0	H \$10,373	\$15,280	- 37	102	- 34	111	.75	1.67	.92	66		
4 Children, Ages 7, 9, 14 & 16	<b>NEVADA</b>											
Childcare Cost: \$0	\$7,490	\$15,780	- 55	158	- 53	171	.54	2.14	1.60	47		

# CHILD SUPPORT AWARD LEVELS IN HYPOTHETICAL CASES (CONT.)

	Average Actual Award (lowest actual award)	Average Award Needed for Children to Have Equal Living Standard	Percentage Change for Children & Mother Pre-Divorce Standard of Living	Percentage Change for Father from Pre-Divorce Standard of Living	Percentage Difference Between Children & Mother's Household & Equal Post Divorce Living Standard	Percentage Difference Between Father's Household & Equal Post-Divorce Living Standard	Disposable Income in Children's Household Divided by Poverty Level for that Household Size	Disposable Income in Father's Household Divided by Poverty Level for that Household Size	Difference in Ratio to Poverty Level	Percentage Actual Award is of Ideal Award Needed for Equal Living Standard	Percentage of Father's Gross Income Paid in Support of Living	Percentage of Child Support Award Represents of Children & Mother's Gross Income
<b>HYPOTHETICAL 65</b> Father's Annual Gross: \$29,355 Father's Federal Tax: \$4,718 Mother's Annual Gross: \$16,269 Mother's Federal Tax: \$1,135 1 Child: Age 3 Childcare Cost: \$1,476	\$4,954	\$6,205	-23	-11	-07	08	2.00	2.70	.70	80	17	26
	L \$3,553	\$6,022	-29	-04	-14	16	1.82	2.86	1.04	59		
	M \$7,936	\$6,097	-08	27	11	-12	2.33	2.14	-.19	130		
<b>NEVADA</b>												
	\$5,284	\$6,633	-23	-10	-07	08	2.08	2.82	.74	80		
<b>HYPOTHETICAL 66</b> Father's Annual Gross: \$25,099 Father's Federal Tax: \$4,050 Mother's Annual Gross: \$9,170 Mother's Federal Tax: \$185 2 Children: Ages 8 & 15 Childcare Cost: \$0 U2 Income: \$9,170 M1 & U2: 1 Child: Age 6 Months	\$5,364	\$9,326	-31	04	-21	23	1.53	2.19	.65	58	21	37
	L \$3,600	\$8,909	-38	16	-30	33	1.34	2.30	.96	40		
	M \$8,424	\$9,827	-19	-06	-07	08	1.87	1.98	.11	86		
<b>NEVADA</b>												
	\$5,580	\$9,571	-31	08	-22	25	1.56	2.28	.72	54		
<b>HYPOTHETICAL 67</b> Father's Annual Gross: \$14,156 Father's Annual Tax: \$1,050 Mother's Annual Gross: \$0 2 Children: Ages 3 & 6 Childcare Cost \$0	\$3,936	\$8,133	-57	86	-52	109	.41	1.31	.90	40	28	100
	L \$2,959	\$8,363	-68	111	-65	136	.31	1.52	1.21	35		
	M \$6,828	\$7,954	-23	16	-14	30	.72	.80	.08	86		
<b>NEVADA</b>												
	\$3,539	\$8,343	-62	98	-58	122	.37	1.42	1.05	42		
<b>HYPOTHETICAL 68</b> Father's Annual Gross: \$25,316 Father's Annual Tax: \$4,512 Mother's Annual Gross: \$13,029 Mother's Annual Tax: \$766 1 Child: Age 7 Childcare Cost: \$900 Joint Custody: F 35%, M 65%	\$3,181	\$4,729	-13	-08	-10	10	1.93	2.45	.53	67	13	20
	L \$1,503	\$4,795	-23	19	-20	21	1.72	2.74	1.02	31		
	M \$6,405	\$4,517	08	-14	12	-13	2.35	1.92	-.43	142		
<b>NEVADA</b>												
	\$4,447	\$5,032	-09	04	-05	06	2.08	2.43	.35	82		

[illegible]

Wife Has \$0 Earnings*		Wife Earns Less Than 1/2 of H's Earnings			Wife Earns More Than 1/2 of H's Earnings				
	Actual Award/ Ideal ESOL Award	Children & Mother's Income/ Poverty Level	Father's Income/ Poverty Level	Actual Award/ Ideal ESOL Award	Children & Mother's Income/ Poverty Level	Father's Income/ Poverty Level	Actual Award/ Ideal ESOL Award	Children & Mother's Income/ Poverty Level	Father's Income/ Poverty Level
Income Shares	.50	.80	2.03	.64	1.74	2.49	.78	2.60	3.19
Wisconsin	.49	.80	2.03	.67	1.77	2.46	.81	2.62	3.14
Delaware	.54	.88	1.98	.67	1.76	2.44	.81	2.59	3.10
Massachusetts/District of Columbia	.63	.96	1.76	1.01	2.04	2.01	1.01	2.76	2.80
All	.49	.82	2.07	.61	1.74	2.56	.71	2.56	3.35

e Women's Legal Defense Fund 1990

STATE	LOW INCOME	MEDIUM INCOME	HIGH INCOME
ALABAMA	F	C-	C-
ALASKA	F	D	D
ARIZONA	F	C-	C-
ARKANSAS	D	F	F
CALIFORNIA	F	F	F
COLORADO	F	C-	C-
CONNECTICUT	C	A	B
DELAWARE	D	C+	C
DISTRICT OF COLUMBIA	D	A	A
FLORIDA	D	B	C+
GEORGIA	F	C	B
HAWAII	D	C+	C+
IDAHO	F	D	C-
ILLINOIS	F	D	D
INDIANA	C-	C+	C+
IOWA	C-	D	D
KANSAS	F	C-	C
KENTUCKY	F	C+	C+
LOUISIANA	F	F	C
MAINE	F	C-	C-
MARYLAND	C+	C+	C+
MASSACHUSETTS	F	A	A
MICHIGAN	C+	C+	C-
MINNESOTA	F	C-	C+
MISSISSIPPI	F	D	C
MISSOURI	D	C-	C
MONTANA	F	C	D
NEBRASKA	F	D	F
NEVADA	F	C-	C
NEW HAMPSHIRE	F	D	C
NEW JERSEY	C-	C	C+
NEW MEXICO	F	C-	C
NEW YORK	F	C	B
NORTH CAROLINA	F	C-	C+
NORTH DAKOTA	F	D	C+
OHIO	F	C-	C-
OKLAHOMA	F	D	D
OREGON	F	C-	C+
PENNSYLVANIA	D	C	D
RHODE ISLAND	D	C	C
SOUTH CAROLINA	F	C-	C-
SOUTH DAKOTA	F	F	F
TENNESSEE	D	C-	C-
TEXAS	F	F	D
UTAH	F	F	F
VERMONT	F	C+	C
VIRGINIA	D	C	C-
WASHINGTON	C-	C+	B
WEST VIRGINIA	D	C	D
WISCONSIN	F	C-	B

### CHAPTER III FACTORS TO BE CONSIDERED IN THE DEVELOPMENT OF GUIDELINES

The effects of child support guidelines on obligors, obligees, and their children are determined in part by the treatment of certain key factors. Developing guidelines to account adequately for these factors can extend their equitable applicability to a wider range of situations than would otherwise be possible. In this chapter, we review the treatment of income, imputed income, custodial parent income, child's age, child care expenses, support obligations for other dependents, income of current spouse, custody arrangements, obligor living allowance, medical costs, and geographic variation. For each factor, we consider options for treatment under child support guidelines. In Chapter V, we discuss how these factors are considered under current and proposed child support guidelines. A summary of these factors is shown in Table II.

#### Income Base

The first factor to be considered in the development of guidelines is specification of an income base: gross (before tax) income or net (after tax) income. The primary justification for using net income is that it is considered to represent ability to pay more closely since it constitutes the amount of income available to the obligor for payment of personal obligations and living expenses. By this argument, two persons with the same net income can be considered to have the same number of dollars available to divide between personal consumption and child support. In contrast, two persons with the same gross income could have different levels of discretionary income available because of different tax deductions and mandatory payroll withholdings. Another reason for using net income as the starting point is that, in some jurisdictions, such as New York State, the existence of different levels of local income taxes would introduce differences in the relative incidence of a given child support award level for obligors with the same gross incomes.

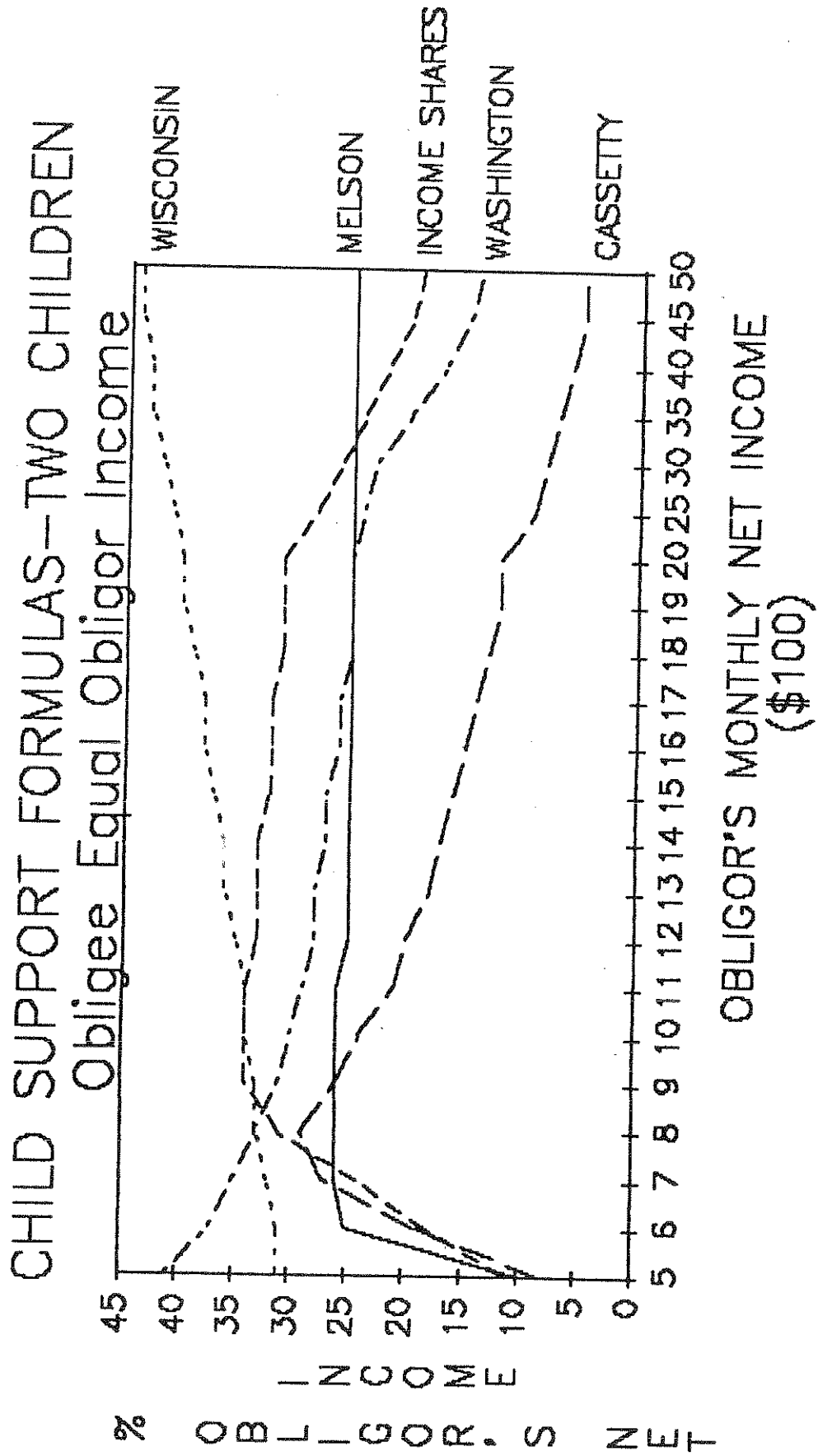
Selection of gross income as the starting point for a guideline, however, greatly simplifies its application. Use of gross income substantially reduces the need for computations (and potential for error) by court personnel, attorneys, and parties and can be applied even if available information is limited. This simplicity is a strong argument for use of gross income as a base for a formula.

Moreover, it is questionable whether the use of net income is in fact more equitable than gross income. If two persons have different net incomes but the same gross, that difference must arise from one of two factors. Either one person has more tax deductions than the other or

Table II  
SUMMARY OF FACTORS TO BE CONSIDERED  
IN THE DEVELOPMENT OF FORMULAS

- o Income Base. Gross income versus net income.
- o Specification of Gross Income. Types of income included; income from self-employment or business income; deviations from IRS definitions; income from assets; non-performing assets.
- o Specification of Net Income. Allowable number of exemptions; pension deductions; garnishments/wage withholdings; medical insurance deductions; life insurance deductions.
- o Attributed Income. Criteria for imputing income to underemployed or unemployed obligor.
- o Custodial Parent Income. Whether custodial parent income is considered in determining the non-custodial parent's obligation.
- o Day Care Expenses. Effect of child care costs incurred by custodial parent(s): include in base amount or treat separately?
- o Other Natural/Adopted Children. Impact of other natural or adopted children living in the same household as the obligor; also, treatment of pre-existing child support orders for other dependents of the obligor.
- o Income of Current Spouse. Effect of income received by current spouse of obligor or obligee on amount payable by obligor.
- o Custody and Visitation Arrangements. Effects of shared physical custody, extended visitation, and split custody on levels of child support.
- o Obligor Self-Support Reserve. Provision for a minimum subsistence level reserve for the obligor below which child support is not assessed, or is assessed at minimal levels.
- o Medical Expenses. Effect of medical insurance premiums and other medical expenses: include estimated average in base amount or treat separately?
- o Geographic Variation. Effect of intra-state cost of living differentials on determination of child support, particularly for any formulas incorporating fixed dollar amounts.

Figure 2 (cont.)





formula. It tracks at 39 percent between \$500 and \$1,100 per month, then gradually declines to 24 percent at \$5,000 per month.<sup>93</sup>

In contrast, the Wisconsin guideline starts at 31 percent of net income and increases steadily to 44 percent of net income (based on a formula amount of 25 percent of gross). This increasing percentage calculated on net income reflects the progressiveness of the federal and state income tax systems.<sup>94</sup> As income increases, federal and state taxes consume increasing percentages of gross income, lowering the ratio of net income to gross. Thus, at higher income levels, increasing percentages of net income are required for child support to maintain the constant percentage of gross income set in the Wisconsin guideline.

The greatest difference, however, is shown by the Cassetty model. It allocates 8 percent of obligor income at \$500 per month, increases to 41 percent at \$1,000 per month, and steadily climbs to 58 percent at \$2,000, 64 percent at \$3,000, and 68 percent at \$5,000. In this situation, the Cassetty model is distributing three-fourths of "surplus" obligor income to the obligee and children. The lower percentages at low obligor incomes reflect the impact of the poverty level self-support exemption for the obligor.

**Two children, obligor with one-half obligor income.** The results obtained from the five approaches shift when the obligee's income is one-half that of the obligor. This situation is particularly interesting because evidence suggests that this approximates the average ratio between income levels for obligees and obligors.<sup>95</sup>

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<sup>93</sup> The plotted amounts for Washington are based on the published schedule for children aged 6-15. However, a separate provision of the guideline caps child support obligations at fifty percent of net income for the non-custodial parent.

<sup>94</sup> The calculation for Wisconsin is based on published federal, FICA, earned income tax credit, and state withholding schedules. It assumes one exemption and a standard deduction for the obligor. If the obligor has more than one exemption (new dependents, for example) or itemized deductions, calculated child support as a percentage of net income would be lower than shown here. This effect is likely to be especially pronounced at higher income levels.

<sup>95</sup> U.S. Bureau of the Census, Child Support and Alimony: 1983. Current Population Reports, Special Studies, Series P-23, No. 141 (July 1985). The mean total 1983 income, before child support payments, of women with children from an absent father was \$10,226 (derived from Table 2). This compares with men's average income (used as a proxy in

For this case, results from the Wisconsin percentage of income standard are unchanged, given that it does not take into account custodial parent income. As with the preceding zero obligee income case, it starts at 31 percent of obligor income and steadily increases to 44 percent at \$5,000 per month net income.

The Income Shares model starts at the same 11 percent level as in the previous case, climbs to 35 percent at \$900 per month, and gradually declines to 23 percent at the upper end of the income range. The Melson formula still starts at 10 percent of income at \$500 per month and climbs to 40 percent at \$800 per month, but then declines more sharply to 30 percent at \$1,400 per month and ultimately to 26 percent at \$4,000 per month and higher. The Washington guideline starts at the same level, 39 percent, but declines more sharply than in the preceding case. It decreases to 34 percent of obligor net income at \$1,000 per month, 24 percent at \$3,000 per month, and 18 percent at \$5,000 per month.

The Cassetty model shows a marked change for this case at the higher income levels. It still starts at 8 percent of obligor net income at \$500 per month and climbs to 53 percent of obligor net income at \$1,500 per month. Rather than continuing to increase, however, it gradually declines thereafter to 49 percent at \$2,000 per month, 45 percent at \$3,000 per month, and 42 percent at \$5,000 per month.

**Two children, obligee income equals obligor income.** Except for the Wisconsin standard, the impact of the guidelines changes markedly for the situation in which the obligee has the same level of income as the obligor. As with the one-half income situation, the Wisconsin standard is unaffected by the obligee's income and allocates the same proportion of obligor income to child support as in the zero income situation.

In contrast, the Income Shares model starts at 11 percent of net income and increases to a high of 34 percent at \$900 per month. The proportion gradually declines to 31 percent at \$2,000 per month, and to 19 percent at \$5,000 per month. As in the previous two cases, the Melson formula starts at 10 percent at \$500 per month, peaks at 26 percent at \$1,100 per month, declines to 25 percent at \$1,200 per month and remains at that level through \$5,000 per month. The Washington guideline follows a similar pattern as in the preceding situation, but declines somewhat more rapidly as obligor income increases. It sets child support at 41 percent of obligor income at \$500 per month, but declines to 30 percent at \$1,000 per month, 23 percent at \$3,000 per month, and 14 percent at \$5,000 per month.

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the absence of actual data on obligors' of \$18,110.

The Cassetty model is the most dramatically affected by the altered income position of the obligee. It starts at 8 percent for obligor monthly income of \$500, peaks at 29 percent of obligor net income at \$800 per month, and thereafter steadily declines to 24 percent at \$1,000 per month, 12 percent at \$2,000 per month, and ultimately to 5 percent at \$5,000 per month. This pattern reflects the proportioning principle of the Cassetty model. With obligor and obligee having equal incomes, the only amounts being redistributed are the relative differences in the poverty standards for the two households. Consequently, for \$800 monthly obligor income and up, the Cassetty formula yields the same child support amount of \$225 per month, no matter what the level of obligor income:

**Effects of number of children.** By comparing across the tables for all income ratios, as well as those for different numbers of children in Appendix III, we can assess the impact of increasing numbers of children on child support levels. Above the low income levels (at \$1,000 per month and higher), the Income Shares model varies from 23.5 to 14.7 percent for one child, 36.5 to 22.8 percent for two children, 45.7 to 28.0 percent for three children, and 51.5 to 32.2 percent for four children. Similarly, above \$1,000 per month, the Melson formula ranges from 24 percent down to 16 percent for one child, 45 percent to 27 percent for two, 50 to 38 percent for three, and 55 to 47 percent for four. The Washington formula has a similar, but somewhat wider range: 25 to 14 percent for one, 39 to 24 percent for two, 48 to 29 percent for three, and 55 to 36 percent for four.

The Wisconsin formula starts at 21 percent of net income for one child and increases to 30 percent of net income; it starts at 31 percent for two and increases to 44 percent; it starts at 36 percent for three and increases to 51 percent; and it starts at 38 percent for four and increases to 55 percent. The Cassetty model covers a very wide range. Although it yields a lower support obligation than Delaware Melson and Washington at low income levels (e.g. at \$800 per month and below for two children), it sharply climbs toward limit values of 67 percent of obligor net income for one child, 75 percent for two children, 80 percent for three children, and 83 percent for four children.

**Effect on work incentive.** By comparing computed orders for the same number of children and different relative obligee income levels, we can also evaluate the impact of increased work by the obligee on receipt of child support. To the extent that child support decreases substantially with increased obligee income, we would anticipate that a guideline could adversely affect the incentive of the obligee to work. As noted above, all of the approaches except Wisconsin's reduce the obligor's child support computation as obligee income increases (above minimum levels).

Other than for the Cassetty model the reduction in child support is relatively modest. With two children due support and the obligor having net income of \$2,000 per month, an obligee increasing earnings from \$0 to \$2,000 has the child support payment decreased by \$128 under Income Shares, by \$118 under Melson, and by \$106 under the Washington guideline (all of these examples assume no child care expenses). These decreases are minimal as a percentage of increased work income and can therefore be expected to cause no significant disincentive to work. Under the Cassetty formula, however, child support would decrease by \$947, from \$1,172 per month to \$225 per month. When normal work expenses are taken into account, this result implies that the obligee's additional income gained from employment would be less than 50 percent of net earnings. In contrast to the effects of the other formulas, this magnitude of child support reduction could pose a substantial disincentive to work.

Treatment of child care expenses further affect a custodial parent's margin of financial gain from employment. Under the Income Shares, Delaware Melson, and Washington guidelines, any child care expenses incurred for purposes of employment are divided between the parents in proportion to the income. In this particular example, then, such expenses would be divided evenly between the obligor and obligee. Since child care costs can significantly reduce the net return from employment, treatment of child care expenses separately, as in the Income Shares, Delaware Melson, and Washington guidelines, can further alleviate any economic disincentive to work for the custodial parent.

### **Selected Fact Patterns**

In this section, we apply the five approaches to five separate fact patterns, selected to demonstrate the variation in outcomes obtained from different combinations of elements.<sup>96</sup> This contrasts with the modeling exercise described in the previous section which yields payment levels for cases involving no special factors. The case examples depicted below show calculations for five specific situations: (1) basic case with child care expenses; (2) low income case; (3) high income case; (4) joint custody case; and (5) case involving second families.

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<sup>96</sup> Fact patterns one, three, four, and five were prepared by Susan Paikin, Director of Support, Family Court of the State of Delaware. We gratefully acknowledge her contribution.

**Fact Pattern #1**  
**Basic Case With Child Care Expenses**

Situation. Mother and Father are divorced. Father lives alone; Mother and the parties' two children, aged three and five, live together.

Father has a gross monthly income of \$1,600 and a net monthly income of \$1,307 (based on single filing status with two exemptions per 1987 W-4 instructions for single adult).<sup>97</sup> Father also pays union dues of \$30 per month and provides health insurance for the children at \$25 per month.

Mother has a gross monthly income of \$1,200; monthly net of \$1,043. Mother incurs employment-related child care expense of \$150 per month.

Child Support Orders

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Income Shares	\$454.58	38.6
Delaware Melson	\$379.21	32.2
Wisconsin	\$400.00	34.0
Washington	\$374.14	29.9
Cassetty	\$362.76	30.8

Commentary. For the situation presented in this basic example, the Delaware Melson, Wisconsin, Washington and Cassetty approaches yield very similar results, with a range of only \$37 between the lowest and highest support order. The Income Shares model yields the highest order, however, which is \$55 per month higher than the next highest.

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<sup>97</sup> The net income figures do not include deductions for state income taxes. Examples for Income Shares, Delaware Melson, and Cassetty are calculated using Delaware state taxes. Washington has no state income tax, so no state taxes were deducted from net. Wisconsin was calculated using Wisconsin's taxes.

**Fact Pattern #2**  
**Low Income Case**

Situation. Father has gross monthly income of \$900, net monthly income of \$762 net of federal taxes. The two children, aged two and four, live with the mother. Mother does not work and receives an AFDC grant of \$272 for herself and the two children, plus a Food Stamp allotment of an additional \$117 per month.

Child Support Orders

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Income Shares	\$268.55	36.6
Delaware Melson	\$284.40	38.7
Wisconsin	\$225.00	30.5
Washington	\$250.70	32.9
Cassettey	\$215.55	29.4

Commentary. There is a considerable difference here in the level of support ordered, particularly when evaluated as a percentage of obligor net income. The Melson formula yields the highest result because of its basic premise that any parental income above the self-support reserve should be allocated exclusively to the primary support needs of the child, before the parent is entitled to retain any for discretionary purposes. This design feature generally results in higher orders in the \$500 to \$1,000 monthly income range than are obtained from other approaches.

**Fact Pattern #3  
High Income Case**

Situation. Father and Mother are divorced. Father lives alone; Mother and the parties' two children, aged 12 and 14, live together. Father has monthly gross income of \$4,583; monthly net of \$3,193 after federal taxes. Mother has a monthly gross of \$1,500; monthly net of \$1,277. Neither party has remarried.

Child Support Orders

	<u>Dollars Per Month</u>	<u>Percent Obligor's Net Income</u>
Income Shares	\$870.98	30.4
Delaware Melson	\$781.73	27.3
Wisconsin	\$1,145.75	40.0
Washington	\$773.30	24.2
Cassetty	\$1,465.17	51.2

Commentary. As is evident from this example, there are major differences in outcomes of the formulas for high income cases, with the highest award being almost double the lowest. The result obtained from the Cassetty model is not surprising since its basic objective is equalization of living standards between the two households. The Wisconsin percentage of income standard is second highest and also yields an outcome well above the other three since it does not account for income of the custodial parent. Although the Wisconsin standard is based on constant proportions of gross income, the impact of taxes causes the proportion of net income allocated under the formula to increase as income rises.

**Fact Pattern #4**  
**Joint Custody**

Situation. Mother and Father share joint legal custody of their 14 year-old child. They also share physical custody on a fifty-fifty rotating basis. Neither parent is remarried or cohabiting with an individual in the relation of husband and wife.

Mother has monthly gross income of \$2,200; monthly net of \$1,763. (The parents have agreed that Mother will take the tax exemption for the child.) Father has monthly gross income of \$900; monthly net of \$762.

Child Support Orders

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Income Shares <sup>98</sup>	\$147.33	8.9
Delaware Melson	\$115.90	7.0
Wisconsin	\$110.50	6.7
Washington	\$ 82.31	4.7
Cassetty	\$305.67	18.5

Commentary. In all cases, the mother is the obligor and makes a payment to the father. The Cassetty model yields the highest award because of the significant gap in income between the parties, even though it does take joint custody into account in setting the award. The Melson, Washington, Income Shares, and Wisconsin approaches give results that are fairly close. The first three adjust for joint custody in a similar manner, although the Income Shares model increases the basic obligation to reflect duplicated costs. Wisconsin uses a different adjustment, but it has a similar effect relative to the unadjusted obligation in a case with a fifty-fifty split in physical custody.

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<sup>98</sup>Calculated using proposed revision to Colorado shared custody adjustment. See Chapter III.



**Fact Pattern #5  
Second Families**

Situation. Mother and Father, now divorced, have two children from their former marriage, aged 7 and 11, who reside with Mother. Both parents are now remarried. Father has a child, age 5, by his present wife.

Father has gross monthly income of \$1,400; net monthly income of \$1,194 (based on a filing status of married with three exemptions). His wife earns \$900 per month gross, \$758 net. Father and his wife spend \$100 per month for child care so that she can work.

Mother has gross monthly income of \$800; monthly net of \$742 (based on a filing status of married with four exemptions). Her husband has a monthly gross income of \$1,500 and a net of \$1,225.

Child Support Orders

	<u>Dollars</u> <u>Per Month</u>	<u>Percent Obligor's</u> <u>Net Income</u>
Income Shares	\$387.53	33.9
Delaware Melson	\$355.53	31.1
Wisconsin	\$350.00	30.1
Washington <sup>99</sup>	\$363.65	30.4
Cassetty	\$ 62.64	5.5

Commentary. The Cassetty model is very sensitive to the income of current spouses and the presence of additional dependents. It yields the lowest result in this fact pattern because it gives the same weight to income of spouses as to income of the parents, and because it includes

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<sup>99</sup>This amount was computed based solely on income and number of children due support. The Washington guidelines state that income of new spouses may not be considered at time of divorce, but may be considered at time of subsequent modification. They also state a presumption that other dependents can reduce support obligations. Since there is no guidance on how to consider income of spouses or presence of additional dependents, this calculation did not account for these factors. The award might have been lower in an actual court decision, however, particularly since this case is clearly a modification, not an initial order.

additional dependents for consideration on the same basis as the children due support. The other four approaches have outcomes in a more narrow range for this particular fact pattern, despite their different approaches to second family factors.

**Summary of fact patterns.** A summary of the results obtained from these five fact patterns is shown in Table 19. Of the five fact patterns, the Melson formula yielded the highest order for one, while the Cassetty and Income Shares models each gave the highest orders twice. The Washington guideline gave the lowest outcome twice, with the Cassetty model ranking lowest in the other examples.

These results demonstrate that the ranking of these five approaches by level of awards depends almost entirely on the nature of the situation to which they are applied. None gives either the consistently highest or consistently lowest results. A review of the wide variation in results obtained from these few examples illustrates why it is so important to evaluate guidelines carefully. It is essential that a state review a proposed guideline against a large and diverse sample of cases before selecting a final version for implementation in a live adjudicatory setting. This type of analysis will help avoid the kinds of unanticipated results that can otherwise occur when circumstances are encountered that were not considered by the guideline's designers.

Table 19

## SUMMARY OF FACT PATTERNS

<u>Case Example</u>	<u>Income Shares</u>	<u>Melson</u>	<u>Wisconsin</u>	<u>Washington</u>	<u>Cassette</u>	<u>Lowest</u>	<u>Highest</u>
1. Basic	\$ 455	\$ 379	\$ 400	\$ 374	\$ 363	Cassette	Income Shares
2. Low Income	\$ 269	\$ 284	\$ 225	\$ 251	\$ 216	Cassette	Melson
3. High Income	\$ 871	\$ 782	\$1,146	\$ 773	\$1,465	Washing- ton	Cassette
4. Joint Custody	\$ 147	\$ 116	\$ 111	\$ 82	\$ 306	Washing- ton	Cassette
5. Second Families	\$ 388	\$ 356	\$ 350	\$ 364	\$ 63	Cassette	Income Shares

# **Estimates of Expenditures on Children and Child Support Guidelines**

*Submitted To:*

**Office of the Assistant Secretary for Planning and Evaluation  
U.S. Department of Health and Human Services**

*Submitted By:*

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1090 Vermont Avenue, N.W.  
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**October 1990**

## **7. SUMMARY AND RECOMMENDATIONS**

This report fulfills the requirements of Section 128 of the Family Support Act of 1988 which calls for the Secretary of Health and Human Services to report on the study of expenditures families make on children:

The Secretary of Health and Human Services shall, by grant or contract, conduct a study of the patterns of expenditures on children in 2-parent families, in single-parent families following divorce or separation, and in single-parent families in which the parents were never married, giving particular attention to the relative standards of living in households in which both parents and all of the children do not live together. The Secretary shall submit to the Congress no later than 2 years after the date of the enactment of this Act a full and complete report of the results of such study, including such recommendations as the Secretary may have for legislative, administrative, and other actions.

The study required by Section 128 of the Family Support Act of 1988 was conducted by Professor David Betson of Notre Dame University.<sup>1</sup> The current report reviews the analytical methods and empirical findings on how much parents in single-parent and two-parent families spend on their children; summarizes the literature on the effects of marital dissolution on families' economic well-being; and discusses the implications of these findings for establishing guidelines for setting child support awards. This chapter summarizes the major findings and conclusions of this report, and provides the Secretary's recommendations.

### **7.1 Summary of Major Findings**

#### Procedures for Estimating Expenditures on Children

Chapter 2 of this report reviews the methods that have been developed to estimate expenditures on children in one and two-parent households. Although it might appear that estimating expenditures on children would be straightforward, there are two reasons why it is not:

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<sup>1</sup> The Betson study did not analyze expenditure patterns for different types of single-parent families because the data base used, the Consumer Expenditure Survey, did not include enough observations in the various categories.

- Many goods and services purchased by families are consumed jointly by both children and adults. Examples include housing and transportation. While data on families' total consumption of these types of goods can be obtained from consumer surveys, there are no universally accepted methods of allocating this consumption across household members or assigning costs to children.
- Even for goods that are privately consumed by individual members of a household, data used to estimate consumption patterns in the United States (data from the Consumer Expenditure Survey) are not detailed enough to estimate individual household members' consumption of these goods. For example, the Consumer Expenditure Survey collects information on how much food a household purchases, but it does not collect data on how much food is consumed by individual family members.

Goods that are either jointly consumed or individually consumed by both children and adults account for approximately 90 percent of a typical family's total expenditures.

Consequently, researchers have had to develop indirect methods of estimating expenditures on children. By making specific assumptions about the determinants of economic well-being, these methods have been used to estimate the amount that households with different characteristics and sizes spend on their children.

The techniques most commonly used by economists to develop such estimates are referred to as the Engel method and the Rothbarth method. The Engel method is based on the premise that two households that spend the same proportion of total consumption on food are equally well off. The Rothbarth method is based on the assumption that two households with the same level of expenditures on goods consumed by adults only (often defined as alcohol, tobacco, and adult clothing), have the same level of well-being. Using either of these two assumptions, expenditures on one child can be estimated by calculating the difference in total consumption between a childless household and an equally well-off household with one child. Similarly, estimates of expenditures on more than one child can be made by comparing consumption in households with more than one child to households with

the same level of well-being with only one child. Other methods, based on alternative measures of well-being, have also been used to estimate expenditures on children.

All of the methods that have been developed to estimate expenditures on children rely on very strong assumptions about measures of a family's economic well-being. As the discussion in Chapter 2 indicates, no single estimation technique is likely to measure the "true" level of expenditures on children; expenditures made on behalf of children vary with parental income and preferences, with the ages and number of children, and perhaps with community standards as well. All of the available estimation techniques have potential shortcomings because of the difficulties inherent in any attempt to determine how much parents spend on behalf of their children. Consequently, it is advisable to identify a range of expenditure estimates using a variety of techniques.

Among the techniques considered the most reliable, the Rothbarth estimator (which uses the level of consumption on adult goods as a measure for economic well-being) probably underestimates the true level of expenditures that parents make on behalf of their children, and the Engel estimator (which uses the percentage of a family's total expenditures that are spent on food as a measure of economic well-being) probably overestimates the true level of expenditures made on behalf of children. As a result, these two estimators can be used to calculate likely upper and lower bounds for the true average level of expenditures on children.

#### Estimates of Expenditures on Children

The most practical data base for developing estimates of expenditures on children in the United States is the Consumer Expenditure Survey (CEX). The range of estimates

developed using data from the CEX and a variety of estimation techniques is quite broad.

However, there are some well-defined regularities that emerge from the estimates:

- Expenditures made on behalf of children do not increase in direct proportion to their numbers: each additional child accounts for a smaller increase in expenditures. For example, in two-parent families, expenditures on two children are estimated to be between 1.40 and 1.73 times the level of expenditures for one child; expenditures on three children are estimated to be between 1.56 and 2.24 times the level of expenditures for one child.
- The percentage of total family expenditures spent on a child increases with the age of the child. For example, in a two-parent family with two children between the ages of 0 and 8, the children are estimated to account for 19 to 46 percent of total family expenditures. In a similar family with two children between the ages of 10 and 17, however, the children are estimated to account for 32 to 53 percent of total family expenditures.
- There is some evidence that expenditures on children as a percentage of total family expenditures decrease slightly as income increases. The absolute level of spending on children, however, increases as income increases.<sup>2</sup>
- Children in one-parent families account for a higher percentage of total family expenditures than children in similar two-parent families. In a two-parent family with two children, the children are estimated to account for 27 to 50 percent of total expenditures. In a one-parent family, the children are estimated to account for 52 to 78 percent of total family expenditures.<sup>3</sup>

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<sup>2</sup> It should be noted that because of small sample sizes, none of the studies on which these findings are based examined expenditure patterns among relatively high-income families. The Betson study, for example, does not consider families with annual incomes greater than \$75,000.

<sup>3</sup> This general finding is to be expected; if income is held constant while family size decreases (i.e., one adult is no longer there), the children are likely to receive a higher percentage of the family's expenditures. However, it is important to note that while a higher percentage of expenditures may be attributable to the children in one-parent families than in two-parent families, in most cases the level of expenditures is likely to be lower because one-parent families typically have lower income levels than demographically comparable two-parent families.



It is important to emphasize that these estimates represent average expenditures. The range of actual expenditures is broader still; the decisions made within households about how to allocate spending among family members are subject to a great deal of variability. Both preferences and needs vary substantially across households. The estimates of average expenditures will be too low for families who prefer to spend large amounts on their children, who have children with special needs, or who otherwise have unusually high expenditures on items such as children's medical care, education, or child care. Conversely, for families who have unusually high expenditures on non-child-related items, the estimates of average expenditures on children will be too high.

#### The Economic Consequences of Marital Dissolution

In order to examine the transition from a two-parent to a one-parent household, this report reviews and summarizes the research literature on the effects of marital dissolution on families' well-being. This literature, which requires longitudinal or retrospective data on families before and after family disruption, is based on data sources other than the Consumer Expenditure Survey. The studies that were reviewed span a period of almost 15 years: from the early-1970s to the mid-1980s. Findings from both nationally-representative studies (based on the Survey of Income and Program Participation and the Panel Study of Income Dynamics) and small-scale local studies are consistent: marital disruption is economically detrimental for women and children and generally beneficial for men. While declines in economic well-being among women with high pre-divorce incomes are generally greater than among women with lower pre-divorce incomes, the post-divorce incomes of this first group continue to be higher than the level of income available to women who had low incomes prior to divorce.

Despite this consensus, there is less agreement concerning the magnitude of the effects. Estimates for the effects on women and children range from reductions in living standards on the order of 30 percent, based on analyses of the Panel Study of Income Dynamics and the Survey of Income and Program Participation, to a decline of 73 percent, based on Weitzman's study of data from Los Angeles County. Generally, estimates based on local-level data tend to be higher than estimates derived from nationally-representative data. While it is possible that divorced women in the various local areas that have been studied experience relatively larger declines in economic well-being than is the case nationally, the small sample sizes and methodological problems associated with these studies suggest that the local-area estimates may be somewhat misleading. Differences in the time-periods covered and in prevailing macroeconomic conditions may also account for discrepancies in the various estimates. Finally, a number of the studies reviewed indicate that some differences in economic well-being between one- and two-parent families are due to the fact that economic disadvantage tends to precede family dissolution.

All of the studies of marital disruption reviewed are based on data collected prior to the institution of guidelines in 1984 and the 1988 mandate that required states to follow their guidelines as a rebuttable presumption. Thus, these studies may not accurately reflect the economic consequences of marital disruption today.

#### State Child Support Guidelines

In recent years the U.S. Congress has passed legislation that requires states to establish and use child support guidelines. In the Child Support Amendments of 1984, Congress required that states establish child support guidelines. These guidelines, which could be advisory or presumptive, had to be made available to all judges and other child

support officials in the state. The Family Support Act of 1988 strengthened the guidelines provision by requiring states to use their guidelines as a rebuttable presumption.

The U.S. Department of Health and Human Services has published proposed regulations to implement these requirements. The proposed regulations would require states to take into account the earnings, income, and resources of the noncustodial parent; to base guidelines on specific descriptive and numeric criteria and result in a computation of the support obligation; and provide for coverage of the child's health care needs. In addition, the states' review of the guidelines (every four years) would require an analysis of data on compliance and deviation from the guidelines. The Department's final regulations are expected to be published in fiscal year 1991. Within the parameters set by the Federal legislation and regulations, states have been given broad authority to develop guidelines consistent with their political and philosophical views on the equitable allocation of child support expenditures between parents.

There are three general types of child support guidelines in use as of February 1, 1990. The first is the percentage of income guideline, which is used in 15 states, the District of Columbia, and Puerto Rico. The percentage of income guideline establishes child support orders as a specified percentage of the noncustodial parent's income. The level of the order is independent of the level of income of the custodial parent. The second is the income shares guideline, which is used in 32 states, the Virgin Islands, and Guam. The income shares guideline establishes child support orders as a specified percentage of the combined income of both parents. The third guideline, the Melson guideline, establishes child support orders that require that both parents contribute (in proportion to their share of combined parental income) to the basic needs of the child after the basic needs of the adults have been

met; the support order increases in proportion to the level of the noncustodial parent's income above the basic needs amount. Three states use the Melson guideline.

There are a variety of ways in which each of these guidelines are implemented. States differ in terms of how income is defined (net income, gross income, or adjusted gross income). Many states also allow for additions to the basic support amount for unusually large expenses (e.g., child care, medical expenses, and education) and/or deductions from the income on which support is to be paid (e.g., for previous support orders or health insurance). Finally, states differ in the percentage of income that they require the noncustodial parent to pay in child support.

Under a broad range of circumstances, the three types of guidelines currently in use set support orders that are very similar to one another. The Melson formula, however, establishes very low levels of child support at low levels of income for the noncustodial parent because the formula is designed to allow noncustodial parents to retain a minimum level of income for their basic needs (i.e., provides for a self-support reserve) prior to requiring more than a token level of child support. At low levels of (noncustodial parent) income, very low levels of child support are also generated in percentage of income and income shares states that have self-support reserves. In cases where the custodial parent's income is nearly equal to (or greater than) the noncustodial parent's, the percentage of income guideline may establish support orders that are higher than would be established by either the Melson or income shares guidelines. In general, it is at the high and low ends of the income distribution and in cases where the two parents' earnings are very different that the three categories of guidelines may differ most markedly from one another in the levels of child support that they generate. These differences are caused by variations in how the guidelines treat the basic needs of the noncustodial parent and the income of the custodial parent (in the case of the

income shares guideline) as well as differences in the percentage of income the noncustodial parent pays in child support and how that percentage varies over different income levels.

#### Guidelines and Their Relationship to Expenditures on Children

With some exceptions, all three guidelines (the percentage of income, income shares, and Melson) are implemented by the states in such a way as to be within the range of estimates of expenditures for children in two-parent families. In most cases, however, the percentage of income to be paid in child support tends to be closer to the lower bound of the range of estimates of expenditures on children than it is to the upper bound. In 8 states, the estimates of child support orders appear to be less than the lower bound of the range of estimates of expenditures on children (at least under one of the three scenarios considered). There are, however, no states (at least under the scenarios considered) where the child support orders are greater than the upper bound of the range of estimates of expenditures on children. It should be noted that these findings are based on simulations using reasonable but inexact interpretations of tax schedules and savings data. Furthermore, states requiring child support payments less than the lower bound of estimates of expenditures on children do not violate any Federal laws or regulations.

In cases where the income of the noncustodial parent is particularly low, the Melson formula and guidelines in some percentage of income and income shares states require very low child support because these states permit the parents to meet their own basic needs before more than token child support is required. This is the situation where the amount of the child support order diverges most markedly from the estimates of expenditures on children.

The review in Chapter 6 indicates that there are a number of circumstances which require careful consideration. For example, in some states that use the income shares guideline, the percentage of income paid in child support increases (at least over some range of income) as combined parental income increases. In these states, it is possible for the child support order to increase as the income of the custodial parent increases (while the income of the noncustodial parent is unchanged). Similarly, the support order may decrease as the income of the custodial parent decreases (while the income of the noncustodial parent is unchanged). If, on the other hand, the percentage of income to be paid in child support decreases as combined parental income increases (as it does in some states), it is possible for the child support order to increase as the income of the noncustodial parent decreases (while the income of the custodial parent remains unchanged), or for the order to decrease as the income of the noncustodial parent increases (while the income of the custodial parent remains unchanged). These peculiar outcomes may be perceived as inequitable and may lead to challenges of the guidelines. If, however, the percentage of income to be paid in child support is constant (i.e., does not increase or decrease with income) then the income shares guideline is very similar to the percentage of income guideline.

Finally, a difficulty related to the one outlined above may arise in states that use either the income shares or percentage of income guidelines when the percentage of income paid for child support varies with the level of income, but the percentage is applied to all income. In states where the percentage of income to be paid in child support increases with income, very small increases in income can result in disproportionately large changes in the level of the child support award.<sup>4</sup> In states where the percentage decreases with total income, an

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<sup>4</sup> For example, in one state under some circumstances child support is equal to 20 percent of income for incomes between \$7,501 and \$15,000, and child support is equal to 21 percent of income for incomes between \$15,001 and 25,000. Thus, an increase in annual

increase in the noncustodial parent's income can actually result in a reduction in child support.<sup>5</sup> States can avoid such situations by using a constant rate or by applying the different rates to marginal income.<sup>6</sup>

#### Topics not Addressed in this Report

Some potentially important theoretical and practical topics relating to expenditures on children and child support guidelines are not covered in depth in this report. At the theoretical level, the nonmonetary costs and benefits of children are not considered, and at the practical level the many special circumstances that vary across households are not discussed in detail.

In general, having children is voluntary, and children provide substantial benefits to their parents. When a family splits up and the children remain with one of the parents, the custodial parent retains a greater share of these nonmonetary benefits, while the noncustodial parent loses some of these benefits. Although the benefits derived from the children are real, it is difficult or impossible to place a monetary value on them, and they are not generally taken into account in child support guidelines. Children also impose indirect costs on the custodial and, to a lesser extent, noncustodial parents. Caring for children requires substantial time that could be devoted to compensated work or leisure. However, these

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income of the noncustodial parent from \$15,000 to \$15,001 (an increase of \$1) results in an increase in child support of \$150.

<sup>5</sup> In one state, for example, the percentage of income paid as child support under some circumstances declines from 21.8 percent for incomes between \$4,500 and \$8,499 to 21.4 percent for incomes between \$8,500 and \$12,249. Thus, an increase in income from \$8,499 to \$8,500 results in a decrease in child support from \$1,853 to \$1,819. Only if income increases to \$8,657 will the child support reach the former level.

<sup>6</sup> For example, states could apply one rate to the first \$10,000 of income, a different rate to the next \$10,000 of income, etc.

"opportunity costs" of children are not generally taken into account in child support guidelines because it is not feasible to do so.

In addition to deciding on the general method of establishing guidelines, states must also decide how to deal with special circumstances that sometimes arise relating to income or child-related expenses. Among the circumstances of interest are support obligations for other dependents, shared physical custody arrangements, extended visitations, health insurance costs, medical expenses, child care expenses, child-related expenses of the noncustodial parent, voluntary unemployment and underemployment, and self-employment income. These special circumstances should be carefully considered in the development of guidelines. They can be dealt with either by including provisions in the guidelines or by providing courts and administrative agencies with guidance on how to take them into account in setting awards.

Finally, guidelines should take into account the concept of fairness to the child, the custodial parent, and the noncustodial parent. Fairness issues are complicated by two factors. First, as noted previously, when a family splits into two households there is generally a loss of economies of scale -- at least one of the newly-formed households will experience a decline in economic well-being if total income does not increase. Second, efforts to assist the child will generally also benefit the custodial parent because once a household receives income, it can be used to benefit all members of the household regardless of its source. Child support guidelines should consider how declines in economic well-being can most equitably be spread among the children and parents.



## 7.2 Recommendations and Conclusions

### Recommendations for State Guidelines

The guidelines developed by the states generally fall within the range of expenditures on children. However, some of the states' guidelines may lead to child support orders that could be considered too low, and some guidelines may inadvertently generate orders that vary in unintended ways with changes in income. The findings presented in this report suggest that states should consider the following points in the development of their child support guidelines:

- States should periodically review their guidelines in conjunction with the most recent estimates of expenditures on children to be sure that their guidelines generate support orders that are consistent with estimates of expenditures on children. In particular, states should review the basic rates used in their guidelines to see if the child support awards they generate fall below the minimum estimate of expenditures on children.
- Because the amount spent on children increases as parental income increases, the resources available to children in single-parent households should increase with the income of the parent(s). This implies that in the case of the percentage of income guideline, child support awards should increase with increases in the noncustodial parent's income, and for the income shares and Melson guidelines, child support should increase with increases in combined parental income.<sup>7 8</sup>
- Order amounts should increase as the number of children increases, although it should be recognized that expenditures on children do not increase in direct proportion to the number of children.
- Because the expenditure estimates indicate that more is spent on older children than on younger children, it may be desirable to vary order amounts with the age of children (increasing awards as children grow older).

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<sup>7</sup> The fact the amount spent on children increases as parental income increases should not be interpreted to mean that the percentage of parental income spent on children increases as income increases. In fact, there is some evidence that as income increases there is a slight decrease in the percentage of income spent on children.

<sup>8</sup> However, if different percentages are used, application of a different rate should be on a marginal or next-dollar basis rather than on all income.

States may also want to carefully consider the following in developing their guidelines:

- Procedures to account for expenditures over and above the usual levels on items such as child care, tuition, special needs, medical care, and transportation. An attempt can be made to differentiate between required and discretionary expenditures.
- Cases in which (individual or combined) parental income is unusually high or unusually low. These cases require careful consideration for at least two reasons. First, it appears that it is at the high and low ends of the income distribution that there is the greatest danger of child support guidelines generating unintended inequities. Second, it is under these circumstances that cases are most likely to be brought to court, and the guidelines challenged.
- The implications of varying the percentage of income that is to be paid in child support with the level of income. Unless the guidelines are carefully constructed, it is possible that (i) a small change in income could result in a large change in the support order or (ii) an increase in income may result in a decrease in the support order. To avoid such problems, states can apply varying rates to marginal income (as is the case with the Federal personal income tax).
- States using income shares guidelines should consider the implications of varying the support rate. For example, under some circumstances if the support rate declines as income increases, an increase in the income of the noncustodial parent may result in a decrease in the size of the child support award.

#### Recommendations for Future Research and Improved Data Collection

There are a number of problems inherent in estimating the expenditures that parents make on behalf of their children. These include both theoretical difficulties, as well as empirical difficulties that arise (in part) because of the extreme expense of collecting detailed longitudinal expenditure data. In light of the findings presented in this report, the research community may want to consider the following in future work:

- Periodically updating estimates of expenditures on children by replicating procedures used by previous researchers and incorporating the most current data available.
- Determining if the differences in the estimates from various expenditure pattern studies based on the CEX are a result of changes over time in expenditure patterns or the estimation techniques used.

- Estimating the earnings that parents forego in raising children and the effect of children on parental savings over time, and examining how these two factors can be included in estimates of expenditures on children.
- Studying how expenditure patterns among families in which the parents have joint physical custody of the children differ from those of other families.
- Examining how the formation of second families (by both custodial and noncustodial parents) affects expenditure patterns.
- Empirically examining what is perceived to be fair (to custodial parents, noncustodial parents, and children) in a variety of situations involving child support.
- Developing new approaches to estimating expenditures on children including the possibility of directly estimating these expenditures by asking families how much they spend on their children.

Although there are many problems inherent in estimating expenditures that parents make on behalf of their children, the data problems are less constraining than many of the underlying theoretical problems. Several data problems stem from an inability to distinguish between various categories of expenditures; these categories include distinguishing clothing for 16 to 17 year olds from clothing for adults, health care costs for children from health care costs for adults, and work-related child care from non-work-related child care. The first of these (clothing for older children) limits our ability to accurately implement the Rothbarth estimation technique for older children, while the two latter categories are likely to be useful as alternative methods of estimating expenditures on children are developed. Finally, the data collected on income and savings in the Consumer Expenditure Survey are generally not considered to be as reliable as the expenditure data. Because child support guidelines are based on income rather than expenditures, the current CEX structure does not permit expenditure patterns in different family types to be accurately linked to income. In light of these considerations, the Department of Labor may want to consider the following changes to the Consumer Expenditure Survey:

- Distinguishing between expenditures on clothing for 16 and 17 year old children and expenditures on clothing for adults.

- Distinguishing between health care expenditures made on behalf of adults from those that are made on behalf of children.
- Collecting data on child care expenditures such that work-related child care expenses can be distinguished from non-work-related child care expenses.
- Improving the accuracy of the income and savings data.

### Conclusions

The recurring theme throughout this report is that because of lost household economies (or economies of scale), a reduction in the standard of living of at least one household is inevitable when the parents of children do not live together (unless there is a substantial increase in income). The central issue that must be confronted in determining whether or not existing child support guidelines are appropriate is whether or not the guidelines distribute this reduction in living standards fairly between the custodial and noncustodial households. The estimates of how much parents spend on behalf of their children, in both intact and single-parent families, can help to inform this determination.

Ultimately, however, the determination must be made on the basis of value judgments concerning what is fair and what is not. All states have responded to the mandate to develop guidelines, and many states have continued to debate the merits of alternative structures, as evidenced by the large number of states that have revised their guidelines in recent years. This report is intended to provide information to Congress and the states that may prove useful as the states continue to refine, revise, and update their guidelines over time.