

Child Support Guidelines

History

- In 1984, Congress heard testimony that the biggest problem facing kids was poverty, and that the biggest cause of child poverty is single parenthood.
- Therefore, congress passed the Child Support Enforcement Amendment of 1984 to promote consistency and higher child support awards.

- The Family Support Act of 1988 required each state to develop presumptive (rebuttable presumption), rather than advisory, child support guidelines
- To control welfare costs and to assure that parents did not shift the cost of raising children to the society at large

Minimum Requirement

- Look at all earnings and income of the non-resident parent
- Be based on specific descriptive and numeric criteria to compute the support obligation
- Provide for the children's health care needs, through health insurance coverage or other means

Principles Underlying Guideline Formation

- Both parents should share legal responsibility for support of their children, with the economic responsibility divided between the parents in proportion to their income.
- The subsistence needs of each parent should be taken into consideration in setting child support, but in virtually no event should the child support obligation be set at zero.
- Child support must cover a child's basic needs as a first priority, but, to the extent either parent enjoys a higher than subsistence-level standard of living, the child is entitled to a share of the benefit of that improved standard.

- Each child of a given parent has an equal right to share that parent's income, subject to factors such as age of the child, income of the parent, income of the current spouse, and the presence of other dependents.
- Each child is entitled to determination of support without respect to the marital status of the parents at the time of the child's birth. Consequently, the guidelines should be used equally in cases of paternity, separation, and divorce.
- Application of the guidelines should be sexually nondiscriminatory.

- A guideline should not create extraneous negative effects on the major life decisions of each parent. In particular, that guideline should avoid creating economic disincentives for remarriage or labor force participation.
- A guideline should encourage the involvement of both parents in the child's upbringing. A guideline should take into consideration the financial support provided by parents in shared physical custody and extended visitation arrangements.

Income shares model (used by 33 states, including Utah)

- The income shares model: seeks to allocate to the child the proportion of parental income estimated to have been spent on the child if the household were intact

Example two children	Mother	Father	Combined
1. Gross monthly income	\$2,000	\$3,000	= \$5,000
2. % of Combined income	40%	60%	=100%
3. Expenditure on children in intact families			\$1,010
4. Each parent's share (Line 2 x Line 3)	\$404	\$606	=\$1,010

Percentage of income model (Used by 13 states)

- Determines child support based on a percentage of the obligor's income and number of children (custodial parent's income not considered).
- The percentage can be based on either gross or net income
- Perhaps the most well-known is the Wisconsin support based on the following proportions of gross income:
 - One child = 17%
 - Two children = 25%
 - Three children = 29%
 - Four children = 31%
 - Five or more children = 34%

How are Guidelines Constructed?

- Economic estimates of expenditure on children
- Determination of income
- Health care needs, child care and extraordinary expenses

How to Estimate Costs of Raising Children?

- Any suggestions from the class?
- There are no direct ways of estimating costs of raising children because many of the expenses are shared, such as housing.
- We have to rely on indirect estimates of costs of raising children.

Indirect economic estimates of expenditure on children

- Per capita method
 - Divide total household expenditures by number of persons in household
 - Example: \$2,400 spent per month / 4 people = \$600 per capita
- Marginal costs method
 - Compare expenditures in two equally well-off households: household with children vs. household without children
 - Difference in expenditures is child rearing costs

■ **Marginal methods in more detail**

- Engle method: Two households with the same food budget share are considered equally well off.
 - Household A: married couple with no children, total expenditure=\$3000/month, food budget share=15%
 - Household B: married couple with two children, total expenditure=\$5000/month, food budget share=15%
 - Then Household A's wellbeing = Household B's wellbeing
 - Expenditure on two children in Household B=\$5000-\$3000=\$2000.

■ **Rothbarth method: Two households with the same dollar amount of adult good expenditure are considered equally well off.**

- Household A: married couple with no children, total expenditure=\$3000/month, adult good expenditure =\$1000
- Household B: married couple with two children, total expenditure=\$4800/month, adult good expenditure = \$1000.
- Then Household A's wellbeing = Household B's wellbeing
- Expenditure on two children in Household B=\$4800-\$3000=\$1800.

Expenditure on children as a percentage of net income (Betson-Rothbarth)

Combined net income	% spent on 1 child	% spent on 2 children
< \$15,000	27%	37%
\$15,000-\$20,000	27%	36%
\$20,000-\$30,000	26%	35%
\$30,000-\$40,000	26%	34%
\$40,000-\$60,000	23%	28%
\$60,000-\$80,000	19%	22%
\$80,000-\$125,000	17%	19%
\$125,000 +	15%	16%

Income determination and verification

- The first step in applying the guidelines is making an accurate determination of both parents' income.
- Need to determine: basic definitions of gross and net income, income imputation, treatment of business income and expenses, and treatment of income from overtime and second jobs.

Statutory definitions of income

- Each state's child support guidelines contains a definition of "income".
- Utah code: <http://le.utah.gov/UtahCode/section.jsp?code=78B-12>
 - Determination of "gross income": <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-203>
 - Determination of "adjusted gross income": <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-204>

Imputed income

- When income is manipulated, the court can look to a party's "earning capacity" or "earning potential".
- Especially in the case of under- or unemployment.
- This applies equally to both parents, as both have the duty to maximize income.

Support Tables and Worksheet

- Utah's Base Support Table
 - <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-301>
- Utah's Low Income Table
 - <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-302>
- Utah's Child Support Worksheet
 - <http://www.utcourts.gov/childsupport/calculator>

Treatment of child care and extraordinary medical expenses

- Utah splits equally between the parents
 - <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-212>
- Many other states pro-rate based on income

Other equitable considerations

- Assignment of tax exemption and child tax credit
 - <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-217>
- Custodial parent accountability
 - <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-218>
- Adjustments for parent time sharing
 - <http://le.utah.gov/UtahCode/getCodeSection?code=78B-12-216>

Standard of living

- Historically, child support has been intended to contribute toward the maintenance of a child's pre-separation standard of living.
- At a practical level, there is ample evidence that the child's and custodial parent's standard of living fall.
- There has been considerable debate concerning the role of child support in reducing the disparity between the child's and non-custodial parents standard of living.

- Measurement of standard of living: income-to-needs ratio, with needs measured as poverty lines (<http://aspe.hhs.gov/poverty/09poverty.shtml>)

- Household A: 6 people with income of \$65,000
- Household B: 3 people with income of \$40,000
- Which household is better off?
- Income-to-needs ratio for Household A:
 - $65000/29530=2.20$
- Income-to-needs ratio for Household B:
 - $40000/18310=2.18$
- Household A is slightly better off.

Dilemma

- Because of the loss of economies of scale, in a divorce situation, somebody's standard of living will have to decrease.
- In some cases, both parents, and the children suffer a decrease in the standard of living.
- In some other cases, one parent has an increased standard of living, while the other has a decreased standard of living. The children's standard of living will depend on the custody arrangement.