

PARENTING TIME DEVIATION STUDY
COMMITTEE FINAL REPORT AND
RECOMMENDATIONS TO GEORGIA CHILD
SUPPORT COMMISSION

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Prepared by the 2018 Parenting Time Deviation Study Committee

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SUMMARY:

Introduction

The Georgia Child Support Commission (“Commission”) established the Parenting Time Deviation Study Committee (“PTD Study Committee” of the “Committee”) in 2018 to review and report on Georgia’s parenting time deviation (“PTD”) and make recommendations. Pursuant to the Commission’s enabling statute, O.C.G.A. § 19-6-53 (a) (13)¹, the PTD Study Committee was directed to study the way in which Georgia accounts for parenting time when calculating child support and to report back to the Commission with any suggested revisions.

Nature and Scope of Problem

The PTD Study Committee was created to review and recommend changes, if any, to Georgia’s child support statute to better meet the needs of Georgia’s families in recognizing parental support obligations in light of parenting time. At present, there is no accounting for parenting time in Georgia’s Basic Child Support Obligation (BCSO) table based on the amount of parenting time. While a statutory deviation is available for parents to account for parenting time, there is no standard or guideline in Georgia for how parenting time is to be factored in a final determination of each parent’s financial obligations to their child.

Bearing in mind that there is no accounting for parenting time in Georgia’s BCSO table, the PTD Study Committee examined public and judicial comments; performed a statutory review of all fifty states to determine their methodologies on this topic; developed a list of standardized questions; and interviewed experienced practitioners in five sister states for the purpose of more in-depth analysis and examination of those states’ methodologies. The research and information gathered formed the basis for the analysis and recommendations contained in this Report.

Particular attention was paid to the necessary revisions to Georgia’s statutory language in the event the Commission determined that parenting time should be considered and applied differently in the determination of future child support awards. For example, there was consideration of whether the accounting for parenting time should be an adjustment to child support rather than a deviation and, if so, whether it should be presumptive or continue to be a deviation.

After consideration of all these factors, research, interviews, and reports, significant discussion by the PTD Study Committee over twenty-two (22) meetings led to some recommendations by consensus which are included in this Report. There were also issues on which the PTD Study Committee did not reach consensus, which are identified in this Report with examples of several ways in which other states address these issues. Finally, during the course of work, the PTD Study Committee identified several areas/issues outside the Committee’s scope. Such issues were

¹ O.C.G.A. § 19-6-53 (a) (13) ...to study the impact of having parenting time serve as a deviation to the presumptive amount of child support and make recommendations concerning the utilization of the parenting time adjustment.

deemed significant, and the Committee recommends the Commission address them in the best interest of Georgia's children; these areas are outlined in this Report.

O.C.G.A. § 19-6-53 (a)(13) provides that the Child Support Commission shall “study the impact of having parenting time serve as a deviation to the presumptive amount of child support and make recommendations concerning the utilization of the parenting time adjustment.” This Report fulfills the mandate of the legislative requirement.

Sister States Studied in Depth

All fifty states were studied and surveyed for their statutory provisions related to parenting time. Committee workgroups studied and reported to the full PTD Study Committee reports on each state. Appendix “O”. Of the fifty-state survey, five were identified and studied in depth as possible models for possible revisions to Georgia's treatment of parenting time in child support calculations. The following states' formulas were considered:

- Florida
- Tennessee
- Minnesota
- Virginia
- New Jersey

Those studies and interviews are compiled in a single indexed document which is called the State Notes Compilation which is incorporated in this document as Appendix “L”. Additional comments and written reports of PTD Study Committee members are incorporated in this document as Appendices “H”, “I”, “J”, and “K”.

Analysis

After consideration of the data from the various states in several work sessions, the PTD Study Committee reached a consensus that a parenting time adjustment is in the best interest of Georgia's children. The recommendations are discussed in the body of the Report below.

There was discussion on whether the parenting time change should be termed and applied as an “adjustment” rather than as a “deviation,” and whether this adjustment should be presumptive or mandatory. After considering the need to ensure continuity and availability of federal funding, it is clear that the parenting time should be an adjustment, not a deviation to the child support guidelines.

Particular attention was paid to the pros and cons of creating a “cliff effect” in the methodology used for determination of an adjustment as compared to a gradual application of the adjustment. Much attention was paid to the experiences of Minnesota, which had a cliff effect for

implementation of parenting time which was modified to a gradual method of adjustment in 2018; this method recognizes incremental increases in expenses with increases in parenting time. While the PTD Study Commission did not come to consensus on this issue, the members agree that a method which reduces conflict over parenting time is preferable. The examples of other states' methodologies and comments of PTD task force members on this issue will be included in this Report below.

Significant time was spent discussing the definition of the unit of time to be used in the adjustment calculation, for example "overnight" or "more than 12 hours in a 24-hour period," with an option to depart from the unit used to reflect the growing category of non-traditional parenting time arrangements which provide a parent with significant time with the children even if not overnight. The Committee did not reach a consensus on this issue; examples of sample language from other states studied are included in this Report for consideration by the Commission. However, there was consensus that alternative/ non-traditional periods of parenting time should be included in the calculation, such as those in Tennessee or Minnesota, to ensure that parents who have a less traditional arrangement receive recognition for their contributions during parenting time. While the PTD Study Committee did not come to consensus on this issue, the members agree that a method which reduces conflict over parenting time is preferable. The examples of other states' methodologies and comments of the Committee members related to this are included in this Report.

Concerns were raised about the effect a parenting time adjustment would have on the greater time parent in low-income situations without implementation of a self-support reserve for the greater time parent. There were also concerns that a lower income, lesser time parent is still eligible, in appropriate circumstances and in accord with case law, for an award of child support.

There was discussion that the 7% extracurricular portion of the BCSO might not be mathematically correct in the event a parenting time adjustment is adopted. See Appendix "M". There was much discussion about whether the 7% inclusion of extracurricular activity expenses in the special expense section of deviations should be omitted in Dr. Venohr's upcoming review of the guidelines. Many practitioners on the PTD Study Committee expressed a preference for this exclusion, which would allow the expense to be taken outside the child support calculation itself. There appears to be no empirical data which supports the inclusion of the 7%, even after examination of Dr. Venohr's previous reports and those of other economists.

Finally, it was clear that the PTD Study Committee felt strongly that the final amount of child support after the parenting time adjustment should be presumptive, subject to deviation by the court or jury in compliance with 19-6-15(i) in the best interest of the children.

RECOMMENDATIONS OF THE PTD STUDY COMMITTEE

REACHED BY CONSENSUS:

1. The parenting time deviation stated in the Georgia statute needs to be changed.
2. Any award/amount/calculation of child support should take into account parents' time with child(ren) in the form of a presumptive adjustment to child support and not a deviation.
3. The proposed adjustment to account for the parents' time with child(ren) should not be mandatory, but presumptive, subject to rebuttal.
4. The Commission must consider "the best interest of Georgia's children and take into account the changing dynamics of family life" in reviewing the child support guidelines.² Embedded in the current guidelines is recognition of Georgia's interest in "affording to children of unmarried parents, to the extent possible, the same economic standard of living enjoyed by children living in intact families consisting of parents with similar financial means."³ The awards can be adjusted, however, if other factors are present in a specific case (e.g., supporting dependents from another relationship) through worksheet calculations. As the support awards are currently representative of a child spending 100% of the time with the "custodial"/greater time parent,⁴ they are not representative of the cost sharing reality of a shared parenting time arrangement. Presuming a parent who spends more time with his/her child will contribute more for the child's expenses, the awards should be adjusted, through worksheet calculations, to offset some of the costs and savings associated with time spent with each parent.
5. A parenting time calculator, such as Minnesota's, should be created for Georgia. The instructions and definitions for the calculator website schedule should include language which explains the measurement scale for the adjustment day, as ultimately determined by the Commission.
6. Any calculation of parenting time should be considered over a two-year period to encompass and average out uneven times due to alternated parenting time in any one year.

² O.C.G.A § 19-6-50.

³ O.C.G.A § 19-6-15(c)(1) provides in part: "The rebuttable presumptive amount of child support provided by this Code section may be increased or decreased according to the best interest of the child for whom support is being considered, the circumstances of the parties, the grounds for deviation set forth in subsection (i) of this Code section, and to achieve the state policy of affording to children of unmarried parents, to the extent possible, the same economic standard of living enjoyed by children living in intact families consisting of parents with similar financial means."

⁴ *Economic Basis for Updating a Child Support Schedule for Georgia*, submitted to Georgia Administrative Office of the Courts, submitted by: Center for Policy Research, Denver, CO, Jane Venohr, Ph.D., April 11, 2011, p.33 (noting: "The schedules do not factor in an adjustment for the obligor's direct expenditures on the child in shared physical custody situations or during routine visitation.")

7. The simplest way to calculate the parenting time adjustment may not be in the best interest of the child.
8. We recognize that there are three types of expenses for children included in the BCSO:
 1. Variable expenses (expenses incurred in both households when exercising parenting time, such as food, transportation, and some entertainment);
 2. Fixed expenses (expenses which may or may not be incurred in both households when exercising parenting time, such as larger housing, utilities, household care items, household furnishings); and
 3. Controlled expenses (clothing, personal care, entertainment).⁵

These expenses should be considered when making the public policy decision about the methodology to be considered for the parenting time adjustment.

9. The Commission should ask Dr. Venohr to identify the portions/percentages of Georgia's BCSOs attributed to different types of child-rearing expenses (e.g., food, housing, transportation, entertainment, etc.) and explain and/or recommend whether a parenting time adjustment in Georgia could or should: 1) apply only to a portion of the BCSO based on whether the lesser time parent is likely to incur certain expenses at different levels of parenting time,⁶ 2) use a formula that applies to the entire BCSO but is gradual, giving much smaller incremental adjustments to parents with very little parenting time and larger adjustments to parents with almost equal parenting time (i.e., exponential/curve approach)⁷ or 3) involve some other method of calculation, taking into account how costs are shared between parents in separate households.
10. Any parenting time adjustment should ensure that the greater time parent has a self-support reserve after the possible parenting time adjustment.
11. In cases with largely disparate incomes, it is possible the lower income parent would receive child support even if they are the lesser time parent.⁸

⁵ These are New Jersey's definitional categories. Other states use different terminology in their statutory language, but these definitions are here solely for the purpose of explaining what is meant by the various terms.

⁶ New Jersey offers smaller, gradual adjustments until a threshold of parenting time has been met, then jumps to larger gradual adjustments based on the likelihood of the lesser time parent incurring additional housing and other expenses. Some states categorize expenses based on whether they are incurred by a parent only when the parent is exercising parenting time with the child (sometimes referred to as "variable" – e.g., food, transportation), when they are incurred in both households (referred to as "fixed, duplicated" – e.g., larger housing expenses), or are incurred by one or both parents for other items the child needs (sometimes referred to as "fixed, non-duplicated" or "controlled" – e.g., clothing and personal care).

⁷ Minnesota follows this model.

⁸ This statement complies with the requirements of Georgia law. Williamson v. Williamson, 293 Ga. 721 (2013).

12. The court or jury may, if supported by evidence and in the best interest of the child(ren), enter a child support order which does not apply the parenting time adjustment formula considering whether: a) a parenting time adjustment is determined by the court to be appropriate, b) that it is appropriate to the parties' financial abilities, and c) to the lifestyle of the child(ren) if the parents were living together.
13. In determining the parenting time adjustment, the court shall consider the existence of alternative parenting time schedules which might result in significant parenting time but not always in the "overnight" manner.
14. The statutory modification needs to avoid the concept of a "standard" parenting time.
15. The final amount of child support after application of the parenting time adjustment shall be presumptive and the court or jury may deviate from the presumptive amount of child support in compliance with 19-6-15(i) in the best interest of the child.
16. Dr. Jane Venohr should consider these factors when making her recommendations to the Commission upon her review.
17. The Commission should ask Dr. Venohr to address the following issue:

The current guidelines state a "portion of the basic child support obligation is intended to cover average amounts of special expenses incurred in the rearing of a child"⁹ and requires a 7% threshold test be applied before allowing the court/parties to include and divide expenses rising above 7% of the BCSO. This requires a 7% set aside in the child support calculation. If Georgia adopts a formulaic parenting time adjustment, is it mathematically sound to leave the 7% threshold test and set aside in place? Should the 7% adjustment vary by parenting time? (See Appendix "M")

Is there an alternate methodology that would not require removal of the 7% threshold test (and corresponding reduction of BCSOs by 7%)?

Does the answer to this question depend on the specific type of formula recommended by the Commission?
18. Following implementation of any change to the child support guidelines to account for a parenting time adjustment, the Commission needs to ensure that there is a concerted effort to educate the public that the current law does not factor in an adjustment for the obligor's direct expenditures on the child(ren) in shared physical custody situations or during routine visitation.

⁹ O.C.G.A. § 19-6-15(i)(2)(J)(ii).

**DISCUSSION AND SUGGESTIONS RELATED TO TOPICS
ABOUT WHICH CONSENSUS WAS NOT REACHED BY THE
STUDY COMMITTEE:**

1. Unit of time used for parenting time calculation
2. Minimum amount of parenting time before adjustment is invoked
3. Parenting time adjustments for parenting time absent or differing from court order

1. Unit of time to be used for parenting time adjustment calculation – the manner in which parenting time is to be measured

While there was consensus that a parenting time adjustment should be established based on a two-year time frame, there was no consensus by the Committee on the methodology for calculation of parenting time adjustment. This topic was discussed and debated during several Committee meetings. Some Committee members changed their initial positions as set forth in November 2021 documents after discussion; the changes in position are reflected in the final comments and positions outlined below for consideration by the Commission.

Some sister states studied have no definition, some use the term “overnights,” and some use the definition of “more than twelve hours in a twenty-four-hour period.”

As an example, the definitions of the states studied in detail are set out below:

State	Unit	Source	Other
Florida	Overnights	Not defined	
Minnesota	Overnights/ overnight equivalent	M.S.A. §518A.36(a) The percentage of parenting time may be determined by calculating the number of overnights or overnight equivalents that a parent spends with a child pursuant to a court order. For purposes of this section, overnight equivalents are calculated by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight.	
New Jersey	Overnights	NJ R PRAC App. 9-A(14)(b)(1) [T]he majority of a 24-hour day (i.e., more than 12 hours”	

Tennessee	Days	<p>TN ADC 1240-02-02-.02(10) (10) “Days” -- For purposes of this chapter, a “day” of parenting time occurs when the child spends more than twelve (12) consecutive hours in a twenty-four (24) hour period under the care, control or direct supervision of one parent or caretaker. The twenty-four (24) hour period need not be the same as a twenty-four (24) hour calendar day. Accordingly, a “day” of parenting time may encompass either an overnight period or a daytime period, or a combination thereof. In extraordinary circumstances, routinely incurred parenting time of shorter duration may be cumulated as a single day for parenting time purposes.</p>	<p><u>Gates v. Gates</u>, Tenn App M2019-00894-COA-RV-CV 2020) citing <u>Eaves v. Eaves</u>, No2006-02185-COA-Rs-CV, 2007WL4224715, at*7(Tenn Ct. App 2007) “Under this rule, a stretch of time starting Friday at 3:30 p.m. and ending sometime Monday morning (let us say at 8:30 a.m.) counts as three days, since that stretch includes three 24-hour periods during which the children spend more than half of the period with Husband. For instance, the children are with Husband for all 24 hours from noon Saturday until noon Sunday; and for another 20.5 hour of 24 hours from noon Sunday until noon Monday. This method of counting is clearly allowable according to the plain meaning of Rule 1240-2-4-.02(10), which states explicitly that “[t]he twenty-four (24) hour period need not be the same as a twenty-four (24) hour calendar day.”</p>
Virginia	Days	<p>VA Code Ann. § 20-108.2(G)(3)(c) (c) Definition of a day. For the purposes of this section, “day” means a period of 24 hours; however, where the parent who has the fewer number of overnight periods during the year has an overnight period with a child, but has physical custody of the shared child for less than 24 hours during such overnight period, there is a presumption that each parent shall be allocated one-half of a day of custody for that period.</p>	

Final comments of Committee members on this issue are set out below:¹⁰

- The designation of time to count “days” should be based on “more than 12 hours.” This would cover everyone regardless of their schedules. For example, if someone works overnights this should not prohibit their time with the child, although not ‘overnight’, to be considered fairly.
- Time should be calculated with a method similar to:

Parenting time shall be determined by calculating the number of days a parent spends with a child in a two-year period for an annual average. “Days” for purposes of this section is:

(a) the total number of overnights a parent spends with the child OR

(b) In circumstances where a parent has shorter but regular and recurring daytime periods with a child, the total hours of parenting time in the annual average divided by twenty-four hours, including any hours spent overnight, if applicable.

The stated rationale for this methodology recommendation is “the ‘overnight’ definition is the simplest definition to follow, and most parents will opt for this method – for parents with overnights there is not a significant advantage to using one or the other when a few examples are run for comparison. Additionally, using ‘more than 12-hours in a 24-hour period’ will likely be too complicated for litigants who have no legal help. In some counties, pro se cases account for approximately 50% of cases.”

- Neither the overnight nor the 12-hour definition will credit parents who are active co-parents but work later shifts, so an alternative method is needed. This concern mirrors that set out in (b) of the preceding bullet point. Examples:
 - Lesser time parent works third shift from 11 p.m. to 7 a.m.; picks child up from school every day at 3 p.m. and transports child to activities and provides dinner, helps with homework, and takes child to other parent by 8 p.m. (25 hours per week)
 - Lesser time parent works second shift from 4 or 5 pm to midnight or 1 a.m.; picks child up from other parent every morning and cares for child from 8 a.m. to 3 p.m.; takes child to other parent or babysitter before heading off to work. (35 hours per week)
- Having an alternate “hours” method built-in gives judges, litigants, and practitioners a defined method for calculating accumulated time, rather than leaving parties to argue over “extraordinary circumstances” or “significant periods of time” when an alternate methodology is needed. The difference between the “overnight” method and “hours” method is not significant when a parent has regular overnight parenting time. However, if a parent never has overnights or a full 12-hour period NOT having this option will result

¹⁰ Each bullet designates a summary of individual comments by a Committee member.

in a noted difference in the parenting time adjustment for active parents who are late shift workers.

- There are a number of cases now when parents are shift workers (hospital staff, law enforcement, firefighters, factory workers), in which they might have their children for periods of time during the day which would not qualify for what is typically thought of as “overnight.” That arrangement does not mean that the parent has no expenses incurred for the care of the child, even if not overnight. Given that observation, there are two recommendations taken together which address this issue: define “overnight” as more than twelve hours in a twenty-four-hour period and couple that with an additional provision which provides the additional flexibility allowed by Minnesota and Tennessee’s definitions to allow for a consideration of the time spent by a parent in something other than the more traditional method.
- Online calculators can be tailored:
 - To provide a list of parenting time schedules with corresponding percentages or days, making it easy for users select the appropriate box (populating the child support calculator with the appropriate number of days). An “other” box can also be used for parties who choose the (b) “hourly” method (ex: California <https://childsupport.ca.gov/guideline-calculator/> - select number of children, click “start” and then “advanced”).
 - To provide a calendar for people to select overnights in a given time-period, making it easy for users to visualize (ex: Minnesota). However, this will still be too complicated for less technologically advanced users.
- There was Committee consensus that Georgia should provide an online calculator for use in determining the adjustment factor including definitions for the calculator instructions that provide for alternate arrangements for the calculation in the definitional section. Given that it is likely that litigants will soon be required to file cases electronically, even if pro se litigants, a public policy decision has been made that electronic “savvy” will be necessary to access the judicial system, which would support the creation of an online calculator with appropriate instructions for the purpose of determining the presumed adjustment.
- Recognizing that New Jersey’s methodology for calculation of the parenting time adjustment is complex, it does raise some interesting thoughts on the public policy behind a parenting time adjustment, inasmuch as it grants the adjustment for those who are engaged in day to day, hands-on parenting during the child’s academic year and less so to those whose parenting time is limited to holidays and summers, taking into consideration the different types of expenses to be considered (variable, fixed, and controlled). This member would like for the Commission to discuss this with Dr. Venohr and how that might mitigate one way or the other in the definition finally adopted for the unit of parenting time, i.e., the interplay between the two.

While a consensus could not be reached by the PTD Study Committee, please consider that the Committee did find by consensus that “the simplest way to calculate the parenting time adjustment may not be in the best interest of the child”.¹¹

2. Should there be a minimum amount of parenting time before a parenting time adjustment becomes available to the lesser time parent or should there be an incremental approach?

In the fifty-state survey of parenting time, it was clear that some states have an incremental approach to parenting time adjustments and some states have a set percentage of days of parenting time required before the parenting time adjustment is applied. (See Appendix “E” some states using 25%, 30%, 40%). The percentage method creates a “cliff effect,” which has been described anecdotally to Committee members as creating discord between parents when the “cliff” is near in their custody plan negotiations, as there is great incentive to gain more time to obtain the adjustment.

It appears that the exponential approach in recent years has become the more favored approach, as in Minnesota, which modified its parenting time adjustments specifically for the purpose of eliminating the “cliff” effect.¹² The incremental approach is a) hoped to relieve the conflict between parents as to parenting time and b) is assumed to recognize the additional costs incurred with parenting time in a formulaic manner which takes into account different expenses associated with additional parenting time. Certain members of the Committee felt this method was the most economically sound.

Other members of the Committee felt strongly that there should be some parenting time threshold before an adjustment should be applied. There was also discussion on whether a parent should be penalized for lack of parenting time by an award of additional support to the greater time parent.

The Committee was unable to reach consensus on this issue after lengthy discussion.

Final comments of PTD Study Committee members on this issue are set out below:¹³

- Since Georgia BCSO currently has NO consideration of parenting time, the adjustment should start with a very minimal amount of parenting time to make it fair to both parents.
- Concerns were raised about implementation of a parenting time adjustment in a manner which does not have a sound basis in economically defensible data, which could potentially

¹¹ Recommendation by consensus No. 7.

¹² This adjustment was based in large part upon a study performed by Dr. Venohr.

¹³ Each bullet designates a summary of individual comments by a Committee member.

create an issue of denial of equal protection or due process. An exponential approach is economically sound.

- There should be some minimum parenting time threshold before an adjustment is allowed.
- The parenting time adjustment should be a formula that starts with very small incremental adjustments for very little parenting time and increases exponentially to larger adjustments as the parenting time gets closer to 50/50.

Rationale:

1. Avoids the “cliff effect” (i.e., situation where support obligation changes notably with just one day/overnight difference); cliff effect can result in obligated parent insisting on extra time to meet the threshold number of days or the receiving parent refusing to agree to extra time (fearing the drop-in support).
 2. A curved line (exponential increase rather than linear) with very small adjustments for little parenting time recognizes that a parent with very little parenting time will not absorb many of the expenses covered by the greater time parent. Conversely, a parent who spends substantially more time with his/her child will directly contribute more to the child’s expenses, resulting in some savings for the greater timer parent.
 3. Paying parents will perceive even minimal adjustments at low levels of parenting time fairer than no adjustment. This may encourage more settlements and consistent payments.
 4. Due to the functionality of online calculators, judges, practitioners, and litigants can input parenting time and the calculator will do the math.
- If we implement a process which has a “cliff effect,” are we asking for trouble, given that other states have backed away from that model in the face of experience? Minnesota’s experience shows they selected an exponential model because it:
 1. Alleviates cliff effects
 2. Reflects both parents’ expenses fairly
 3. Produces gradual changes to the order amount as time with the child increases
 4. Recognizes increasingly duplicated costs that occur with increased parenting time
 5. Accommodates both parenting time and parents’ incomes as part of the formula
 6. Reduces conflict over parenting time
 7. The continued existence of a deviation factor will mitigate against any weaknesses in the formula.

- While it appears that New Jersey may have the most economically sound model of all those closely reviewed, the complexity of the various levels of calculations may not meet the needs of Georgia, given that New Jersey has an intact administrative process which provides for annual review and revisions without statutory requirements.
- Concerns about the complexity of the calculator should not dissuade the Commission from the adoption of an exponential approach. Just like the present calculator, this can be programmed and used by all with the proper instructions.

While a consensus could not be reached by the Committee on this issue, please consider that at present there is no recognition in Georgia’s present child support calculation for the economic contributions of the lesser time parent while the child is with that parent. Economically sound data should allow the Commission to recommend an appropriate and sound adjustment.

3. Should there be a statutory modification to allow parenting time adjustments in cases without court-ordered parenting time, in the best interest of children?

Georgia’s current child support guidelines require parenting time to be court ordered if used as the basis for a deviation,¹⁴ which restricts the ability of Division of Child Support Services (“DCSS”) orders to include parenting time as a deviation (or eventual adjustment if deemed appropriate by the Commission). Some states allow application of a parenting time adjustment without court-ordered parenting time, even in administrative child support cases.¹⁵

The Commission should consider whether the following factors warrant amending the guidelines in a similar fashion: 1) uniformity in support orders; 2) a belief the lesser time/noncustodial parent will be more willing and able to pay if the guidelines are or perceived to be “fair” (rationale that applies whether parenting time is court ordered or not); 3) legitimation is costly and time-consuming for many low-income working parents (many parents in Georgia are unmarried and fall into the DCSS support calculation scenario);¹⁶ and 4) growing e-filing requirements may make it more difficult for unrepresented parents to secure an initial or modified custody order.

¹⁴ O.C.G.A. § 19-6-15 (a)(17): “Parenting time deviation” means a deviation allowed for the noncustodial parent based upon the noncustodial parent’s court ordered visitation with the child. . . .”

¹⁵ Florida allows application of an adjustment: “[w]henever a particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties provides that each child spend a substantial amount of time with each parent.” Fla. Stat. § 61.30(11)(b) (2021); see also § 409.2563 (Administrative establishment of child support obligations), which outlines all the parameters in non-custody support cases. For further discussion of this issue, see Ronald H. Kauffman, *To Catch a Time-sharing Deviation*, Florida Bar Journal, Volume 88, No. 10, December 2014.

¹⁶ Statistics show that births to unwed parents continue to rise, with 46% of all births in 2020 were to unwed parents.

Final comments of PTD Study Committee members on this issue are set out below:¹⁷

- The Commission should consider including a parenting time adjustment for DCSS orders if the parties' consent, regardless of whether parenting time has been court-ordered.

Rationale:

1. Many parents in Georgia are unmarried without the funds or time off to file for legitimation/custody or modification of custody. Growing e-filing requirements may make it even more difficult for unrepresented individuals to secure an initial or modified custody order.
 2. Uniformity in support orders – when factual circumstances are the same (i.e., parents agree to a parenting time arrangement), calculations with DCSS cases or superior Court custody cases should yield the same result.
 3. The lesser time parent in a DCSS case will perceive the guidelines as more fair if a parenting time adjustment can be applied – encouraging settlement and consistent payments. This applies whether parenting time is court ordered or not.
 4. Encouraging parties to consider a parenting time agreement in administrative support cases may result in more unmarried parents spending time with their children on a consistent schedule. Other states have used this approach (e.g., Florida, Texas).¹⁸
- This issue is made most difficult by our laws on legitimation. Many states consider a biological father the legal father if paternity has been acknowledged or established. Many biological fathers cannot afford to legitimate judicially or are unable to figure out how to accomplish it pro se.
 - The danger in allowing this adjustment without a court order is that the greater time parent may accept less child support without judicial oversight.

¹⁷ Each bullet designates a summary of individual comments by a Committee member.

¹⁸ *Child Support and Parenting Time Orders*, NATIONAL CONFERENCE OF STATE LEGISLATURES (Sept. 5, 2019), <https://www.ncsl.org/research/human-services/child-support-and-parenting-time-orders.aspx>

TOPICS OUTSIDE THE SCOPE OF THE COMMITTEE BUT DEEMED TO MERIT FURTHER INVESTIGATION AND CONSIDERATION BY THE COMMISSION:

1. The 7% issue (special expenses incurred for child rearing):

If Dr. Venohr recommends removal of 7% of the BCSO for special expenses incurred for child rearing (to ensure the application of the parenting time adjustment is mathematically sound), it should be removed. This will also simplify the process when parties wish to divide those expenses separately in a final order. However, the guidelines should retain the option to include special expenses in the child support calculation and either allocate them (similar to educational and extraordinary medical expenses on Schedule E) or allow the court/parties to deviate by some agreed upon amount (in the section for specific/non-specific deviations on Schedule E).

2. Consideration of split parenting situations:

How should split parenting situations be handled? Currently the Code requires a worksheet for each parent. Some state calculators allow parents to input “overnights” differently for each child in one calculation (to cover situations where siblings have different parenting time arrangements). This will warrant some review.

3. Calculator considerations:

There needs to be a “box” available to “uncheck” the application of the parenting time adjustment in the calculator. For example, although a parent may submit a parenting plan with an every other weekend schedule (thereby inputting 56+ days of parenting time), if he/she does not think the noncustodial parent will exercise the parenting time (historical lack of involvement), there needs to be a way to remove the adjustment and provide an explanation.

4. Parenting time adjustment as statutory basis for modification of child support:

A public policy decision should be made as to whether the implementation of a parenting time adjustment should serve as a statutory basis for modification of child support. Additionally, there should be consideration of whether there should be a “phase-in” provision. There should also be consideration about whether the implementation of a parenting time adjustment alone should give rise to a potential claim for attorney’s fees in connection with the implementation.

5. Consideration should be given to a change in semantics from the statutory language presently used of “custodial parent” and “non-custodial parent”:

Several Committee members think that the use of the terminology “custodial parent” and “non-custodial parent” leads to parents’ confusion; the distinction between “custody” for purposes of actual physical location of the child as opposed to “custody” for purposes of child support determination is not always readily understood by parents. It is felt that a more neutral term could be used for the description of parenting time for purpose of a child support determination and allocation.

In looking at other states’ terminology of residential status for child support purposes, it appears that many other states also use Georgia’s statutory language. See Appendix “N”. However, some states have used alternative language, for example, Tennessee uses “primary residential parent” and “alternative residential parent”. Minnesota uses the language “Parent A,” defined as “the parent with whom the child or children will spend the least number of overnights under the court order,” and “Parent B,” who has the “greatest number of nights.”

In summary, should there be a consideration of a change in residential status statutory language in conjunction with the creation of a parenting time adjustment? Should there be a more neutral semantic choice of status designation?

PROCESSES AND PROCEDURES

Parenting Time Deviation Study Committee

Background

On November 16, 2018, the Georgia Child Support Commission, at the recommendation of Judge Michael Key, Chair, established the PTD Study Committee to take an in-depth look at the parenting time deviation after attendees at Commission meetings raised concerns that Georgia had no statutory provision or guidance for parenting time adjustments or deviations. Commission member, Kathleen “Katie” Connell, Esq., was appointed chair of the PTD Study Committee. Pursuant to the Commission’s enabling statute, O.C.G.A. § 19-6-53 (a) (13)¹⁹, the PTD Study Committee was directed to study the way in which Georgia accounts for parenting time when calculating child support. A target date of December 2020 was set for the PTD Study Committee report to the Commission. Due to disruptions caused by the COVID-19 pandemic, on December 4, 2020, a one-year extension to complete the work of the PTD Study Committee was approved

¹⁹ O.C.G.A. § 19-6-53 (a) (13) To study the impact of having parenting time serve as a deviation to the presumptive amount of child support and make recommendations concerning the utilization of the parenting time adjustment.

by the Commission. Prior to the expiration of that extension, a further extension was granted at the request of the Committee until April 29, 2022.

Members of the PTD Study Committee

Katie Connell, Esq., a member of the Commission, served as chair of the PTD Study Committee. Thirty-four members of the Committee were selected in February 2019 and consisted of persons with a broad array of experience, including judges, practicing attorneys, staff from the Division of Child Support Services (“DCSS”), mediators, economic experts, law librarians, paralegals, and parents (both custodial and noncustodial).

As a result of the world-wide pandemic and other factors²⁰, the membership of the Committee reduced, and the number of PTD Study Committee members at the date of this Report stands at fourteen.²¹ See Appendix “B” for a list of the Committee members.

Process of the Committee:

The PTD Study Committee met twenty-two times, commencing on April 12, 2019, and concluding on April 25, 2022. (See Appendix “A” for meetings schedule.) All meetings of the PTD Study Committee were open to the public, whether held as in-person meetings prior to the COVID pandemic or as Zoom platform meetings during the pandemic. On several occasions, members of the public made comments or otherwise made presentations. All meetings were publicly announced on the Georgia Child Support Commission website at <https://csc.georgiacourts.gov/meeting-minutes/>, and may be viewed under Meeting Information and Meeting Notices by year. The Meeting Notices were also published on the Child Support Commission listserv for those individuals who requested to receive information by that method.

In February 2019, Commission staff engaged graduate students at Georgia State University’s Andrew Young School of Policy Studies to survey all fifty states to determine if and how parenting time is statutorily calculated. The survey was completed in May 2019 and the information was disseminated to and utilized by the PTD Study Committee. The fifty-state survey is incorporated

²⁰ These factors included job changes, retirement, COVID related obligations, and family obligations.

²¹ The members of the PTD Study Committee wish to give special recognition to the efforts of our fellow Committee member, Mark Rogers, who contributed significantly to the work of the Committee. His patient explanation of economic concepts such as “the graduated approach” and “exponential curves” helped the Committee in its endeavor to reach an economically sound analysis for this report. Mark was able to bridge the gap between his opinions and analysis and those of others in thoughtful and respectful ways. Mark’s untimely illness and death during the last months of the Committee’s work mean he was not able to put his final touch on the product, but this report reflects his long hours of work which allowed the Committee to reach consensus on many issues and a more reasoned analysis of those on which consensus could not be reached. Mark’s efforts are greatly appreciated.

in this Report as Appendix “E”. This Report was considered and discussed by the PTD Study Committee.

The Committee requested Commission staff prepare a survey on the issue of parenting time deviations for its review and approval, which occurred on December 9, 2019. The survey was then utilized to secure judicial and public feedback.

Commission staff attended the Superior Court Judges’ Winter Conference in January 2020, presenting the survey both orally and in the written materials given to the attending judges. A response was available either in writing or online. Collaboration with the Council of Superior Court Judges resulted in twenty-two (22) judicial responses. The analysis report compiled by Commission staff is incorporated in this Report as Appendix “D”. This Report was considered and discussed by the PTD Study Committee.

Methodology was created in collaboration with the Georgia Judicial Council/Administrative Office of the Court webmaster to host the survey on the Commission’s website for public input. The public survey was available online from late January 2020 until late March 2020. Commission staff collaborated with the Family Law Section of the State Bar of Georgia to promote the public survey to family law practitioners. A total of two hundred fifteen public responses were received. The analysis report compiled by Commission staff is incorporated in this Report as Appendix “C”. This Report was considered and discussed by the PTD Study Committee.

Charge and Objectives were, after discussion, adopted by the PTD Study Committee to serve as guidance as the Committee conducted its work. The Charge and Objectives are incorporated in this Report as Appendix “F”.

Utilizing the fifty-state survey, members of the PTD Study Committee formed workgroups and looked more closely at the requirements of each state and reported back to the Committee, either orally or in writing. Copies of the written reports submitted to the Committee are incorporated in this Report as Appendix “O,” the oral reports are reflected in the minutes of the PTD Study Committee.

As a result of the reports, it was determined that a closer look at selected states would provide greater clarity on the issues before the Committee. The states of Minnesota, Florida, Virginia, Tennessee and New Jersey were selected for further study. As part of that assignment, uniform questions about parenting time adjustments were drafted as the basis for inquiry to experienced practitioners in each of those states. The following PTD Study Committee members volunteered to speak with those practitioners: Katie Connell - Minnesota; Adam Gleklen - Florida; Pat Buonodono - Virginia; Carol Walker - Tennessee; and Johanna Kiehl - New Jersey.

Telephonic interviews were conducted and PTD Study Committee members made their reports to the Committee in September and October 2021. PTD Study Committee member Sarah Mauldin

compiled the written reports from each of the practitioner interviews into a single, indexed document called the “State Notes Compilation” which is incorporated in this Report as Appendix “L”.

Additional information used by the PTD Study Committee included a report by the Commission’s Executive Program Manager, Elaine Johnson, on the topic of legitimation issues that could affect parenting time calculations. The handout from that presentation on May 21, 2021, is incorporated in this Report as Appendix “G”.

Additional written reports by the task force members Mark Rogers, Pat Buonodono, Carol Walker and Johanna Kiehl were prepared and distributed; copies of those reports are incorporated herein as Appendices “H”, “I”, “J” and “K”, respectively.

The minutes from the Committee meetings additionally reflect discussions of the Committee and they may be found at <https://csc.georgiacourts.gov/meeting-minutes/>.

CONCLUSION

The PTD Study Committee hopes that the Commission will consider these findings and analysis in connection with the report to be prepared by Dr. Jane Venohr to the Commission on the current and future state of Georgia’s child support guidelines. We request that this Report be provided to Dr. Venohr, that she answer the questions raised in the Report for review and discussion, and that she consider the findings, recommendations, and concerns of this Committee in making her final report to the Commission.

Once the Commission makes a decision on the implementation of a parenting time adjustment or related statutory revisions, if such adjustment is deemed appropriate, we ask that the statutory review sub-committee of the Commission confer with such members of this Committee as it deems appropriate for guidance and conference on the issues raised by this Report.

Additionally, if and when the Commission determines to make a recommendation of proposed legislation to implement a parenting time adjustment, we request that it consider, as its primary goal, the best interest of Georgia’s children, including the economic impact this legislation will have on children and families going forward.

APPENDICES

*(the page numbers in the bottom right corner of the appendices
correspond to the Table of Contents)*

Appendix A

Georgia Child Support Commission Parenting Time Deviation Study Committee

Meeting Schedule of the Parenting Time Deviation Study Committee

Year: 2019

April 12, 2019
August 30, 2019

Year: 2020

February 7, 2020
(Meetings of the Study Committee were interrupted because of the COVID-19 Pandemic)
November 17, 2020

Year: 2021

January 12, 2021
March 16, 2021
April 13, 2021
May 20, 2021
July 22, 2021
August 25, 2021
September 15, 2021
October 6, 2021
October 27, 2021
November 15, 2021
December 3, 2021

Year: 2022

January 11, 2022
February 3, 2022
February 17, 2022
March 10, 2022
March 22, 2022
April 25, 2022

Appendix B

MEMBERSHIP OF PTD STUDY COMMITTEE

The membership of the Parenting Time Deviation (PTD) Study Committee was established in February 2019 and totaled 34 members consisting of judges, attorneys, staff from the Division of Child Support Services (DCSS), mediators, economic experts, a law librarian, paralegals, and noncustodial parents (“NCPs”). Over the three years that the PTD Study Committee performed its work, several members asked to be removed from the study committee for various reasons, e.g., COVID-related obligations, job changes, retirement, etc., and the number of PTD Study Committee members as of the date of this report stands at 15. Those members are:

Kathleen (“Katie”) Connell, Chair
William Alexander
Ryan Bradley
Patricia Buonodono
Byron Cuthbert
Judge Warren Davis
Adam Gleklen
Johanna Kiehl
Jill Massey
Sarah Mauldin
Wayne Slear
Charles Spinardi
Eric Thornton
Carol Walker, and
The late Mark Rogers, who passed away on April 2, 2022

Child Support Commission Staff who supported the work of this PTD Study Committee are Noelle Lagueux-Alvarez, Staff Attorney, Elaine Johnson, Executive Program Manager, and Latoinna Lawrence, Project Coordinator.

Appendix C

Analysis of Public Responses to 2020 Parenting Time Deviation (“PTD”) Survey By Child Support Commission Staff November 10, 2020

A total of 215 people from 48 counties across the State of Georgia responded to this survey between February 6 and March 18, 2020. A strong majority, 80%, identified themselves as attorneys. The other respondents self-identified as one of the following: custodial parent, non-custodial parent, mediator, DCSS staff, or the general public. Initially, the Child Support Commission asked staff to prepare survey questions for judges regarding the Parenting Time deviation. Those survey questions were approved by the Study Committee, and then by the Commission at their December 9, 2019 meeting. At that time, Judge Michael Key, Chair, directed staff to use the same survey questions for the public survey.

<p>Question #1 The current parenting time deviation is a deviation from the presumptive amount of child support. Do you think the parenting time deviation should remain a matter of judicial discretion?</p>	<p>Yes: 58% No: 38% N/A: 4%</p> <p>While a majority of respondents believe the PTD should remain a matter of judicial discretion, it is a much smaller percentage than the responding judges who overwhelmingly believe PTD should remain a matter of judicial discretion.</p>
<p>Question #2 What do you consider to be "standard" visitation given what you are seeing in cases before you today?</p>	<ul style="list-style-type: none"> • Reported details of what respondent believes is standard: 77% • Reported that there is no standard: 5% • Reported that standard is 50/50 joint physical custody: 7% • One member of the general public and one custodial parent each reported that “there should be no standard” and that parenting time should be determined on a “case by case basis”: 1% • N/A = 10% <p>Staff recommends that study committee members divide up and take a deep dive into the 77% of responses that gave details on what is considered “standard” in different parts of the state.</p>
<p>Question #3 What amount of parenting time is the threshold at which you think a deviation is warranted?</p>	<p>60% of parenting time: .5% 50% of parenting time: 20% 45% of parenting time: 10% 40% of parenting time: 11% 35% of parenting time: 8% 30% of parenting time: 11% 25% of parenting time: 3% 20% of parenting time: .5% 10% of parenting time: 1%</p> <ul style="list-style-type: none"> • <u>Any</u> amount of parenting time warrants a deviation: 2% • A parenting time deviation should <u>never</u> be used: 3%

	<ul style="list-style-type: none"> Anything above “standard” warrants a parenting time deviation: 10% N/A: 20% <p>Staff recognizes that the “60% of parenting time” response does not make sense, but that is one response that we received. It is possible that respondent meant when a custodial parent has 60% of parenting time and the non-custodial parent has 40%, but for the sake of accuracy, staff is reporting precise survey responses.</p>
<p>Question #4 What is the percentage of time a <i>pro se</i> litigant includes a parenting time deviation in an action before you?</p>	<p>100% of cases: .5% 90% of cases: .5% 75% of cases: 1% 50% of cases: 8% 40% of cases: 2% 30% of cases: 5% 20% of cases: 5% 10% of cases: 27% 1%-10% of cases: 7 % 0%: 13% N/A: 31%</p> <p>Respondents noted that <i>pro se</i> litigants are unlikely to request a PTD as 47% answered that <i>pro se</i> litigants request a PTD 10% of the time or less.</p>
<p>Question #5 What is the percentage of time a private attorney includes a parenting time deviation in an action before you?</p>	<p>70-100% of cases: 5% 50% of cases: 21% 40% of cases: 8% 30% of cases: 17% 20% of cases: 12% 11-15% of cases: 1% 10% of cases: 11% 1-9% of cases: 3% 0% of cases: 1% N/A: 21%</p> <p>Respondents noted that litigants represented by an attorney were much more likely to request at PTD. 26% of respondents said this happens at least 50% of the time whereas only 10% of respondents reported that <i>pro se</i> litigants request PTD at least 50% of the time. Likewise, only 15% of respondents answered that represented parties request PTD less than 10% of the time. This is in sharp contrast to their <i>pro se</i> counterparts as 47% of respondents noted that <i>pro se</i> parties request PTD 10% of the time or less.</p>

<p>Question #6 Currently, the child support guidelines statute does not include a formula for determining the amount of a parenting time deviation (OCGA 19-6-15(a)(17) and OCGA 19-6-15(i)(K)). Do you believe there should be a formula?</p>	<p>Yes: 61% No: 36% N/A: 3%</p> <p>A majority of the public thinks the PTD should be determined by a formula. This is in sharp contrast to the judicial responses that showed only 14% of the 22 judges think the PTD should be determined by a formula.</p>
<p>Question #6a If you answered yes, what is your reason for wanting a formula?</p>	<p>Staff identified 8 overarching reasons people gave for wanting there to be a formula for calculating a PTD. While this question called for a qualitative response, the 8 reasons below were given repeatedly.</p> <p>Those reasons are:</p> <ul style="list-style-type: none"> A. Consistency/predictability (69 respondents) B. Reduce fighting/save money/save time (34 respondents) C. Negative incentive to seek more PT for reduction in child support (3 respondents) D. Visitation should never be linked to child support (1 respondent) E. Confusion about shared parenting, i.e. thinking shared parenting should automatically zero-out child support (5 respondents) F. Should be automatic in the calculation because judges don't want to deal with it otherwise (4 respondents) G. Fair to NCPs who do not seek more PT just to lower child support (1 respondent) H. Not enough guidance on PTD from the statute (35 respondents)
<p>Question #6b If you answered yes, what formula would you recommend?</p>	<p>Staff identified 9 overarching responses to this question:</p> <ul style="list-style-type: none"> A. Reduce to a per diem, or even a per hour, basis (21 respondents) B. Split BCSO first by parenting time % then by income shares, i.e. resurrecting old Schedule C (3 respondents) C. Specific mathematical formulas (27 respondents) D. Subtract lower-earner's presumptive from higher-earner's presumptive and that is the child support obligation for the higher-earner (1 respondent)

	<p>E. Shouldn't be a deviation, should come off of each parent's BCSO (2 respondents)</p> <p>F. Follow a specific state's example of how to handle PT:</p> <ul style="list-style-type: none"> • Florida (5 respondents) • Pennsylvania (1 respondent) • Minnesota (1 respondent) <p>G. Develop a percentage-based formula for when the NCP's PT exceeds "traditional" visitation (12 respondents)</p> <p>H. Define a threshold above which a deviation is applied (15 respondents)</p> <p>I. PTD formula needs to take into account income disparity (9 respondents)</p>
<p>Question #6c If you answered no, why do you not want a formula added to the statute?</p>	<p>Staff identified 10 overarching responses to this question:</p> <p>A. Provides a negative incentive to seek more parenting time in order to reduce child support obligation (16 respondents)</p> <p>B. This issue is too fact specific to warrant a strict formula (37 respondents)</p> <p>C. Should be purely discretionary (24 respondents)</p> <p>D. There are two different resources here, time and money, and they shouldn't be confused with each other (5 respondents)</p> <p>E. PTD should be treated like all other deviations, none of which are formula-based (1 respondent)</p> <p>F. There shouldn't be a PTD at all, ever (2 respondents)</p> <p>G. Increases disputes (9 respondents)</p> <p>H. If it ain't broke, don't fix it (5 respondents)</p> <p>I. Denies families the opportunity to work this out on their own (2 respondents)</p> <p>J. Income also plays a role in whether the deviation is necessary (5 respondents)</p>

<p>Question #7 How often are you seeing true 50%/50% shared parenting in your court?</p>	<p>43% of respondents answered this question with a specific percentage:</p> <ul style="list-style-type: none"> • 75% of the time: 1% • 70% of the time: .5% • 50% of the time: 3% • 40% of the time: 4% • 35% of the time: 3% • 30% - 33% of the time: 6% • 25% of the time: 6% • 20% of the time: 8% • 15% of the time: 3% • 10% of the time: 6% • 5% of the time: 2% • 2% of the time: .5% <p>2% of respondents answered this question with two percentages, noting a distinction between “collaborative” and “litigation” cases, or those “settled” versus “court ordered.” <u>All</u> noted that a judge is much less likely to order 50%/50% shared parenting, but that it is regularly agreed to by the parties.</p> <p>8% of respondents answered that this happens “never” or “rarely.” 16% of respondents answered that this is happening “more frequently.” N/A: 31%</p> <p>Analyzing these results and comments throughout the survey, 50%/50% shared parenting is trending upward in Georgia.</p>
<p>General Comments</p>	<p>Staff reviewed the general comments and identified issues that hadn’t already come out in previous survey responses:</p> <ul style="list-style-type: none"> • Recommendation to convene a group of guardians ad litem to “discuss the issue and look closely at how PT is frequently used for purposes of a deviation and not in a way that benefits the children.” • In reality one parent tends to be more responsible for purchases (clothing, supplies), taking to appointments, staying home when child sick. “This results in actual cost, as well as the effort involved.” • Child support should be based on net income, not gross. This would make child support a “more realistic number... deviations might become less requested.” • Kudos to the Commission for doing this study of the PTD.

	<ul style="list-style-type: none"> • “I represent mostly women victims of DV. In many, many cases, the fathers who may have been largely absent up until court, ask for 50/50 custody explicitly to avoid paying child support.” • “No one knows when or how to calculate these deviations.” • The state-mandated parenting class instructs parents to work to achieve equal parenting time. PT “should start with a presumption of equal PT, and then be modified based on the child’s best interest...” • “Child support is already so low; it doesn’t make sense to decrease it further automatically.” • 50/50 shared parenting should only be awarded when agreed upon. • Some of the presumptions underlying the child support guidelines are “not legitimate and should be changed” including that parents are required to spend the same amount of money on their children as every other parent who makes the same amount of money. • The current spending on the child “should be the starting point for the formula, not total gross income.” • An NCP “should be permitted to require an accounting of the money paid. • Appellate law requires findings of fact to grant the deviation, but not when it’s denied. This effectively makes a denial of the deviation “immune to appeal.” • “We should adopt one of the states’ models that uses a TIERED parenting time deviation system...” • “Child support as it is now does more harm than good to children.” • “Equal parenting time means equal expense for each household to incur. All other expenses (Extracurriculars, school fees, etc.) should be split 50/50.” • There should be no determination of “CP” or “NCP” as both parents have equal rights. • We’ve got our work cut out for us-- multiple “good luck!”
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Appendix D

Analysis of Judicial Responses to 2020 Parenting Time Deviation (“PTD”) Survey

By Child Support Commission Staff

October 30, 2020

Twenty-two Superior Court Judges responded to this survey between January and May 2020.

<p>Question #1 The current parenting time deviation is a deviation from the presumptive amount of child support. Do you think the parenting time deviation should remain a matter of judicial discretion?</p>	<p>Yes: 82% No: 9% N/A: 9%</p> <p>Judges overwhelmingly think the PTD should remain a matter of judicial discretion. However, of the 18 “yes” responses, 4 judges stated, “but not opposed to more statutory guidance.”</p>
<p>Question #2 What do you consider to be "standard" visitation given what you are seeing in cases before you today?</p>	<p>Of the 22 judges taking this survey, 2 simply reported that they don’t have a “standard.”</p> <p>Of the 20 judges who reported a standard, they reported a range of standard parenting time from a low of 63 days per year (17% of the year) to a high of 146 days per year (40% of the year) and everything in between. The average of all responses was 91 days, or 25%, of the year as a parenting time “standard” for non-custodial parents.</p>
<p>Question #3 What amount of parenting time is the threshold at which you think a deviation is warranted?</p>	<p>At approximately 50% parenting time: 23% At approximately 40% parenting time: 23% At approximately 30% parenting time: 4% At approximately 25% parenting time: 36% N/A: 14%</p> <p>52% of the judges who responded to this question do not think a parenting time deviation is warranted until the NCP’s parenting time is approaching at least 5-7 nights out of 14. All of the responding judges think it should not be applied until at least “standard” visitation (which averages 25% of the year for these judges) is reached.</p>
<p>Question #4 What is the percentage of time a <i>pro se</i> litigant includes a parenting time deviation in an action before you?</p>	<p>N/A: 9% 10% of the time or less: 77% 20% of the time: 5% 30% of the time: 9%</p> <p>The parenting-time deviation is not being requested frequently by <i>pro se</i> litigants. 82% of respondents see <i>pro se</i> litigants request the parenting-time deviation 20% or less of the time.</p>

<p>Question #5 What is the percentage of time a private attorney includes a parenting time deviation in an action before you?</p>	<p>10% of the time or less: 32% 20% of the time: 23% 30% of the time: 18% 40% of the time: 9% 50% of the time: 9% N/A: 9%</p> <p>Litigants with private attorneys are much more likely to request a parenting time deviation as compared with their <i>pro se</i> counterparts.</p>
<p>Question #6 Currently, the child support guidelines statute does not include a formula for determining the amount of a parenting time deviation (OCGA 19-6-15(a)(17) and OCGA 19-6-15(i)(K)). Do you believe there should be a formula?</p>	<p>Yes: 14% No: 72% N/A: 14%</p> <p>Overwhelmingly, judges do NOT think the PTD should be determined by a formula.</p>
<p>Question #6a If you answered yes, what is your reason for wanting a formula?</p>	<p>The reasons judges gave for wanting a formula for the PTD were:</p> <ul style="list-style-type: none"> • To give guidance (including to parties because without guidance it remains a source of disputes) • Uniformity/consistency <p>Judges also expressed that:</p> <ul style="list-style-type: none"> • Formula is okay, but don't take away judicial discretion on whether to use the formula • Consider guidance in statute on when PTD should be applied without use of a formula
<p>Question #6b If you answered yes, what formula would you recommend?</p>	<p>Three judges gave suggested formulas:</p> <ul style="list-style-type: none"> • Pro-rata/# days (but with discretion) • In shared parenting cases (50/50 joint physical custody), use the formula that is in <i>dicta</i> in <u>Stoddard v. Meyer</u> which is that the higher income earner pays the difference between the two child support obligations to the lower income earner. • Determine the parent's total monthly obligation, based on their total % of overall income on the first page of the schedule. Based upon that amount, divide it by thirty days to get an average amount the parent is paying per day. Subtract the number of days the parent will have the child from that presumptive total.

<p>Question #6c If you answered no, why do you not want a formula added to the statute?</p>	<ul style="list-style-type: none"> • “Fixed solutions are anathema to justice.” • Considerations must be made on a case-by-case basis/circumstances of each case are too individualized (7) • Discretion needed to determine if deviation is in best interest of the child • PTD gives a financial incentive to someone who otherwise might not really want to parent (2)
<p>Question #7 How often are you seeing true 50%/50% shared parenting in your court?</p>	<p>10%: 5% 20%: 27% 25-30%: 36% 40%: 5% N/A: 27%</p> <p>In addition to these quantifiable responses, of the 16 judges who gave a response, 3 noted that true 50%/50% shared parenting is trending upward.</p>
<p>General Comments</p>	<p>One judge offered the following general comment, “When I was in practice as a private attorney, it was very frustrating to me when I represented non-custodial parents because their child support amount did not take into consideration how often they had the child. Very, very rarely, in my opinion, is every other Friday-Sunday night appropriate. Anything more than that should automatically include a parenting time deviation, in my opinion, so that the other parent isn't getting a windfall.”</p>

Appendix E
50 State Survey & Data compiled by
Georgia State University's Andrew Young
School of Policy Studies graduate students

This Appendix is provided separately as a Microsoft Excel document due to size limitations.

Appendix F

Charge and Objectives of the Parenting Time Deviation Study Committee

The Parenting Time Deviation Study Committee has been authorized by the Georgia Child Support Commission to study potential changes to the Child Support Guidelines statute, O.C.G.A. 19-6-15, for parenting time. The Charge and Objectives will serve as guidance to the study committee as they conduct their work.

Section A - Charge and Objectives

The information in section A was suggested by Commission staff:

- Does the parenting-time deviation in Georgia’s child support guidelines statute need to be amended to better meet the needs of Georgia’s families?
- Bearing in mind that there is no accounting for parenting time in Georgia’s Basic Child Support Obligation (BCSO) table, should there be a mandatory adjustment or a presumptive adjustment or a deviation (mandatory or presumptive) based on parenting time? If so, what should that adjustment or deviation look like? Ex. Embedded in the BCSO table, as a deviation, in a separate schedule, an adjustment to the presumptive amount of child support as in Schedule E or a presumptive deviation to the amount of child support based on parenting time?
- O.C.G.A. § 19-6-53 (a)(13) provides that the Child Support Commission shall “study the impact of having parenting time serve as a deviation to the presumptive amount of child support and make recommendations concerning the utilization of the parenting time adjustment.”

Appendix G

Legitimation, Parental Rights, and Parenting Time

Noelle:

Elaine and I have thought of another issue for this study committee to consider—as if we need anything else to consider—but this is an important topic, affects many children and parents, and appears to be somewhat idiosyncratic to Georgia. And, that issue is how the legal procedures to establish paternity and legitimation affect both child support and parenting time.

I'm going to take a minute to orient us, in other words, to give the big picture perspective and then Elaine will dive into some details.

By way of background, prior to joining the Administrative Office of the Courts, I did a great deal of complex business litigation, products liability work, and I was on a niche project for the U.S. Department of Labor, but even with a background in complex legal matters, I had no idea what I was getting myself into when I signed on as the staff attorney to the Child Support Commission. I know we have a group of professionals assembled here who are very savvy with family law matters generally, and child support in particular, but over the last year and a half, I have definitely had my share of “wait-what?” moments while discussing legal issues with Elaine. So, I think it is important because we are discussing very precise legal terms to make sure that we are all on the same page. So, here goes. Summing up this issue in my own words.

Under Georgia law (O.C.G.A. § 19-7-22, O.C.G.A. § 19-7-23, and O.C.G.A. § 19-7-24), establishing paternity creates legal responsibilities for fathers such as the obligation to pay child support, but it does not offer legal rights such as parenting time. To establish parental legal rights, after paternity is established, a father must go through a second legal step of legitimation. In other words, you can be the biological father of a child and obligated to pay child support without any right to parenting time with the child.

Now, as this relates back to our parenting-time deviation study committee. If we adopt a child support calculation that includes parenting time as variable, there will be a segment of the population who will be legally required to enter 0% parenting time. From a policy standpoint, some may argue—great—that just gives fathers a further incentive to legitimate. Others will argue the opposite that this is an unfair methodology unduly punitive to fathers.

Elaine:

According to the Department of Public Health, Vital Records, there were a large number of children who were born out of wedlock to Georgia mothers during the years 2018, 2019, and 2020. The statistics below also include the number of children born in wedlock during those same years.

Year	Not Married	Married	Not Stated / Unknown	Total births	Percentage Born out of Wedlock	Percentage Born in Wedlock	Percentage Unknown
2018	56,904	69,156	114	126,174	45%	54.8%	.2%
2019	57,570	68,675	120	126,365	45.5%	54.3%	.2%

2020	56,577	65,654	92	122,323	46.2%	53.6%	.2%
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So, recapping what Noelle said earlier, most people assume that establishing paternity also establishes the right to parenting time with the child, but this is not the case in Georgia.

We've brainstormed some issues that we want folks to keep on their radar:

- Lack of legitimation of children born out of wedlock will prevent the biological fathers of those children from including a parenting time deviation in their child support worksheet, until such time as the father has legitimated the child and visitation has been ordered.
- Including parenting time in the Basic Child Support Obligation (BCSO) table or as an automatic calculation could be used to the advantage of fathers who have not yet legitimated their child and who don't/can't, therefore, lawfully exercise any parenting time.
- Parents, lawyers, mediators, and others would have to obtain documentation on each child born out of wedlock to verify the child has been legitimated prior to including a parenting time percentage in a child support worksheet and would have to enter 0% parenting time for fathers with children who haven't been legitimated yet.
- Anyone preparing a child support worksheet would first have to enter a legitimation status for each child, possibly through a series of questions, before a parent could enter a percentage (or other sum) of parenting time they want to include in the worksheet.
- Is it possible that the legislature considered questions on legitimation during their deliberations in 2006? Could this be a reason why they removed Scheduled C, the formulas for parenting time, and instead created the deviation for parenting time? Could this be a reason why parenting time was not included in the BCSO table in 2006?

Georgia Statutes On Legitimation:

§ 19-7-20. Circumstances of legitimacy; disproving legitimacy; legitimation by marriage of parents and recognition of child

(a) All children born in wedlock or within the usual period of gestation thereafter are legitimate.

(b) The legitimacy of a child born as described in subsection (a) of this Code section may be disputed. Where possibility of access exists, the strong presumption is in favor of legitimacy and the proof must be clear to establish the contrary. If pregnancy existed at the time of the marriage and a divorce is sought and obtained on that ground, the child, although born in wedlock, will not be legitimate.

(c) The marriage of the mother and reputed father of a child born out of wedlock and the recognition by the father of the child as his shall render the child legitimate; in such case the child shall immediately take the surname of his father.

History

Orig. Code 1863, §§ 1736, 1737; Code 1868, § 1777; Code 1873, § 1786; Code 1882, § 1786; Civil Code 1895, § 2493; Civil Code 1910, § 3012; Code 1933, § 74-101; Ga. L. 1988, p. 1720, § 4.

State of Georgia Rule 511-1-3-.14 provides for the amendment of a birth certificate when the natural parents marry after the birth of a child.

§ 19-7-21. When children conceived by artificial insemination legitimate

All children born within wedlock or within the usual period of gestation thereafter who have been conceived by means of artificial insemination are irrebuttably presumed legitimate if both spouses have consented in writing to the use and administration of artificial insemination.

History

Code 1933, § 74-101.1, enacted by Ga. L. 1964, p. 166, § 1.

§ 19-7-22. Petition for legitimation of child; requirement that mother be named as a party; court order; effect; claims for custody or visitation; third-party action for legitimation in response to petition to establish paternity

(a) As used in this Code section, the term:

(1) "Biological father" means the male who impregnated the biological mother resulting in the birth of a child.

(2) "Legal father" means a male who has not surrendered or had terminated his rights to a child and who:

(A) Has legally adopted such child;

(B) Was married to the biological mother of such child at the time such child was born or within the usual period of gestation, unless paternity was disproved by a final order pursuant to Article 3 of this chapter;

(C) Married the legal mother of such child after such child was born and recognized such child as his own, unless paternity was disproved by a final order pursuant to Article 3 of this chapter; or

(D) Has legitimated such child pursuant to this Code section.

(b) The biological father of a child born out of wedlock may render his relationship with the child legitimate by petitioning the superior court of the county of the residence of the child's mother or other party having legal custody or guardianship of the child; provided, however, that if the mother or other party having legal custody or guardianship of the child resides outside this state or cannot, after

due diligence, be found within this state, the petition may be filed in the county of the biological father's residence or the county of the child's residence. If a petition for the adoption of the child is pending, the biological father shall file the petition for legitimation in the county in which the adoption petition is filed.

(c) A legitimation petition shall set forth the name, age, and sex of the child, the name of the mother, and, if the biological father desires the name of the child to be changed, the new name. If the mother is alive, she shall be named as a party and shall be served and provided an opportunity to be heard as in other civil actions under Chapter 11 of Title 9, the "Georgia Civil Practice Act." If there is a legal father who is not the biological father, he shall be named as a party by the petitioner and shall be served and provided an opportunity to be heard as in other civil actions under Chapter 11 of Title 9, the "Georgia Civil Practice Act."

(d)

(1) Upon the presentation and filing of a legitimation petition, and after a hearing for which notice was provided to all interested parties, the court may issue an order declaring the biological father's relationship with the child to be legitimate, provided that such order is in the best interests of the child. If such order is issued, the biological father and child shall be capable of inheriting from each other in the same manner as if born in lawful wedlock. Such order shall specify the name by which the child shall be known.

(2) (A) If the court determines by clear and convincing evidence that the father caused his child to be conceived as a result of having nonconsensual sexual intercourse with the mother of his child or when the mother is less than ten years of age, or an offense which consists of the same or similar elements under federal law or the laws of another state or territory of the United States, it shall create a presumption against legitimation.

(B) Notwithstanding Code Section 53-2-3, if the court denies a legitimation petition under this paragraph, the child shall be capable of inheriting from or through his or her father. Notwithstanding Code Section 53-2-4, if the court denies a legitimation petition under this paragraph, the father shall not be capable of inheriting from or through his child.

(C) If there is a pending criminal proceeding in connection with an allegation made pursuant to subparagraph (A) of this paragraph, the court shall stay discovery in the legitimation action until the completion of such criminal proceeding.

(e) A legitimation petition may be filed, pursuant to Code Section 15-11-11, in the juvenile court of the county in which a dependency proceeding regarding the child is pending; provided, however, that if either parent has demanded a jury trial as to child support, that issue of the case shall be transferred to superior court for a jury trial. Such petition shall contain the same information and require the same service and opportunity to be heard as set forth in subsection (c) of this Code section. After a hearing, the juvenile court may issue the same orders as set forth in subsection (d) of this Code section.

(f) A superior court shall, after notice and hearing, enter an order establishing the obligation to support a child as provided under Code Section 19-6-15.

(g) A legitimation petition may also include claims for visitation, parenting time, or custody. If such claims are raised in the legitimation action, the court may order, in addition to legitimation, visitation, parenting time, or custody based on the best interests of the child standard. In a case involving allegations of family violence, the provisions of paragraph (4) of subsection (a) of Code Section 19-9-3 shall also apply.

(h) In any petition to establish paternity pursuant to paragraph (4) of subsection (a) of Code Section 19-7-43, the alleged biological father's response may assert a third-party action for the legitimation of the child born out of wedlock if the alleged biological father is, in fact, the biological father. Upon the determination of paternity or if a voluntary acknowledgment of paternity has been made and has not been rescinded pursuant to Code Section 19-7-46.1, the court or trier of fact as a matter of law and pursuant to the provisions of Code Section 19-7-51 may enter an order or decree legitimating a child born out of wedlock, provided that such is in the best interests of the child. In determining the best interests of the child, the court should ensure that the petitioning alleged biological father is, in fact, the biological father and may order the mother, the alleged biological father, and the child to submit to genetic testing in accordance with Code Section 19-7-45. Whenever a petition to establish the paternity of a child is brought by the Department of Human Services, issues of name change, visitation, and custody shall not be determined by the court until such time as a separate petition is filed by one of the parents or by the legal guardian of the child, in accordance with Code Section 19-11-8; if the petition to establish paternity is brought by a party other than the Department of Human Services or if the alleged biological father seeks legitimation, the court may determine issues of name change, visitation, and custody in accordance with subsections (c) and (g) of this Code section.

Custody of the child shall remain in the mother unless or until a court order is entered addressing the issue of custody.

History

Orig. Code 1863, § 1738; Code 1868, § 1778; Code 1873, § 1787; Code 1882, § 1787; Civil Code 1895, § 2494; Civil Code 1910, § 3013; Code 1933, § 74-103; Ga. L. 1985, p. 279, § 2; Ga. L. 1988, p. 1720, § 5; Ga. L. 1989, p. 441, § 1; Ga. L. 1997, p. 1613, § 14; Ga. L. 1997, p. 1681, § 5; Ga. L. 2000, p. 20, § 10; Ga. L. 2005, p. 1491, § 1/SB 53; Ga. L. 2007, p. 554, § 6/HB 369; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2013, p. 294, § 4-24/HB 242; Ga. L. 2016, p. 219, § 2/SB 331; Ga. L. 2016, p. 304, § 3/SB 64.

§ 19-7-23. "Child born out of wedlock" defined

The term "child born out of wedlock" means:

- (1) A child whose parents are not married when that child is born or who do not subsequently intermarry;
- (2) A child who is the issue of adulterous intercourse of the wife during wedlock; or
- (3) A child who is not legitimate within the meaning of Code Section 19-7-20.

History

Orig. Code 1863, § 1748; Code 1868, § 1788; Code 1873, § 1797; Code 1882, § 1797; Civil Code 1895, § 2507; Civil Code 1910, § 3026; Code 1933, § 74-201; Ga. L. 1988, p. 1720, § 6.

§ 19-7-24. Parents' obligations to child born out of wedlock

It is the joint and several duty of each parent of a child born out of wedlock to provide for the maintenance, protection, and education of the child until the child reaches the age of 18 or becomes emancipated, except to the extent that the duty of one parent is otherwise or further defined by court order.

History

Orig. Code 1863, § 1749; Code 1868, § 1789; Code 1873, § 1798; Code 1882, § 1798; Civil Code 1895, § 2508; Civil Code 1910, § 3027; Code 1933, § 74-202; Ga. L. 1972, p. 494, § 1; Ga. L. 1979, p. 466, § 44; Ga. L. 1988, p. 1720, § 7; Ga. L. 2006, p. 141, § 5/HB 847.

§ 19-7-25. In whom parental power over child born out of wedlock lies

Only the mother of a child born out of wedlock is entitled to custody of the child, unless the father legitimates the child as provided in Code Section 19-7-22. Otherwise, the mother may exercise all parental power over the child.

History

Orig. Code 1863, § 1750; Code 1868, § 1790; Code 1873, § 1799; Code 1882, § 1799; Civil Code 1895, § 2509; Civil Code 1910, § 3028; Code 1933, § 74-203; Ga. L. 1988, p. 1720, § 8; Ga. L. 2008, p. 667, § 5/SB 88; Ga. L. 2016, p. 304, § 4/SB 64.

§ 19-7-26. Mother of child born out of wedlock not to be discriminated against in action to recover for injury or death of the child

In an action brought by the mother of a child born out of wedlock in her own right or in her capacity as guardian, executor, or administrator for damages for the child's injury or death, the mother shall not be discriminated against because of her child's having been born out of wedlock.

History

Ga. L. 1943, p. 538, § 2; Ga. L. 1988, p. 1720, § 9.

§ 19-7-27. Hospital program for establishment of paternity

(a) Except in the event of a medical emergency, prior to the birth of a child to an unmarried woman in a public or private hospital, the hospital that provides labor and delivery services shall provide to the mother and alleged father:

(1) Written materials about administratively establishing paternity;

(2) The forms necessary to voluntarily acknowledge paternity;

(3) A written description of the rights and responsibilities of voluntarily acknowledging paternity, the differences between paternity and legitimation, and the duty to support a child upon acknowledgment of paternity; and

(4) The opportunity, prior to discharge from the hospital, to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about administratively establishing paternity and the availability of judicial determinations of paternity.

(b) Providing the written materials describing rights and responsibilities shall not constitute the unlawful practice of law.

(c) After the birth of a child to an unmarried woman in a public or private hospital, the hospital that provides labor and delivery services shall:

(1) Provide the child's mother and alleged father if he is present at the hospital the opportunity to execute a voluntary acknowledgment of paternity if a notary public is available at such hospital;

(2) File the signed voluntary acknowledgment of paternity with the State Office of Vital Records within 30 days of its execution, provided that such acknowledgment is signed at the hospital on or before the mother is discharged; and

(3) Provide to the child's mother and alleged father copies of the signed voluntary acknowledgment of paternity.

History

Code 1981, § 19-7-27, enacted by Ga. L. 1994, p. 1270, § 2; Ga. L. 1999, p. 81, § 19; Ga. L. 2016, p. 304, § 5/SB 64.

Georgia Repealed Statute on Legitimation:

§ 19-7-21.1. "Acknowledgment of legitimation" and "legal father" defined; signing acknowledgment of legitimation; when acknowledgment not recognized; making false statement; rescinding acknowledgment

Repealed by Ga. L. 2016, p. 304, § 2/SB 64, effective July 1, 2016.

Appendix H

Exhibit “A” – Incorporated in the November 15, 2021, Parenting Time Deviation Study Committee Meeting Minutes

Thoughts on Issues for Choosing a Parenting Time Adjustment (PTA)

Mark Rogers

What Factors Should the Model Choice be Based on?

- ❖ Legal principles that would apply to a presumption in a child support context.
- ❖ Most economically sound?
- ❖ Easy to understand?
- ❖ Smooth adjustments as parenting time increase?

What legal principles should the choice be based upon?

- ❖ The adjustment should take care of the needs of the child in both households.
- ❖ Equal duty of support (based on prorated income) should apply with both parents sharing each parent's child costs.
- ❖ The adjustment should not be arbitrary. A presumption not being arbitrary is a due process issue.
 - Taking care of the needs of the child in both households would mean that the PTA must start a very low parenting time amounts, otherwise this principle is not being met. The low PT adjustment should be minimal.
 - Requiring the PTA to not be arbitrary means that there should be some economic rational in the choice and should not conflict with economic facts. The cross-credit approaches such as in Tennessee and North Carolina are arbitrary with no economic foundation. Notably, they assume the NCP can exercise 30-40 percent of parenting time and incur no child costs. The threshold concept is economic nonsense.
 - The most economically sound PTA is that of New Jersey. However, it is complex—although a calculator would render that issue moot. PTAs for Oregon and Minnesota loosely follow the economic ideas used by New Jersey. Oregon's PTA, however, is the easier to understand—you just apply a percentage credit.

How Should Parenting Time be Defined?

- ❖ Research by our members found that there are shortcomings in the use of overnights to calculate parenting time share. Alternatively, it could be allowed that the court determine parenting time in either half day or quarter day increments at the court's discretion. Many standard parenting time awards would be known to have a given amount of parenting time by such an approach.
- ❖ Also, it would be appropriate to make a determination for NCP parenting time (as a custody issue), but allow the child support PT adjustment to be based on a lower amount of parenting time if there is notable uncertainty about exercising a portion of the parenting time. The NCP might even ask for a generous amount of parenting time, but acknowledge that he or she is willing for a lower PTA because of uncertainty caused by work (random travel) or other.

How Should the Parenting Time Adjustment Blend with a Potential Self-Support Adjustment?

- ❖ Other states have addressed this issue. We simply have to make sure we include such language.

What Deviations Related to Parenting Time Might be Appropriate to List?

- ❖ Add as specific deviation, that the presumptive PTA may be adjusted when there are large differences in parental incomes. However, the court should be as willing to deviate for a higher PT adjustment when NCP income is sharply lower as for a lower PT adjustment when CP income is sharply lower.
- ❖ Retain the NCP exercising more or less than ordered (or PT adjustment time) as grounds for a modification.

Mark's Picks

The Oregon PTA best meets overall considerations. It has some economic foundation, is easy to apply, and is smooth (no cliff effects). Minnesota's PTA would also be a favorable choice for the same reasons.

New Jersey's PTA would be a third choice because it has a solid economic foundation. It has limited cliff effects. However, it is not so easy to understand—at least initially.

Thumbs Down

Cross credit states with cliff effects should be ruled out. Cross credit models are arbitrary (no economic basis) and do not applying equal duty of support below threshold amount of parenting time for an adjustment. Cliff effects create improper incentives for fighting over parenting time shares.

Appendix I

Exhibit “B” – Incorporated in the November 15, 2021, Parenting Time Deviation Study Committee Meeting Minutes

Carol Walker’s thoughts on recommendations to consider when addressing Charge and Objectives of Parenting Time Deviation Study Committee

- ❖ The Commission is statutorily tasked to study the impact of having parenting time serve as a deviation to the presumptive amount of child support, taking into consideration the best interest of children in Georgia.
 - Policy consideration of whether it is in the best interest of children to create an economic adjustment in child support amounts to reflect some, if not all, of the expenses incurred in both households when each has the children (variable expenses such as food and transportation; fixed expenses such as housing costs and utilities; controlled expenses, such as clothing and personal care expenses).
 - Assuming that there will be a new economic study and obligation table associated with this impact study, that economic obligation table should consider total family expenditures based upon a rational model, rather than upon the assumption that child support is based upon the expenditures of an intact family. I presume this is what Mark Rogers is referring to in his statement that the parenting time adjustment should not be arbitrary and should follow an economic rationale.
 - There should be consideration of whether, as part of these objectives, it is in the best interest of children that other Georgia statutory language be changed.
 - To allow for the consideration of consent custody orders to be attached to those cases handled by the Division of Child Support Services so parenting time adjustments can be made to those orders if the parties consent to custody. Other states appear to do this, so why should we not consider the same?
 - To consider removal of the language in O.C.G.A. 9-6-15(i)((2)(J)(ii) for special expenses incurred for child rearing. In lieu instead, to consider adding the category of special expenses incurred for child rearing, as defined in that code section, as an adjustment to each parent’s support obligation like uninsured health care expenses, allowing it to be determined outside the child support amount and allocated on a pro rata basis, unless otherwise specifically ordered by the court. The language used could be similar to that in the statute providing for uninsured health care expenses.
 - To add a statutory provision that ensures that there is a self support reserve for the non-custodial parent. The commission also needs to statutorily ensure that a low income custodial parent who shares significant parenting time does not end up paying the low income non-custodial parent child support.
- ❖ How should parenting time be defined?
 - Parenting time definition must be clear; the use of the term “overnights” as a definition should be avoided. A day should be defined as more than twelve (12) hours. While New Jersey and Minnesota use the term “overnight”, it appears that the definition of a majority of a twenty-four hour period, with room for some discretion on the judge’s part to find extraordinary circumstances, might be the better definitional term.

- Tennessee’s statutory scheme, as augmented by case law, defines “day” as the majority of a twenty-four hour period. If the judge finds that there are “extraordinary circumstances”, they may consider whether partial days of parenting time not consistent with this definition may be considered as a day, including routinely incurred parenting time of shorter duration may be cumulated as a single day for parenting time adjustment purposes.
- In the definition of “day” for parenting time, the length of the time measured to determine the number of parenting time days can be important. Minnesota uses a two year time frame, and has a check box calendar which automatically feeds into the child support calculator worksheet.
- The analysis needs to stay away from the idea of a statutorily mandated “standard parenting time”. That is not the purpose of this task force, and the “standard” (sic) will continue to evolve, as parenting and recommendations for children evolve.

❖ Hard policy questions on reasons behind adjustment

- Smooth adjustments in parenting time adjustments v. recognition of adjustment after a certain number of parenting time days
 - If the purpose of the parenting time adjustment is to ensure there are more dollars in the non-custodial parents’ wallet to use on the child when present, then a smooth adjustment starting with one day might be appropriate. There is probably no dispute that a non-custodial parent incurs variable expenses when the child is with them, such as food and transportation. A formula which would adjust for those expenses would most likely be accepted readily as logical and “fair”. The question is when it is appropriate to give more economic credit for housing, clothing and other fixed expenses – what is appropriate and when?
 - Minnesota recently modified its’ parenting time adjustment to eliminate a “cliff” effect in its calculation to smooth out the adjustment; the analysis behind that modification would be good for the commission to review. Minnesota’s new presumption is that while exercising parenting, a parent is responsible for and incurs costs...including, but not limited to, food, clothing, transportation, recreation and household expenses.
 - New Jersey focuses upon the time the child spends with each parent outside of the more artificial holiday and summer vacation time in determining whether to grant a parenting time child support adjustment for fixed expenses, seemingly to foster the financial resources of the lesser time parent in the ordinary day-to-day parenting scenario. There is an additional minor parenting time adjustment for variable expenses. While the court is required to make inquiry as to the factual basis for the additional fixed expenses, such as housing for the child, focusing on the day to day rather than the holiday and vacation time has a logical basis for encouraging the day to day parenting that is commonly thought about in the co-parenting arena.
 - Other states just set a threshold and base their adjustment on that. I think that Georgia can achieve a more well reasoned analysis than that.

- Should there be an adjustment for someone who fails to exercise parenting time? Tennessee has a threshold for this to provide for greater support for the custodial parent if they are bearing the entire burden. If there was a logical economic basis for this adjustment, it would encourage at least minimum parenting time, if appropriate given the circumstances.

❖ Carol's thoughts and caveats

- Of all the models, I liked New Jersey's the best, followed closely by Minnesota's. I liked the fact that New Jersey looked at what to equalize for the day to day parenting climate, rather than treating holidays and vacations the same – because they are not in actuality. I liked Minnesota's model because they based it on a two year model rather than one, which seemed to catch the real distribution of parenting time as judged over a longer period and eliminated the cliff effect. While both seem complex, their calculators are not difficult to use. Minnesota's use of a parenting time calculator which incorporates the data into the child support worksheet is great.
- I must admit I had a comfort with Tennessee's model, even though there was a cliff effect. Because their statute was so close to ours, it was an easy study. However, there are weaknesses in the logic behind their adjustment.
- I will again stress that I think that the commission needs to build their decision making into their definitions of what child support should look like based on the next economic study. I have made suggestions about statutory changes which could be made which might cause a difference in how the economic study is formulated.

Appendix J

Exhibit “C” – Incorporated in the November 15, 2021, Parenting Time Deviation Study Committee Meeting Minutes

Pat Buonodono

November 10, 2021

Looking at various scenarios:

E/O weekend (Friday-Sunday) + 2 weeks in summer + half of holidays = 82 days = 22%
(this includes half the holidays/school breaks each year and splitting the Christmas holiday)

E/O weekend (Thursday-Sunday) + 2 weeks in summer + half of holidays = 108 days = 29%

E/O weekend (Thursday-Sunday) + 4 weeks in summer + half of holidays = 34%

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- A day should be defined as “more than 12 hours.” This should include holidays and summertime. If child is in school, that time counts toward the time of the parent that has the child that night. So, if child is with CP Monday until Thursday after school, the NCP (who gets the child after school) would count Thursday as their day.
- Child support should be based only on court-ordered parenting time.
- Statutory Minimum should remain \$100/\$50 but should not be allowed to be reduced by further deviations.
- I like what NJ does in preventing parenting time adjustments in cases where custodial parent is below a percentage of federal poverty level (200% in NJ). I would favor a limitation at 150%.

| Family size | 100% FPL | 150% FPL | 200% FPL |
|-------------|----------|----------|----------|
| 3           | \$21,960 | \$32,940 | \$43,920 |
| 4           | \$26,500 | \$39,750 | \$53,000 |
| 5           | \$31,040 | \$46,560 | \$62,080 |

For a family of 3, 100% of FPL = \$11.26/hour; 150% = \$15.86/hour; 200% = 21.96/hour.

- Virginia changed its parenting time minimum threshold from around 30% (121 overnights) to just over 24% (90 overnights) and it seemed to eliminate the gamesmanship around getting a parenting time adjustment. I suggest we start at the lower end as well.
- The formula used should be determined during the next federal guidelines review by people much smarter than me and based on data specific to rural Georgia and urban Georgia.



# Appendix K

## **Exhibit “D” – Incorporated in the November 15, 2021, Parenting Time Deviation Study Committee Meeting Minutes**

Brief thoughts re: parenting time adjustment recommendations

Johanna Kiehl

In no particular order:

1. Economic study and obligation table:
    - a. Agree with others that any PT adjustment formula should apply after the BCSO tables are updated (UNLESS the BCSO figures are not expected to change significantly from 2006...)
      - i. Note – the 2019 Minnesota Child Support Task Force report can be found at: <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7661B-ENG> (includes nice overview of BCSO update and basis – their guidelines were similarly based on economic data 18+ years old; the updates work with their new PT adjustment effective August 2018; also good discussion of self-support reserve for lesser time parent AND greater time parent); Minnesota is an income shares model state
      - ii. For the reasons noted below in “other factors to consider”, we might consider a concurrent recommendation to back out the 7% of the BCSO (or updated percentage in updated BCSO figures, if applicable) that represents “special expenses incurred for child-rearing” (see 19-6-15(i)(2)(J)(ii)).
        - i. This would allow those expenses to be legally divided pro rata by the parties – either in the calculator (like child care section) OR pulled out entirely when those expenses are variable, similar to the language for child care expenses.
        - ii. Variable child care is handled in 19-6-15(h)(1)(F)(i): “The total amount of work related child care costs shall be divided between the parents pro rata to determine the presumptive amount of child support and shall be included in the worksheet and the final order. (ii) In situations in which work related child care costs may be variable, the court or the jury may, in its discretion, remove work related child care costs from the calculation of support, and divide the work related child care costs pro rata, to be paid within a time specified in the final order. . . .”
    - b. For the reasons noted below in “other factors to consider”, we might consider a concurrent recommendation to back out the 7% of the BCSO (or updated percentage in updated BCSO figures, if applicable) that represents “special expenses incurred for child-rearing” (see 19-6-15(i)(2)(J)(ii)).
      - i. This would allow those expenses to be legally divided pro rata by the parties – either in the calculator (like child care section) OR pulled out entirely when those expenses are variable, similar to the language for child care expenses.
      - ii. Variable child care is handled in 19-6-15(h)(1)(F)(i): “The total amount of work related child care costs shall be divided between the parents pro rata to determine the presumptive amount of child support and shall be included in the worksheet and the final order. (ii) In situations in which work related child care costs may be variable, the court or the jury may, in its discretion, remove work related child care costs from the calculation of support, and divide the work related child care costs pro rata, to be paid within a time specified in the final order. . . .”
2. PT formula to use
    - a. Favor Minnesota’s new (2018) PT adjustment that applies to the entire CS amount and sets an exponential growth curve (much smaller increments at low PT, much greater increments at higher PT)

- i. Seems relatively easy to apply, even if the formula itself is not simple. The calculator does the work.
    - ii. There is no cliff effect – Minnesota’s history in trying a model with cliffs first and ending up with the new formula is telling.
    - iii. As for the numbers and precise formula – this will take some “behind the curtains” expert review of the basis for their BCSOs (USDA) to make sure it would be consistent to apply the same formula in Georgia, or if some “tweaks” are needed because of other factors in how their calculator works.
  - b. NJ has a model that is extremely well thought out with calculators that “do the work” but they have two separate worksheets and some cliff effect (in that a much greater adjustment is given for 28%+ PT); in NJ the jump is crucial because of the cost of housing. Having to explain two worksheets with 3 different percentage and expense categories in GA makes this model less ideal.
  - c. Do not favor any model that includes a cliff or one that is not supported by some sound economical principle.
3. Other factors to consider (how the PT deviation will work with Georgia’s existing calculator):
- a. Regardless of whether we back out “special expenses incurred for child rearing” and handle them pro rata, **care needs to be taken in WHERE the PT adjustment applies in Georgia’s overall calculation of support (both in the statutory language and calculator), so it does not inadvertently affect the calculator’s handling of these expenses** (or any other extraordinary expenses, if impacted). As in, the PT adjustment should occur in our calculator BEFORE those expenses are handled. Example: if mom is paying \$300 per month in music and sports lessons, we do not want the PT deviation to negatively affect the sharing of financial responsibility for those expenses. They are not changed by parenting time (similar to child care and health insurance premiums).
  - b. With any parenting time adjustment, there MUST be built in protection for a low-income recipient/payee household that kicks in to block the PT adjustment at a certain income level (even if there is a self-support reserve for the paying parent). NJ or Minnesota can offer guidance.
4. Define parenting time:
- a. Use “day” defined as “the majority of a 24-hour day (i.e., more than 12 hours)”. NJ’s language is the same except they use “overnight” – very little litigation in NJ from our research.
  - b. However, agree with Tennessee’s “extraordinary circumstances” language noted in Carol’s recommendation that would allow the judge to consider partial days (including the accumulation of “routinely incurred parenting time of shorter duration” into a “day”); this is seen with pro ses and parents who co-parent well. One parent might routinely have the child every day after school until after dinner (snack and meal,

transportation to extracurriculars) – which would not “count” as anything without this discretion, despite the expenses of meals and possibly extensive transport.

- c. Agree with the concept of a two-year rotation/average calculation method, provided we can offer a simple way to explain this calculation to pro ses.
  - d. Include holidays and summers in the counts.
  - e. Software will ultimately alleviate the growing pains with calculating parenting time. Until then, many reviewed states include step-by-step guides for how to calculate time. Pro se centers could provide litigants with worksheets for calculating days, as well as the total counts for some of the more common PT arrangements.
5. PT adjustment in DCSS cases without court-ordered parenting time
- a. We should consider recommending PT adjustments in DCSS calculations where the parties have agreed to a schedule
    - i. When researching NJ (talked with legal aid attorney who primarily represents low income CPs), the belief is the NCP will be more willing and able to pay support amounts if they are “fair”; the same rationale applies whether the PT has already been court ordered or not
    - ii. The reasons for the deviation could be noted in a Schedule E - type “explanation box” – DCSS could include language here “parties have agreed the obligee exercises an every other weekend schedule with a week of summer and 2 weeks of holidays).
    - iii. Greater time parent would have the option to modify if the parenting time is not actually being exercised.
    - iv. Believe Florida and NJ both allow PT deviation without court ordered parenting time.
    - v. Legitimation is costly and time-consuming for many low-income, working parents; many parents in Georgia are unmarried and would fall into the DCSS support calculation situation
    - vi. Greater time parents are often willing to agree to PT adjustments if the other parent has substantial time with the child.

# Appendix L

## Georgia Child Support Commission Parenting Time Deviation Study Committee State Notes Table of Contents

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## **Charge and Objectives of the Parenting Time Deviation Study Committee**

The Parenting Time Deviation Study Committee has been authorized by the Georgia Child Support Commission to study potential changes to the Child Support Guidelines statute, O.C.G.A. 19-6-15, for parenting time. The Charge and Objectives will serve as guidance to the study committee as they conduct their work.

### **Section A - Charge and Objectives**

The information in section A was suggested by Commission staff:

- Does the parenting-time deviation in Georgia’s child support guidelines statute need to be amended to better meet the needs of Georgia’s families?
- Bearing in mind that there is no accounting for parenting time in Georgia’s Basic Child Support Obligation (BCSO) table, should there be a mandatory adjustment or a presumptive adjustment or a deviation (mandatory or presumptive) based on parenting time? If so, what should that adjustment or deviation look like? Ex. Embedded in the BCSO table, as a deviation, in a separate schedule, an adjustment to the presumptive amount of child support as in Schedule E or a presumptive deviation to the amount of child support based on parenting time?
- O.C.G.A. § 19-6-53 (a)(13) provides that the Child Support Commission shall “study the impact of having parenting time serve as a deviation to the presumptive amount of child support and make recommendations concerning the utilization of the parenting time adjustment.”

### **Section B - Regular Recurring Questions and Themes**

The information in section B acts as a reminder of **Regular Recurring Questions and Themes** identified by Carol Walker and Johanna Kiehl (**Johanna’s notes are in red**) while reviewing other states child support guidelines on parenting time.

- This is a policy question to be considered. Do we think it is important to give some monetary relief to those who are exercising parenting time with their child to reflect the expenses they might incur? Do we want to take the position that this is in the best interest of the child? (**JK: Noting at present Georgia’s guidelines and tables are based on the greater time parent having 100% of the time, with no monetary relief for the lesser time parent without a court ordered/approved parenting time deviation.**)
- If we think that it is in the best interest of the child that a monetary adjustment be made to child support based on parenting time, what form should it come in and what should that look like?
  - **JK: Does the complexity of the formula matter?** Carol: Calculators are now so good that even if you were to make it a complex formula (like Minnesota), it would be a calculation that could be achieved without too much angst. We all use the calculator now. (**JK:**

Agree – the parenting time adjustment in most cases will be a matter of plugging in days, and even if we propose something like NJ, the calculator could have a section where we check or uncheck boxes like our current qualified child adjustment to make the formula “kick in” or to exclude it. If the proposal is more economically sound, then we may minimize the need to invest time and resources in revisiting the issue down the line. BUT we should have a real discussion about how to overcome the concerns about complexity, and if we can’t overcome those concerns then we will be far more limited in the models we review.) Carol: So, we should not "dumb down" the analysis for the sake of simplicity if a calculator would make the calculation more in line with the public policy to be achieved. The Commission needs to be focused on what is in the best interest of the child and not on what is the easiest.

- JK: What do BCSOs in Georgia represent? Are they some sort of overall estimate of the marginal increase in household expenses for raising a child (or 2 or 3) or were they developed with some sort of *components* in mind (percentages assigned for what some other states call fixed expenses, variable expenses or controlled expenses)?; e.g., we know the guidelines at present do not allow an adjustment for special expenses (extracurriculars, etc.) unless they rise above 7% of the BCSO per 19-6-15(i)(2)(J)(ii) – the assumption being that 7% of the BCSO is already there for this purpose, so what other assumptions are there? This piece will be critical for us to understand, especially if we want to consider something like New Jersey.
- JK: Do we want to recommend a formula that takes the support obligation (BCSO pre-parenting time adjustment) and adjusts it *as a whole* (Minnesota, NC, etc.) or do we want something that adjusts only certain *components* of the BCSO (e.g., NJ only allows an adjustment to the part of the BCSO that represents variable expenses (food and transportation) until the lesser time parent hits 28% parenting time, at which point he/she gets an additional adjustment to the part that represents *fixed* expenses (housing costs, utilities, etc.); NJ doesn’t allow for an adjustment to the controlled expenses portion of the BCSO (clothing, personal care) except in rare cases – leaving those funds 100% with the greater time parent. SEE CAROL’S POINT BELOW ABOUT THRESHOLD-- SAME THING
- If we look at a component-based adjustment like NJ is there enough evidence that this is how families structure their expenses? (this may be a Jane Venohr question)
- Conversely, is it appropriate to make the adjustment to the entire BCSO figure when the implication is we are giving the lesser time parent some credit (though nominal maybe) for all kinds of expenses (housing, clothing, etc.) at low levels of parenting time? If we recommend this approach, we need to then consider whether an exponential formula like Minnesota’s might more appropriate than one that results in a linear or step decrease in support obligations. And if exponential is preferred, then we should compare those options more closely (Oregon has greater adjustments at lower PT than Minnesota, for example). (another Jane Venohr question)
- JK: Do we care about cliff effect? This is an important discussion in debating whether to propose something completely fluid (like Minnesota or Oregon) or something tiered

(fixed percentage adjustments based on a set number of days, like Ohio) or some combination of the two (NJ is gradual until an initial cliff at 28% PT, then gradual again)

- JK: Do we care about the longevity of the approach? As parenting time policies shift (parents are evolving as parenting roles evolve), do we want a formula that can be applied in any scenario? (i.e., allows parties/judge to plug in any PT arrangement)
- JK and Carol: *If the formula is going to be applied as an adjustment to the entire BCSO (and not certain components of the BCSO like NJ), should it be in the form of a cross credit or should it be something else? (cross credit with multiplier of 1.5 (NC), exponential formula like Minnesota or Oregon, or tiered reductions like Ohio, or some blend)*
- Should the monetary adjustment be a deviation or a mandatory formula? (JK: I am not clear on whether we are talking about mandatory as presumptive here. If the adjustment is to be applied presumptively, I assume that section of the calculator would “kick in” and run its math once the days are plugged in, with the option for a party or judge to remove it – boxes to check and uncheck?)
- JK and Carol: Should the parenting time adjustment be coupled with the inclusion of a self-support reserve for the greater time parent? The recommendation needs to ensure that there is a self-support reserve for the "more time parent" so that in a low-income situation that parent is not left without sufficient funds to support the child because of a mandatory adjustment (JK: agree)
- Does the recommendation address the type of expenses that are normally incurred by parents?
  - Variable expenses, which are those incurred only when the child is with the parent, (i.e., like food and transportation).
  - Fixed expenses, which are those incurred even when the child is not residing with the parent. (i.e., like housing costs, utilities, etc.) If those are to be considered, is there a threshold of time when they should be considered?
  - Controlled expenses, which generally are paid by the parent with more time, including clothing, personal care expenses.
- Is there a threshold at which the monetary adjustment should be made across the board? Or can you make a monetary adjustment for different types of expenses? For example, should there be a monetary adjustment for variable expenses for all parents but only adjustments for parents if their child parenting time exceeds a certain time frame (25%, 30%, 40%)? When should a parent receive an adjustment for fixed expenses, or should they at all? Is there a question of "fairness" in this analysis - i.e., parents who have a certain amount of time are creating homes for their children in their environment which mitigates the financial impact to the other parent and is this in the best interest of the child?
- If there is an adjustment made for parenting time, how is the parenting time to be calculated? Is it based on days, and, if so, how is a day to be calculated? More than twelve hours? Overnights? Hours or a percentage of hours? The definition of the adjustment time goes to the final result of the adjustment. There are numerous examples from other states as to how

they have defined the adjustment. And there are "fill in the box" calculators which allow the number of days or overnights (however defined) to be determined without too much effort. And it appears that making the calculation over a two-year period is a more equitable manner for a truly correct number of days/overnights than a one-year analysis.

- The analysis needs to stay away from the idea of a statutorily mandated "standard parenting time." That is not the purpose of this task force. (JK: agree - and standard will continue to evolve, as parenting and recommendations for children evolve)
- Should the adjustment for parenting time be built into the BCSO or not? (JK: when we say "built in" are we talking about something like California - where it sounds like they have a completely different worksheets with different BCSO values depending on a threshold number of PT days? – unless I am misunderstanding what they do). When are the numbers for the BCSO going to be looked at again and should we wait for the economic data analysis to come in before making the recommendation? (JK: good question and should we enlist an independent expert to get some of these more complicated questions answered before going forward with any recommendation – is that an option?)
- JK: At some point in the analysis, we need an expert who can take Georgia BCSOs and apply a few select formulas from other states to show us what adjustments yield in REAL dollars and cents for different hypothetical scenarios (but first we need to know what Georgia's current BCSOs represent).

We need to be careful on how we proceed and not just take the easiest way out with the assumption that the legislature will not understand what we are doing if we recommend anything to the Commission.



## Questions

1. If the way your state adjusts child support for parenting time has changed since you've been a practitioner, can you provide a brief explanation of what it was prior to the change (the pros and cons of prior methodology)?
  - What was the reason for the change (if you know)?
2. Do you see a benefit to children for parenting time adjustments to child support? If so, what is it?
3. What are your thoughts about the pros and cons of the current methodology for parenting time adjustments to child support in your state?
  - If you went from a method that had no adjustment or deviation for parenting time to an adjustment or deviation, what were the public policy reasons for the change (if you know)?
  - What factual information, if any, was used to make the methodology change (if you know)?
4. Is the issue of parenting time adjustments to child support an ongoing topic of discussion in your state?
5. Does your state have any kind of presumed parenting time, whether statutorily defined or simply understood to be the standard?
  - How does your state calculate parenting time – hours, days, overnights?
  - Is there a specific definition of the unit?
  - What are the benefits or downfalls of this methodology?
  - Do parties litigate what classifies as a “day” or other unit of measure. often?
  - Do you know why that unit of measure methodology was chosen and why?
6. Does your state's methodology for the parenting time adjustment result in any “cliff” effects (more drastic jumps in deviation based on a specific number of days awarded to the lesser time parent, e.g., a threshold number of days or several jumps)?
  - If so, do you feel this presents a challenge in your practice either from the payee or payor perspective?
  - Would you prefer a more gradual linear approach, or an exponential approach (small adjustments initially for lesser parenting time – much greater as it nears 50/50)?
7. Do you have an online tool for calculating the amount of parenting time?
  - Do most practitioners, pro se litigants and judges use the tool?
  - Does it work well?
8. Do you have an online tool for applying the parenting time adjustment (i.e. a child support worksheet that incorporates the parenting time formula)?
  - Do most practitioners, pro se litigants and judges use the tool?
  - Have you seen it to be a particular challenge for pro se litigants or does the state's tool make it reasonably accessible?
  - Have you seen it to be a particular challenge for judges or does the state's tool make it reasonably accessible?
9. Is there another methodology for parenting time adjustments for child support that you would prefer?
  - If so, why, and what would it be?

10. Is the parenting time adjustment to child support discretionary in your state?
  - If discretionary, is it treated as a strong presumption more often than not?
11. Do you see parenting time adjustments to child support applied a) not enough, b) too often) or c) in an appropriate number of cases?
12. How do the judges view (in your experience) the current formula for parenting time adjustments? Favorable, unfavorable, underutilized, etc.?
13. In your opinion, does the ability to ask for a parenting time adjustment to child support result in more conflict in parenting time negotiations/litigation? Please describe the basis for your opinion, giving examples if possible.
14. From what you've seen in your practice, is the parenting time adjustment viewed to be "fair" by litigants in your jurisdiction?
  - If your jurisdiction has an adjustment which is multi-faceted (i.e., based on fixed or variable expenses), is one type of adjustment viewed by litigants as "more fair" (i.e. easier for a litigant to understand and agree to)?
15. If your state applies the parenting time adjustment to a component of the child support obligation (i.e., certain types of expenses only, like variable expenses for food and transportation), how often is this issue litigated?
  - Is it more often than not that the presumption (applied in the calculator) is the rule?
16. In your opinion, would it be more practical for the adjustment to apply to the entire obligation (if currently only a portion) or vice versa if it already applies to the entire obligation?
17. Does your state have a self-support reserve for payor, payee, both?
  - From what you've seen in your practice, does this offer adequate protection to the payee in low-income situations if a parenting time deviation is awarded to the payor?
18. If the payor has significantly more income than the payee and the payor has parenting time which would result in a parenting time adjustment, does the trial court have the ability to exercise discretion to deviate to ensure that the children are adequately provided for in the payee's home?
19. If your state uses multiple versions of a child support worksheet, do you see it as a challenge for pro se litigants or practitioners to choose the correct version?
  - Do you feel one worksheet would be a better solution with a tool built in for adjusting parenting time?
  - If your jurisdiction has one worksheet, would multiple versions be better based on some threshold number of days being reached for application of a parenting time formula?
20. Is there another methodology for parenting time adjustments that you would prefer?
  - Why?
  - What would it be?
21. In your opinion, are there any aspects of your state's method for adjustment of child support for parenting time that result in poor outcomes for children?
  - If so, what are they?
  - Why do you think they occur?

# Florida

## Florida

**Child support model:** Income Shares

**When were the guidelines last updated?:** 2018

**Authority:** Fla. Stat. Ann. §61.30(1)(a), (11)(a)(10), (11)(b), and (11)(c)

**Authority language:**

61.30. Child support guidelines; retroactive child support

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter. The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such guideline amount would be unjust or inappropriate. Notwithstanding the variance limitations of this section, the trier of fact shall order payment of child support which varies from the guideline amount as provided in paragraph (11)(b) whenever any of the children are required by court order or mediation agreement to spend a substantial amount of time with either parent. This requirement applies to any living arrangement, whether temporary or permanent.

...

(11)(a) The court may adjust the total minimum child support award, or either or both parents' share of the total minimum child support award, based upon the following deviation factors:

10. The particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties, such as where the child spends a significant amount of time, but less than 20 percent of the overnights, with one parent, thereby reducing the financial expenditures incurred by the other parent; or the refusal of a parent to become involved in the activities of the child.

...

(b) Whenever a particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties provides that each child spend a substantial amount of time with each parent, the court shall adjust any award of child support, as follows:

1. In accordance with subsections (9) and (10), calculate the amount of support obligation apportioned to each parent without including day care and health insurance costs in the calculation and multiply the amount by 1.5.
2. Calculate the percentage of overnight stays the child spends with each parent.
3. Multiply each parent's support obligation as calculated in subparagraph 1. by the percentage of the other parent's overnight stays with the child as calculated in subparagraph 2.
4. The difference between the amounts calculated in subparagraph 3. shall be the monetary transfer necessary between the parents for the care of the child, subject to an adjustment for day care and health insurance expenses.

5. Pursuant to subsections (7) and (8), calculate the net amounts owed by each parent for the expenses incurred for day care and health insurance coverage for the child.

6. Adjust the support obligation owed by each parent pursuant to subparagraph 4. by crediting or debiting the amount calculated in subparagraph 5. This amount represents the child support which must be exchanged between the parents.

7. The court may deviate from the child support amount calculated pursuant to subparagraph 6. based upon the deviation factors in paragraph (a), as well as the obligee parent's low income and ability to maintain the basic necessities of the home for the child, the likelihood that either parent will actually exercise the time-sharing schedule set forth in the parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties, and whether all of the children are exercising the same time-sharing schedule.

8. For purposes of adjusting any award of child support under this paragraph, "substantial amount of time" means that a parent exercises time-sharing at least 20 percent of the overnights of the year.

(c) A parent's failure to regularly exercise the time-sharing schedule set forth in the parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties not caused by the other parent which resulted in the adjustment of the amount of child support pursuant to subparagraph (a)10. or paragraph (b) shall be deemed a substantial change of circumstances for purposes of modifying the child support award. A modification pursuant to this paragraph is retroactive to the date the noncustodial parent first failed to regularly exercise the court-ordered or agreed time-sharing schedule.

**Category:** Formula

**Does the state offer a calculator, worksheets, formulas, or other calculation assistance?**

Worksheet, [https://www.flcourts.org/content/download/685815/file\\_pdf/902e%2011-20.pdf](https://www.flcourts.org/content/download/685815/file_pdf/902e%2011-20.pdf)

**What unit is used to measure parenting time?** Overnights

**How is the unit defined?** No definition found

**Is there a parenting time threshold?**

Fla. Stat. Ann. §61.13(2)(c)(1)

1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Except as otherwise provided in this paragraph, there is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.

Fla. Stat. Ann. §61.30(11)(b)8

8. For purposes of adjusting any award of child support under this paragraph, "substantial amount of time" means that a parent exercises time-sharing at least 20 percent of the overnights of the year.

**How does the state determine shared parenting?**

Deviation for parent spending "significant amount of time" but fewer than 20% of overnights. (§61.30(11)(a)(10))  
Court calculates deviation using a "gross up" formula for parent spending "substantial time" or more than 20% of overnights. (§61.30(11)(b))

Excerpt from October 6 Draft Minutes

Ms. Connell called upon member and attorney Adam Gleklen to report on his interview with a practitioner in the state of Florida. Mr. Gleklen spoke with a very seasoned Florida practitioner from the West Palm Beach area and prepared a report on his interview that was furnished to the members. Although he was unable to incorporate all the questions prepared by this committee, he felt he obtained a good overview on Florida's guidelines and parenting time. Florida's motto when embracing a parenting time deviation was "child support flows to where the child goes." He stated that was the biggest issue considered by the Florida legislature when contemplating adopting a parenting time adjustment was the minimum threshold for when to apply a parenting time adjustment and the legislature decided on 20% of overnights. He stated also that parenting time in Florida is very similar to Georgia in the metro Atlanta area and typically involves Thursday to Sunday or Monday; however, the more rural areas tend to follow the traditional weekend of Friday to Sunday evening and a mid-week overnight. A vast majority of Florida child support cases qualify for a parenting adjustment of 20%, while they're mostly all in a 30% range and up 50% parenting time. With the threshold that low, they use a process they refer to as the gross-up effect, but most people don't have to compute the calculation manually and instead use the child support calculator that is programmed for this calculation. Mr. Gleklen noted that one ongoing problem in Florida is how to handle situations in which a parent works overnight (nurses, police officers, etc.) so that they do not have their child for many "overnights," but do have their child for a significant amount of time during the day. Florida can adjust for this using a deviation and they may address through more than one calculation.

Ms. Connell suggested that perhaps we should consider the issue of parents who are working overnights, and through no fault of their own, cannot exercise overnights with their children. Maybe there should be an acknowledgement or caveat for those parents who have employment related interference with parenting time as this may be a situation where it could be unfair to a parent.

Member Mark Rogers asked questions that could not be addressed from the information Mr. Gleklen obtained in his interview. Ms. Connell stated we could note the questions as an issue for future discussion. The questions posed are summarized here as follows:

- Florida contends that the intent was for the [child support] money to go where the child is. So, even though it's minimal, if the child is with one parent 15% of the time, why doesn't that logic still apply to that 15%? They're just like Georgia, where the cost table assumes the custodial parent has the child 100% of the time. So, any noncustodial time is a contrast with the underlying facts.
- You discussed that it costs 50% more to raise a child in two households. Now, if I recall correctly with Florida, and other cross credit states, the 50% is applied to the untouched BCSO table. So, it's applied to, you're adding 50% to the custodial parents' costs, not reflecting the increased costs in the other household. So, what's the economic logic of applying the 50% to the custodial house?

Ms. Connell asked Mr. Gleklen to expand upon his comment that Florida may be a few years ahead of Georgia on their parenting time provision. He replied that the practitioner he spoke with explained that the issues we are talking about today in Georgia were handled by the Florida legislature as much as two to five years ago. Questions the legislature considered then were what should be the number of nights, how do you count the overnights, how do you do the calculations?

## **FLORIDA – PARENTING TIME DEVIATION**

**Summary:** When a child spends “significant overnights” with each parent as part of a Florida parenting plan an adjustment to child support is usually warranted for what is referred to as substantial overnight time-sharing. A parent must exercise at least 20 percent overnights per year in order to receive a reduction in child support payments. Florida provides for a “gross-up method” (§61.30(11)(b), Fla. Stat. (2019)) after the determination of a “presumptive” child support amount. The premise of the Florida parenting time deviation is “*Child support flows to where the child goes.*”

### **Background**<sup>1</sup>

Florida utilizes an income share model and formula very similar to Georgia. Historically, the Florida child support amounts have been “too low” and used COLA adjustments through the 1990’s but have not had adjustments since. The premise of Florida’s parenting time deviation is that it costs approximately 50% more to raise a child or children in 2 households versus one household. The legislative history in Florida for the parenting time deviation was fought over the definition of “substantial” and what the baseline would be. Ultimately, the legislation deemed “substantial” parenting time to be anything greater than 20%, or 73 overnights per calendar year.

Florida does not have a “standard” parenting time and it varies from judge to judge and county to county. However, in the more urban areas, a typical “standard” parenting time schedule would be every other Thursday to Monday morning and a Thursday overnight in the off-week with rotating holidays, or approximately 36% of the overnights. The more rural areas generally have a more “traditional” schedule of perhaps Friday to Sunday or Friday to Monday morning every other week. Judges count overnights and typically round off to the full percentage amount.

Parenting time is a deviation that must be calculated but a deviation less than 5% does not require written explanation/findings. A deviation in excess of 5% requires written explanation/findings. (“The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding, or a specific finding on the record, explaining why ordering payment of such guideline amount would be unjust or inappropriate.”)

Example:

1. Mother earns 30% of the income; Father earns 70% of the income.
2. 50/50 Parenting time.
3. Presumptive child support is \$1,000 and Mother therefore pays \$300 and Father pays \$700.
4. Because each party has 50% parenting time, each party should receive \$500.
5. Father owes Mother \$200.

Most Florida practitioners subscribe to a private, online child support calculator (<https://floridom.com/>) that simply requires a party or lawyer to input the data, e.g. income, number of overnights, etc.

<sup>1</sup> Information provided to Adam Gleklen by Florida attorney.

IN THE CIRCUIT COURT OF THE \_\_\_\_\_ JUDICIAL CIRCUIT,  
IN AND FOR \_\_\_\_\_ COUNTY, FLORIDA

Case No.: \_\_\_\_\_

Division: \_\_\_\_\_

\_\_\_\_\_  
Petitioner,

and

\_\_\_\_\_  
Respondent,

### MOTION TO DEVIATE FROM CHILD SUPPORT GUIDELINES

Petitioner  Respondent requests that the Court enter an order granting the following:

#### SECTION I

[Choose A or B]

A.  **MORE** child support than the amount required by the child support guidelines. The Court should order **MORE** child support than the amount required by the child support guidelines because of:  
[Choose **all** that apply to your situation]

1.  Extraordinary medical, psychological, educational, or dental expenses;
  2.  Seasonal variations in one or both parent's income or expenses
  3.  Age(s) of the child(ren), taking into account the greater needs of older child(ren);
  4.  Special needs, such as costs that may be associated with the disability of a child or child(ren), that have traditionally been met within the family budget even though the fulfilling of those needs will cause support to exceed the presumptive amount established by the guidelines;
  5.  Total available assets of obligee, obligor, and the child(ren);
  6.  Impact of the Internal Revenue Service Child & Dependent Care Tax Credit, Earned Income Tax Credit, and dependency exemption and waiver of that exemption;
  7.  The Parenting Plan, such as where the child or children spend a significant amount of time, but less than 20 percent of the overnights, with one parent, thereby reducing the financial expenditures incurred by the other parent, or the refusal of a parent to become involved in the activities of the child(ren) has increased the financial expenditure incurred by the obligee;
  8.  The obligee parent's low income and ability to maintain the basic necessities of the home for the child(ren);
  9.  The likelihood that either parent will actually exercise the time-sharing schedule set forth in the parenting plan and/or whether all the children are exercising the same time-sharing schedule;
  10.  Any other adjustment that is needed to achieve an equitable result, which may include reasonable and necessary expenses or debts jointly incurred during the marriage.
- Explain any items marked above: \_\_\_\_\_



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B.  **LESS** child support than the amount required by the child support guidelines. The Court should order **LESS** child support than the amount required by the child support guidelines because of: [Choose **all** that apply to your situation]

1.  Extraordinary medical, psychological, educational, or dental expenses;
  2.  Independent income of child(ren), excluding the child(ren)'s SSI (supplemental security income)
  3.  Payment of support for a parent which has been regularly paid and for which there is a demonstrated need;
  4.  Seasonal variations in one or both parent's income or expenses;
  5.  Age of the child(ren), taking into account the greater needs of older child(ren);
  6.  Total available assets of obligee, obligor, and child(ren);
  7.  Impact of the Internal Revenue Service Child & Dependent Care Tax Credit, Earned Income Tax Credit, and dependency exemption and waiver of that exemption;
  8.  Application of the child support guidelines which requires the obligor to pay more than 55% of gross income for a single support order;
  9.  Residency of subsequently born or adopted child(ren) with the obligor, include consideration of the subsequent spouse's income;
  10.  The Parenting Plan, where the child(ren) spend a significant amount of time, but less than 20 percent of the overnights, with one parent, thereby reducing the financial expenditures incurred by the other parent; or the refusal of a parent to become involved in the activities of the child(ren) has reduced the financial expenditure of that parent;
  11.  Any other adjustment that is needed to achieve an equitable result, which may include reasonable and necessary expenses or debts jointly incurred during the marriage.
  12. Explain any items marked above: \_\_\_\_\_
- 
- 

## SECTION II. INCOME AND ASSETS OF CHILD(REN) COMMON TO BOTH PARTIES

List the total of any independent income or assets of the child(ren) common to both parties (income from Social Security, gifts, stocks/bonds, employment, trust fund(s), investment(s), etc.). Attach an explanation.

**TOTAL VALUE OF ASSETS OF CHILD(REN)**      \$ \_\_\_\_\_  
**TOTAL MONTHLY INCOME OF CHILD(REN)**      \$ \_\_\_\_\_

## SECTION III. EXPENSES FOR CHILD(REN) COMMON TO BOTH PARTIES

All amounts must be MONTHLY. See the instructions with this form to figure out money amounts for anything that is NOT paid monthly. Attach more paper, if needed. Items included under "other" should be listed separately with separate dollar amounts.

1. \$\_\_\_\_\_ Monthly nursery, babysitting, or other child care
2. \$\_\_\_\_\_ Monthly after-school care

3. \$ \_\_\_\_\_ Monthly school tuition
4. \$ \_\_\_\_\_ Monthly school supplies, books, and fees
5. \$ \_\_\_\_\_ Monthly after-school activities
6. \$ \_\_\_\_\_ Monthly lunch money
7. \$ \_\_\_\_\_ Monthly private lessons/tutoring
8. \$ \_\_\_\_\_ Monthly allowance
9. \$ \_\_\_\_\_ Monthly clothing
10. \$ \_\_\_\_\_ Monthly uniforms
11. \$ \_\_\_\_\_ Monthly entertainment (movies, birthday parties, etc.)
12. \$ \_\_\_\_\_ Monthly health and dental insurance premiums
13. \$ \_\_\_\_\_ Monthly medical, dental, prescription charges (unreimbursed)
14. \$ \_\_\_\_\_ Monthly psychiatric/psychological/counselor (unreimbursed)
15. \$ \_\_\_\_\_ Monthly orthodontic (unreimbursed)
16. \$ \_\_\_\_\_ Monthly grooming
17. \$ \_\_\_\_\_ Monthly non-prescription medications/cosmetics/toiletries/sundries
18. \$ \_\_\_\_\_ Monthly gifts from children to others (other children, relatives, teachers, etc.)
19. \$ \_\_\_\_\_ Monthly camp or other summer activities
20. \$ \_\_\_\_\_ Monthly clubs (Boy/Girl Scouts, etc.) or recreational fees
21. \$ \_\_\_\_\_ Monthly visitation expenses (for nonresidential parent)  
*{Explain}* \_\_\_\_\_
22. \$ \_\_\_\_\_ Monthly insurance (life, etc.)  
*{explain}*: \_\_\_\_\_ Other *{explain}*: \_\_\_\_\_
23. \_\_\_\_\_
24. \_\_\_\_\_
25. \_\_\_\_\_
26. \$ \_\_\_\_\_ **TOTAL EXPENSES FOR CHILD(REN) COMMON TO BOTH PARTIES**  
 (add lines 1 through 25)

I have filed, will file, or am filing with this form the following additional documents:

1. Florida Family Law Financial Affidavit, Florida Family Law Rules of Procedure Form 12.902(b) or (c).
2. Child Support Guidelines Worksheet, Florida Family Law Rules of Procedure Form 12.902(e).

I certify that a copy of this document was  mailed  faxed and mailed  e-mailed  hand delivered to the person(s) listed below on {date} \_\_\_\_\_.

**Other party or his/her attorney:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Designated E-mail Address(es): \_\_\_\_\_  
\_\_\_\_\_

**I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this motion and that the punishment for knowingly making a false statement includes fines and/or imprisonment.**

\_\_\_\_\_  
Signature of Party or his/her attorney  
Printed \_\_\_\_\_ Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Designated E-mail Address(es): \_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Sworn to or affirmed and signed before me on \_\_\_\_\_ by \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC or DEPUTY CLERK

\_\_\_\_\_  
*[Print, type, or stamp commissioned name of notary or clerk.]*

\_\_\_\_\_ Personally known  
\_\_\_\_\_ Produced identification  
Type of identification produced \_\_\_\_\_

**IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:**

[fill in all blanks] This form was prepared for the: {choose only one} (  ) Petitioner (  ) Respondent

This form was completed with the assistance of:

{name of individual} \_\_\_\_\_  
{name of business} \_\_\_\_\_  
{address} \_\_\_\_\_  
{city} \_\_\_\_\_, {state} \_\_\_\_\_, {zip code} \_\_\_\_\_, {telephone number} \_\_\_\_\_

| <b>CHILD SUPPORT GUIDELINES WORKSHEET</b>                                                                                                                                                                                                                                                                                                   |           |           |       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|-------|
|                                                                                                                                                                                                                                                                                                                                             | A. FATHER | B. MOTHER | TOTAL |
| <b>1. Present Net Monthly Income</b><br>Enter the amount from line 27, Section I of Florida Family Law Rules of Procedure Form 12.902(b) or (c), Financial Affidavit.                                                                                                                                                                       |           |           |       |
| <b>2. Basic Monthly Obligation</b><br>There is (are) {number} _____ minor child(ren) common to the parties.<br>Using the total amount from line 1, enter the appropriate amount from the child support guidelines chart.                                                                                                                    |           |           |       |
| <b>3. Percent of Financial Responsibility</b><br>Divide the amount on line 1A by the total amount on line 1 to get Father's percentage of financial responsibility. Enter answer on line 3A.<br>Divide the amount on line 1B by the total amount on line 1 to get Mother's percentage of financial responsibility. Enter answer on line 3B. | %         | %         |       |
| <b>4. Share of Basic Monthly Obligation</b><br>Multiply the number on line 2 by the percentage on line 3A to get Father's share of basic obligation. Enter answer on line 4A.<br>Multiply the number on line 2 by the percentage on line 3B to get Mother's share of basic obligation. Enter answer on line 4B.                             |           |           |       |
| <b>Additional Support — Health Insurance, Child Care &amp; Other</b>                                                                                                                                                                                                                                                                        |           |           |       |
| <b>5. a. 100% of Monthly Child Care Costs</b><br>[Child care costs should not exceed the level required to provide quality care from a licensed source. See section 61.30(7), Florida Statutes, for more information.]                                                                                                                      |           |           |       |
| <b>b. Total Monthly Child(ren)'s Health Insurance Cost</b><br>[This is only amounts actually paid for health insurance on the child(ren).]                                                                                                                                                                                                  |           |           |       |

| <b>CHILD SUPPORT GUIDELINES WORKSHEET</b>                                                                                                                                                                                                                                            |                  |                  |              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|--------------|
|                                                                                                                                                                                                                                                                                      | <b>A. FATHER</b> | <b>B. MOTHER</b> | <b>TOTAL</b> |
| <b>c.</b> Total Monthly Child(ren)'s Noncovered Medical, Dental and Prescription Medication Costs                                                                                                                                                                                    |                  |                  |              |
| <b>d.</b> Total Monthly Child Care & Health Costs [Add lines 5a + 5b +5c].                                                                                                                                                                                                           |                  |                  |              |
| <b>6.</b> Additional Support Payments<br>Multiply the number on line 5d by the percentage on line 3A to determine the Father's share. Enter answer on line 6A. Multiply the number on line 5d by the percentage on line 3B to determine the Mother's share. Enter answer on line 6B. |                  |                  |              |
| <b>Statutory Adjustments/Credits</b>                                                                                                                                                                                                                                                 |                  |                  |              |
| <b>7. a.</b> Monthly child care payments actually made                                                                                                                                                                                                                               |                  |                  |              |
| <b>b.</b> Monthly health insurance payments actually made                                                                                                                                                                                                                            |                  |                  |              |
| <b>c.</b> Other payments/credits actually made for any noncovered medical, dental and prescription medication expenses of the child(ren) not ordered to be separately paid on a percentage basis.<br>(See section 61.30 (8), Florida Statutes)                                       |                  |                  |              |
| <b>8.</b> Total Support Payments actually made<br>(Add 7a through 7c)                                                                                                                                                                                                                |                  |                  |              |
| <b>9. MINIMUM CHILD SUPPORT OBLIGATION FOR EACH PARENT</b><br>[Line 4 plus line 6; minus line 8]                                                                                                                                                                                     |                  |                  |              |
| <b>Substantial Time-Sharing (GROSS UP METHOD) If each parent exercises time-sharing at least 20 percent of the overnights in the year (73 overnights in the year), complete Nos. 10 through 21</b>                                                                                   |                  |                  |              |
|                                                                                                                                                                                                                                                                                      | <b>A. FATHER</b> | <b>B. MOTHER</b> | <b>TOTAL</b> |
| <b>10.</b> Basic Monthly Obligation x 150%<br>[Multiply line 2 by 1.5]                                                                                                                                                                                                               |                  |                  |              |

| <b>CHILD SUPPORT GUIDELINES WORKSHEET</b>                                                                                                                                                                                                                                                                                                                                                                                            |                  |                  |              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|--------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>A. FATHER</b> | <b>B. MOTHER</b> | <b>TOTAL</b> |
| <b>11.</b> Increased Basic Obligation for each parent.<br>Multiply the number on line 10 by the percentage on line 3A to determine the Father's share. Enter answer on line 11A.<br>Multiply the number on line 10 by the percentage on line 3B to determine the Mother's share. Enter answer on line 11B.                                                                                                                           |                  |                  |              |
| <b>12.</b> Percentage of overnight stays with each parent.<br>The child(ren) spend(s) _____ overnight stays with the Father each year. Using the number on the above line, multiply it by 100 and divide by 365. Enter this number on line 12A.<br>The child(ren) spend(s) _____ overnight stays with the Mother each year. Using the number on the above line, multiply it by 100 and divide by 365. Enter this number on line 12B. | %                | %                |              |
| <b>13.</b> Parent's support multiplied by other Parent's percentage of overnights.<br>[Multiply line 11A by line 12B. Enter this number in 13A. Multiply line 11B by line 12A. Enter this number in 13B.]                                                                                                                                                                                                                            |                  |                  |              |
| <b>Additional Support — Health Insurance, Child Care &amp; Other</b>                                                                                                                                                                                                                                                                                                                                                                 |                  |                  |              |
| <b>14. a.</b> Total Monthly Child Care Costs<br>[Child care costs should not exceed the level required to provide quality care from a licensed source. See section 61.30(7), Florida Statutes, for more information.]                                                                                                                                                                                                                |                  |                  |              |
| <b>b.</b> Total Monthly Child(ren)'s Health Insurance Cost<br>[This is only amounts actually paid for health insurance on the child(ren).]                                                                                                                                                                                                                                                                                           |                  |                  |              |
| <b>c.</b> Total Monthly Child(ren)'s Noncovered Medical, Dental and Prescription Medication Costs.                                                                                                                                                                                                                                                                                                                                   |                  |                  |              |
| <b>d.</b> Total Monthly Child Care & Health Costs<br>[Add lines 14a + 14b + 14c.]                                                                                                                                                                                                                                                                                                                                                    |                  |                  |              |

| <b>CHILD SUPPORT GUIDELINES WORKSHEET</b>                                                                                                                                                                                                                                                     |                  |                  |              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|--------------|
|                                                                                                                                                                                                                                                                                               | <b>A. FATHER</b> | <b>B. MOTHER</b> | <b>TOTAL</b> |
| <b>15. Additional Support Payments.</b><br>Multiply the number on line 14d by the percentage on line 3A to determine the Father's share. Enter answer on line 15A.<br>Multiply the number on line 14d by the percentage on line 3B to determine the Mother's share. Enter answer on line 15B. |                  |                  |              |
| <b>Statutory Adjustments/Credits</b>                                                                                                                                                                                                                                                          |                  |                  |              |
| <b>16. a. Monthly child care payments actually made</b>                                                                                                                                                                                                                                       |                  |                  |              |
| <b>b. Monthly health insurance payments actually made</b>                                                                                                                                                                                                                                     |                  |                  |              |
| <b>c. Other payments/credits actually made for any noncovered medical, dental and prescription medication expenses of the child(ren) not ordered to be separately paid on a percentage basis.</b><br>[See section 61.30(8), Florida Statutes]                                                 |                  |                  |              |
| <b>17. Total Support Payments actually made</b><br>[Add 16a through 16c]                                                                                                                                                                                                                      |                  |                  |              |
| <b>18. Total Additional Support Transfer Amount</b><br>[Line 15 minus line 17; enter any negative number as zero]                                                                                                                                                                             |                  |                  |              |
| <b>19. Total Child Support Owed from Father to Mother</b> [Add line 13A plus line 18A]                                                                                                                                                                                                        |                  |                  |              |
| <b>20. Total Child Support Owed from Mother to Father</b> [Add line 13B plus line 18B]                                                                                                                                                                                                        |                  |                  |              |
| <b>21. Actual Child Support to Be Paid.</b><br>[Comparing lines 19 and 20, Subtract the smaller amount owed from the larger amount owed and enter the result in the column for the parent that owes the larger amount of support]                                                             | \$               |                  |              |

**ADJUSTMENTS TO GUIDELINES AMOUNT.** If you or the other parent is requesting the Court to award a child support amount that is more or less than the child support guidelines, you must complete and file Motion to Deviate from Child Support Guidelines, Florida Supreme Court Approved Family Law Form 12.943.

[check one only]

- a.  **Deviation from the guidelines amount is requested.** The Motion to Deviate from Child Support Guidelines, Florida Supreme Court Approved Family Law Form 12.943, is attached.
- b.  **Deviation from the guidelines amount is NOT requested.** The Motion to Deviate from Child Support Guidelines, Florida Supreme Court Approved Family Law Form 12.943, is not attached.

**IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:**

[fill in all blanks] This form was prepared for the: *{choose only one}*  Petitioner ( Respondent  
This form was completed with the assistance of:

*{name of individual}* \_\_\_\_\_,

*{name of business}* \_\_\_\_\_,

*{address}* \_\_\_\_\_,

*{city}* \_\_\_\_\_, *{state}* \_\_\_\_\_, *{telephone number}* \_\_\_\_\_.



# Minnesota

## Minnesota

**Child support model:** Income Shares

**When were the guidelines last updated?:** 2016, effective 8/1/2018

**Authority:** M.S.A. §518A.36

### **Authority language:**

Parenting Expense Adjustment.

Subdivision 1. General. (a) The parenting expense adjustment under this section reflects the presumption that while exercising parenting time, a parent is responsible for and incurs costs of caring for the child, including, but not limited to, food, clothing, transportation, recreation, and household expenses. Every child support order shall specify the percentage of parenting time granted to or presumed for each parent. For purposes of this section, the percentage of parenting time means the percentage of time a child is scheduled to spend with the parent during a calendar year according to a court order averaged over a two-year period. Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time. The percentage of parenting time may be determined by calculating the number of overnights or overnight equivalents that a parent spends with a child pursuant to a court order. For purposes of this section, overnight equivalents are calculated by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

(b) If there is not a court order awarding parenting time, the court shall determine the child support award without consideration of the parenting expense adjustment. If a parenting time order is subsequently issued or is issued in the same proceeding, then the child support order shall include application of the parenting expense adjustment.

Subd. 2. Calculation of parenting expense adjustment. (a) For the purposes of this section, the following terms have the meanings given:

(1) "parent A" means the parent with whom the child or children will spend the least number of overnights under the court order; and

(2) "parent B" means the parent with whom the child or children will spend the greatest number of overnights under the court order.

(b) The court shall apply the following formula to determine which parent is the obligor and calculate the basic support obligation:

(1) raise to the power of three the approximate number of annual overnights the child or children will likely spend with parent A;

(2) raise to the power of three the approximate number of annual overnights the child or children will likely spend with parent B;

(3) multiply the result of clause (1) times parent B's share of the combined basic support obligation as determined in section 518A.34, paragraph (b), clause (5);

(4) multiply the result of clause (2) times parent A's share of the combined basic support obligation as determined in section 518A.34, paragraph (b), clause (5);

(5) subtract the result of clause (4) from the result of clause (3); and

(6) divide the result of clause (5) by the sum of clauses (1) and (2).

(c) If the result is a negative number, parent A is the obligor, the negative number becomes its positive equivalent, and the result is the basic support obligation. If the result is a positive number, parent B is the obligor and the result is the basic support obligation.

§Subd. 3. Calculation of basic support when parenting time is equal. If the parenting time is equal and the parental incomes for determining child support of the parents also are equal, no basic support shall be paid unless the court determines that the expenses for the child are not equally shared.

**Category:** Formula

**Does the state offer a calculator, worksheets, formulas, or other calculation assistance?**

Calculator, <https://childsupportcalculator.dhs.state.mn.us/>

**What unit is used to measure parenting time?** Overnights/ overnight equivalents

**How is the unit defined?**

M.S.A. §518A.36(a)

The percentage of parenting time may be determined by calculating the number of overnights or overnight equivalents that a parent spends with a child pursuant to a court order. For purposes of this section, overnight equivalents are calculated by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight.

**Is there a parenting time threshold?**

M.S.A. § 518.17(1)(g)

In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive a minimum of 25 percent of the parenting time for the child.

**How does the state determine shared parenting?**

M.S.A. § 518.175 Parenting Time

Subdivision 1. General. (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child. The court, when issuing a parenting time order, may reserve a determination as to the future establishment or expansion of a parent's parenting time. In that event, the best interest standard set forth in subdivision 5, paragraph (a), shall be applied to a subsequent motion to establish or expand parenting time.

(b) If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court shall restrict parenting time with that parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the parent prior to the commencement of the proceeding.

(c) A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of parenting time.

(d) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

(e) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations, unless parenting time is restricted, denied, or reserved.

(f) The court administrator shall provide a form for a pro se motion regarding parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

(g) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive a minimum of 25 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

Subd. 1a. Domestic abuse; supervised parenting time. (a) If a parent requests supervised parenting time under subdivision 1 or 5 and an order for protection under chapter 518B or a similar law of another state is in effect against the other parent to protect the parent with whom the child resides or the child, the judge or judicial officer must consider the order for protection in making a decision regarding parenting time.

(b) The state court administrator, in consultation with representatives of parents and other interested persons, shall develop standards to be met by persons who are responsible for supervising parenting time. Either parent may challenge the appropriateness of an individual chosen by the court to supervise parenting time.

Subd. 2. Rights of children and parents. Upon the request of either parent, the court may inform any child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the child and each parent under the order or decree or any substantial amendment thereof. The parent with whom the child resides shall present the child for parenting time with the other parent, at such times as the court directs.

Subd. 3. Move to another state. (a) The parent with whom the child resides shall not move the residence of the child to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court shall not permit the child's residence to be moved to another state.

(b) The court shall apply a best interests standard when considering the request of the parent with whom the child resides to move the child's residence to another state. The factors the court must consider in determining the child's best interests include, but are not limited to:

(1) the nature, quality, extent of involvement, and duration of the child's relationship with the person proposing to relocate and with the nonrelocating person, siblings, and other significant persons in the child's life;

(2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration special needs of the child;

(3) the feasibility of preserving the relationship between the nonrelocating person and the child through suitable parenting time arrangements, considering the logistics and financial circumstances of the parties;

(4) the child's preference, taking into consideration the age and maturity of the child;

(5) whether there is an established pattern of conduct of the person seeking the relocation either to promote or thwart the relationship of the child and the nonrelocating person;

(6) whether the relocation of the child will enhance the general quality of the life for both the custodial parent seeking the relocation and the child including, but not limited to, financial or emotional benefit or educational opportunity;

(7) the reasons of each person for seeking or opposing the relocation; and

(8) the effect on the safety and welfare of the child, or of the parent requesting to move the child's residence, of domestic abuse, as defined in section 518B.01.

(c) The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds that the person requesting permission to move has been a victim of domestic abuse by the other parent, the burden of proof is upon the parent opposing the move. The court must consider all of the factors in this subdivision in determining the best interests of the child.

Subd. 4. Repealed by Laws 1996, c. 391, art. 1, § 6.

Subd. 5. Modification of parenting plan or order for parenting time. (a) If a parenting plan or an order granting parenting time cannot be used to determine the number of overnights or overnight equivalents the child has with each parent, the court shall modify the parenting plan or order granting parenting time so that the number of overnights or overnight equivalents the child has with each parent can be determined. For purposes of this section, "overnight equivalents" has the meaning given in section 518A.36, subdivision 1.

(b) If modification would serve the best interests of the child, the court shall modify the decision-making provisions of a parenting plan or an order granting or denying parenting time, if the modification would not change the child's primary residence. Consideration of a child's best interest includes a child's changing developmental needs.

(c) Except as provided in section 631.52, the court may not restrict parenting time unless it finds that:

(1) parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the parent has chronically and unreasonably failed to comply with court-ordered parenting time.

A modification of parenting time which increases a parent's percentage of parenting time to an amount that is between 45.1 to 54.9 percent parenting time is not a restriction of the other parent's parenting time.

(d) If a parent makes specific allegations that parenting time by the other parent places the parent or child in danger of harm, the court shall hold a hearing at the earliest possible time to determine the need to modify the order granting parenting time. Consistent with subdivision 1a, the court may require a third party, including the local social services agency, to supervise the parenting time or may restrict a parent's parenting time if necessary to protect the other parent or child from harm. If there is an existing order for protection governing the parties, the court shall consider the use of an independent, neutral exchange location for parenting time.

Subd. 6. Remedies. (a) The court may provide compensatory parenting time when a substantial amount of court-ordered parenting time has been made unavailable to one parent unless providing the compensatory parenting time is not consistent with the child's best interests.

(b) The court shall provide for one of the remedies as provided under this subdivision for (1) a repeated and intentional denial of or interference with court-ordered parenting time, or (2) a repeated and intentional failure to comply with a binding agreement or decision under section 518.1751.

(c) If the court finds that a person has been deprived of court-ordered parenting time under paragraph (b), the court shall order the parent who has interfered to allow compensatory parenting time to the other parent. When compensatory parenting time is awarded, additional parenting time must be:

(1) at least of the same type and duration as the deprived parenting time and, at the discretion of the court, may be in excess of or of a different type than the deprived parenting time;

(2) taken within one year after the deprived parenting time; and

(3) at a time acceptable to the parent deprived of parenting time.

(d) If the court finds that a party has repeatedly and intentionally denied or interfered with court-ordered parenting time or failed to comply with a binding agreement or decision under section 518.1751, the court may in addition to awarding compensatory parenting time under paragraph (c):

(1) impose a civil penalty of up to \$500 on the party;

(2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;

(3) award reasonable attorney's fees and costs;

(4) require the party who violated the parenting time order or binding agreement or decision of the parenting time expeditor to reimburse the other party for costs incurred as a result of the violation of the order or agreement or decision; or

(5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a parenting time expeditor program in a county with this program. In other counties, the civil penalty must be deposited in the state general fund.

(e) The court shall provide one or more of the remedies available in paragraph (d), clauses (1) to (5), if one of the following occurs:

(1) the court finds that a party has repeatedly and intentionally denied or interfered with court-ordered parenting time after a previous finding that the party repeatedly and intentionally denied or interfered with court-ordered parenting time; or

(2) the court finds that a party has failed to comply with a binding agreement or decision under section 518.1751 after a previous finding that the party failed to comply with a binding agreement or decision under section 518.1751.

(f) If the court makes written findings that any denial of or interference with court-ordered parenting time or the failure to comply with a binding agreement or decision under section 518.1751 was necessary to protect a child's physical or emotional health, the court is not required to comply with paragraphs (b) to (e).

(g) If the court finds that a party has been denied parenting time and has incurred expenses in connection with the denied parenting time, the court may require the party who denied parenting time to post a bond in favor of the other party in the amount of prepaid expenses associated with upcoming planned parenting time.

(h) Proof of an unwarranted denial of or interference with duly established parenting time may constitute contempt of court and may be sufficient cause for reversal of custody.

(i) All parenting time orders must include notice of the provisions of this subdivision.

Subd. 7. Renumbered § 518.1752 in St.2001 Supp.

Subd. 8. Additional parenting time for child care parent. The court may allow additional parenting time to a parent to provide child care while the other parent is working if this arrangement is reasonable and in the best interests of the child, as defined in section 518.17, subdivision 1. In addition, the court shall consider:

- (1) the ability of the parents to cooperate;
- (2) methods for resolving disputes regarding the care of the child, and the parents' willingness to use those methods; and
- (3) whether domestic abuse, as defined in section 518B.01, has occurred between the parties.

## Excerpt from September 15 Meeting Minutes

Study Committee Chair, Katie Connell, was able to join the meeting briefly and gave a report. She had a lengthy and informative call with a family law practitioner in Minnesota. She is continuing to work on the Nevada contact. She noted several points from her conversation:

- Her biggest takeaway is that when Minnesota switched to an income sharing model, they had a cliff effect situation. And so, they made another change specifically to the parenting time piece somewhere around five to 10 years later. The cliff was having such a negative effect on litigants and the way people were posturing. Katie said she was particularly intrigued by not just that initial change they made from percentage to income sharing with a parenting time adjustment, but the one where they addressed their cliff and the way that it was impacting a volume of cases and the positions that parents were taking.
- They have a parenting time calculator built in and it has evolved since they first put it in place. And they use overnights as their time increment.
- I think it's fair to say she would describe it as them having sort of learned the hard way with the first round of their parenting time calculation and then adjusted from there.



## Excerpt from October 6 Draft Minutes

Katie Connell reported on her conversation with a Minnesota practitioner who is an experienced lawyer and mediator. Ms. Connell explained that Minnesota is an income shares state and that sometime during the 2005 and 2007 timeframe, Minnesota changed their guidelines and included parenting time. They later discovered that there was a cliff effect in the formula, which meant that a parent's child support obligation went way down if they had six out of 14 nights instead of five out of 14 nights. The impact of the cliff effect included parents asking for more time than they wanted, to the detriment of the children since the parents were concerned about the impact it would have on their pocketbooks. This became very impactful and a few years ago, perhaps 2015, Minnesota changed parenting time again. Ms. Connell's biggest take-away from that conversation was to avoid a "cliff effect." She said they don't discuss parenting time or child support except in the context of 14 days. So, rather than discussing parenting time on a monthly basis they do everything in 14-day increments. She added that Minnesota has a presumption that the noncustodial parent will get at least 25% of the overnights. In terms of their increment of time, it is overnights and they have case law that addresses overnights, versus evenings, versus afternoons. Ms. Connell noted that in Minnesota, a parenting time adjustment is only based on court-ordered parenting time and that it is not possible under their guidelines to calculate child support without knowing the parenting time. The practitioner stated that the legislature meant for parents to share expenses, over and above child support, but it didn't make it into the statute. Judges view parenting time favorably and do have the option to deviate, but they really don't because a deviation involves entering required findings. Ms. Connell asked if Minnesota has a self-support reserve for low-income families? The answer was yes, they do have a self-support reserve for payor and payee. The practitioner explained that if a parenting time deviation is awarded, and both payor and payee are subject to the low-income reserve, which results in a parenting time adjustment, the trial court can exercise discretion to deviate to ensure that the children are adequately provided for in the payee's home. The practitioner explained that Minnesota does use a calculator where they enter the number of days to calculate. She also stated that she does still see posturing both to avoid paying higher child support and to avoid receiving lower child support, although in her experience, the former is more frequent. The Minnesota practitioner is pleased with her state's current parenting time adjustment.

Johanna Kiehl had previously reviewed Minnesota and had a couple of comments to add. She stated that in Minnesota there is a statutory minimum of \$75 a month in child support unless there's exactly 50/50 parenting time and equal income. She also noted that their parenting time is gradual, but not linear, so, it's a curve with smaller adjustments or less time - to bigger adjustments with more time. Ms. Kiehl also spoke about New Jersey and mentioned that what she liked about that state was that they have a smaller adjustment for less time by virtue of the fact that they are only giving credit for variable expenses up to a certain point, and then they can add in more expenses or get credit for additional expenses based on more time. So, she thinks effectively that New Jersey is like Minnesota. So, they're not just giving somebody equal amount of credit per day and going up, because they may not share in some of the expenses for which they may be getting credit.

Carol Walker commented that when she and Joanna looked at Minnesota, they found that the curve sort of isn't just a straight-line curve, it goes up. The more time spent, the more credit a parent gets, or the more adjustment a parent gets. She stated she is guessing that the presumption is that if the child is in a parent's house 40% of the time, as opposed to 25% of the time, or 45%, it's more likely that the parent is going to be spending more money on things, other than just food and housing. She also wondered if their calculation takes that into consideration.

## Summary- Interview of Minnesota Family Law Attorney and Mediator

Child support did not account for parenting time until 2005-ish. In approximately 2005, the guidelines changed and parenting time became a factor. However, there was a “cliff” between 5 and 6 overnights out of 14 which caused a lot of problems. They fixed it and now it is based on each overnight out of 14. The current method is generally regarded as the best they can do but there still is a lot of posturing between parents to change parenting time for child support purposes.

The current law does not include expenses that come along with parenting time- bus fees. Parents end up fighting over fees (ex. bus fees). Overnights are the unit of measurement used and it is not a problem unless they argue about meals. Mandating included fees would make it better.

Non-custodial presumption is 25% parenting time. It is an ongoing discussion as “father’s rights groups” want a 50% presumption.

An online calculating tool is available but not mandatory to use. It is easy to use, but many people keep a cheat sheet on their desks. The current best practice is attached the CS calculation to the final decree (as is required in GA).

Judges can use discretion to deviate, but they don’t often do it. There is extra work (findings?) required of the court when using a discretionary deviation.

No parenting time adjustments are required for expenses other than childcare and uninsured medical/dental. This lawyer thinks that is a good thing. There is a self-support reserve. A parent can’t be left with less than \$1,295 per month.

If one parent makes significantly more but that parent has more parenting time, the court can make deviations in order to leave the payer with adequate money to provide for the child during his/her parenting time.

There is a parenting time “calculator”- sounds like a schedule under GA guidelines.

The problems that can arise:

- when a parent demands more parenting time to decrease their obligation even to the detriment of the child; and
- when a parent will not agree to additional parenting time for the other parent because it will be receiving lower child support.

## Questions

- If the way your state adjusts child support for parenting time has changed since you’ve been a practitioner, can you provide a brief explanation of what it was prior to the change (the pros and cons of prior methodology)?

Child support was not based on parenting time before 2005ish. Then there was a problem with the formula. Too much disparity in CS amount if a parent had 5 vs. 6 of 14 nights. So now, it is adjusted for every overnight out of 14. There is a cap at \$15k income per month.

There is a separate magistrate court for child support. The district court does the parenting time and the magistrate court handles CS.

Reason for change: first change in 2005 was because of father's rights groups and the other changes were to fix the disparity.

- Do you see a benefit to children for parenting time adjustments to child support? If so, what is it?

Yes, there is a benefit to parenting time adjustments but there is a lot of posturing over parenting to reduce child support. The statute does not include expenses even though that was the intent so parents fight over fees (ex: bus fees). Presumption for non-custodial parent is 25% but Father's Rights groups want 50% presumption.

- What are your thoughts about the pros and cons of the current methodology for parenting time adjustments to child support in your state?

It is the best they can do right now but added mandated sharing of expenses would make it better.

- If you went from a method that had no adjustment or deviation for parenting time to an adjustment or deviation, what were the public policy reasons for the change (if you know)?

Yes there was an adjustment to avoid the disparity between 5 and 6 nights.

- What factual information, if any, was used to make the methodology change (if you know)?

No factual info used to make the change. They used a calculation from the federal government on how much it is to raise children. Possibly modeled after Oregon or Washington.

- Is the issue of parenting time adjustments to child support an ongoing topic of discussion in your state?

Yes

- Does your state have any kind of presumed parenting time, whether statutorily defined or simply understood to be the standard?

25% is presumed

- How does your state calculate parenting time – hours, days, overnights?
  - Overnights- there is a case that addresses overnights v. evenings/ afternoons
- Is there a specific definition of the unit?
  - No, just overnights

- What are the benefits or downfalls of this methodology?
  - I think it's as good as it's going to get unless they start fighting over meals
- Do parties litigate what classifies as a "day" or other unit of measure. often?
  - Almost never... overnight is sort-of a given
- Do you know why that unit of measure methodology was chosen and why?
  - I think they were avoiding arguments
- Does your state's methodology for the parenting time adjustment result in any "cliff" effects (more drastic jumps in deviation based on a specific number of days awarded to the lesser time parent, e.g., a threshold number of days or several jumps)?
  - It did- then it was changed, the cliff was horrible. Parents would ask for more time than they wanted to the detriment of the children.
  - Would you prefer a more gradual linear approach, or an exponential approach (small adjustments initially for lesser parenting time – much greater as it nears 50/50)?
    - Doing that now and it's better.
- Do you have an online tool for calculating the amount of parenting time?
  - Yes. I don't use it much, but it's available.
  - Do most practitioners, pro se litigants and judges use the tool?
    - Yes.
  - Does it work well?
    - Yes.
- Do you have an online tool for applying the parenting time adjustment (i.e. a child support worksheet that incorporates the parenting time formula)?
  - Yes. Enter the number of days...
  - Keep a cheat sheet of days on desk.
  - Do most practitioners, pro se litigants and judges use the tool?
    - Yes, but most people just do the math.
  - Have you seen it to be a particular challenge for pro se litigants or does the state's tool make it reasonably accessible?
    - Not really. They get directed to the self-help section and there is a link to the calculator... even people who are going to hire a lawyer are going to check it out...
  - Have you seen it to be a particular challenge for judges or does the state's tool make it reasonably accessible?
    - It makes it very accessible for the judges.
    - The current "best practices" is that the CS calc. is attached to the back of the decree
- Is there another methodology for parenting time adjustments for child support that you would prefer? If so, why, and what would it be?

Not anymore. They switched from net income and custodial parents lost money it was going to be a problem, but it has worked out.

- Is the parenting time adjustment to child support discretionary in your state?

It is discretionary but no judges actually do it because they don't want to do the findings that are needed to deviate.

- Do you see parenting time adjustments to child support?

Yes, in an appropriate number of cases, which is most.

- How do the judges view (in your experience) the current formula for parenting adjustments? Favorable, unfavorable, underutilized, etc.?

Judges like it because it saves them work with a formula.

In your opinion, does the ability to ask for a parenting time adjustment to child support result in more conflict in parenting time negotiations/litigation?

No because it's so formula based there is not much room for argument.

- From what you've seen in your practice, is the parenting time adjustment viewed to be "fair" by litigants in your jurisdiction?

Yes and much more fair than pre-2005/2007...

- If your jurisdiction has an adjustment which is multi-faceted (i.e., based on fixed or variable expenses), is one type of adjustment viewed by litigants as "more fair" (i.e. easier for a litigant to understand and agree to)?

N/A

- If your state applies the parenting time adjustment to a component of the child support obligation (i.e., certain types of expenses only, like variable expenses for food and transportation), how often is this issue litigated?

We don't have the additional requirement that any expenses beyond childcare and uninsured medical/dental

- In your opinion, would it be more practical for the adjustment to apply to the entire obligation (if currently only a portion) or vice versa if it already applies to the entire obligation?
  - No, I think it is good that it only applies to the "basic support"- not to the medical support or childcare support.
  - Medical support includes premiums and uninsured expenses.
- Does your state have a self-support reserve for payor, payee, both?
  - Yes. Both. Overall support cannot leave paying parent with less than \$1,295/mo.
  - From what you've seen in your practice, does this offer adequate protection to the payee in low-income situations if a parenting time deviation is awarded to the payor?
    - Both are subject to it...it's a balancing.
- If the payor has significantly more income than the payee and the payor has parenting time which would result in a parenting time adjustment, does the trial court have the ability to exercise discretion to deviate to ensure that the children are adequately provided for in the payee's home?
  - Yes, court can deviate from the guidelines.

- If your state uses multiple versions of a child support worksheet, do you see it as a challenge for pro se litigants or practitioners to choose the correct version?
  - We have support calculation, then worksheet that does parenting time overnights, PICS calculations
  - Do you feel one worksheet would be a better solution with a tool built in for adjusting parenting time?
    - It's one worksheet with different schedules
  - If your jurisdiction has one worksheet, would multiple versions be better based on some threshold number of days being reached for application of a parenting time formula?
    - No reason to complicate things.
- Is there another methodology for parenting time adjustments that you would prefer?
  - No. I like it. It is user friendly and fair in assessing how to allocated real expenses.
- In your opinion, are there any aspects of your state's method for adjustment of child support for parenting time that result in poor outcomes for children?
  - Only when it's clear that the parenting time is being demanded as a reason to not pay child support- which happens frequently...
  - If so, what are they?
    - Insisting on overnights when it's not good for the kids or to keep Child Support low.
  - Why do you think they occur?
    - Sometimes people choose money over what's in their children's best interests.



# Minnesota Child Support Guidelines Calculator

Minnesota Child Support  
Online

DHS Public Web Site

## Glossary

The Minnesota Child Support Division bases the Child Support Guidelines Calculator on the Minnesota Child support guidelines statute, which became effective Jan. 1, 2007. The calculator is intended to be used to estimate the amount of child support that the court may order on a case. This calculator is for informational and educational use only and is not a substitute for the child support guidelines.

The court has the final authority to determine the amount of a child support order. The calculator provides an estimate only and is not a guarantee of the amount of child support the court will order. The calculator is only able to calculate a basic support amount for six or fewer joint children. If there are more than six joint children, the court may determine a support order without specifically following the guidelines.

If you have any questions about the child support guidelines you should contact your child support agency or an attorney.

### To proceed with the calculator you will need to know the following information:

- Each parent's gross monthly income (from all sources)
- How many children live in each parent's home (do not count children who the parent has a court order to pay child support)
- Any other child support orders for either parent
- Any spousal maintenance orders for either parent
- The amount of benefits from Social Security or the U.S. Department of Veterans Affairs paid to a joint child due to a parent's disability or retirement
- The monthly cost for both medical and dental coverage
- The amount of child care costs
- The percentage, or amount of parenting time awarded in a court order
- If the parent is incarcerated, the ability to pay/minimum basic support calculation does not apply
- The amount of Parenting Time per child, per parent



[Proceed to the Calculator](#)

## Annual Number of Overnights or Overnight Equivalents

The number of overnights is based on a two year average. Enter 0 for Parent A and 365 for Parent B if there is no court ordered parenting time. Annual overnights may also include overnight equivalents determined in the court order.

Close Window





# Minnesota Child Support Guidelines Calculator

Minnesota Child Support Online

DHS Public Web Site

Glossary

## Minnesota Child Support Guidelines Calculator

This calculator now incorporates the new parenting expense adjustment effective August 1, 2018. Beginning August 1, the new adjustment will use the number of court-ordered overnights (if available) for new support orders and cases brought for modification. If the order includes a parenting schedule but does not state the percentage of parenting time or the number of court-ordered overnights, go to the [Minnesota Child Support Parenting Time Calendar Tool](#) to calculate the number of court-ordered overnights to enter on line 15b.

You may use this calculator for court orders requiring the parenting expense adjustment effective through July 31, 2018 by following the instructions posted below, before question 15.

Please visit the [Parenting Expense Adjustment website](#) for more information.

- 1. What is [Parent A's](#) name?
- 2. What is [Parent B's](#) name?
- 3. What is the [IV-D case](#) number?
- 4. What is the [court file](#) number?
- 5. How many [joint children](#) are there?

|                                                                                                                                                                                                             | Parent A | Parent B |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|
| 6. What is the <a href="#">monthly income received</a> ?                                                                                                                                                    | \$       | \$       |
| 7. What is the <a href="#">potential income</a> for each parent, if any?                                                                                                                                    | \$       | \$       |
| 8. What is the monthly amount the <a href="#">joint child(ren)</a> receive in <a href="#">benefits from Social Security or the U.S. Department of Veterans Affairs (VA) due to a parent's eligibility</a> ? | \$       | \$       |
| 9. If the <a href="#">joint child(ren)</a> receive Social Security or VA benefits, which parent is the <a href="#">representative payee</a> ?                                                               | Parent A | Parent B |
| 10. What is the monthly amount each parent is ordered to pay for <a href="#">spousal maintenance</a> ?                                                                                                      | \$       | \$       |
| 11. What is the total amount each parent is ordered to pay for monthly <a href="#">child support</a> for <a href="#">nonjoint child(ren)</a> ?                                                              | \$       | \$       |
| 12. What is the number of <a href="#">nonjoint child(ren)</a> living in the home?                                                                                                                           |          |          |
| 13. What is the monthly cost of <a href="#">health care coverage</a> for the <a href="#">joint child(ren)</a> ?                                                                                             | \$       | \$       |
| 14. What is the monthly cost of <a href="#">dental coverage</a> for the <a href="#">joint child(ren)</a> , if separate from <a href="#">health care coverage</a> ?                                          | \$       | \$       |

\*\*\* To calculate child support using a parenting expense adjustment effective through July 31, 2018, answer "no" to question 15a, leave question 15b blank, and answer "yes" to question 15c. If there is no order for parenting time or it is less than 10 percent, use 0 overnights for Parent A and 365 overnights for Parent B (per joint child) for question 15b and answer "no" for question 15c.

- 15a. Do you have court ordered equal parenting time?  Yes  No
- 15b. What is the [annual number of overnights](#) awarded to each parent by the court? [Click to add a child](#)
- Go to the [Minnesota Child Support Parenting Time Calendar Tool](#) to calculate the number of court-ordered overnights.

15c. If you are unable to calculate the number of overnights awarded to each parent, do you have a current child support order with a parenting expense adjustment?  Yes  No

16. Number of joint child(ren) receiving child care?

17. How much are the total monthly child care costs? \$

18. Which parent incurs the child care costs? No Child Care Costs v

19. Does either parent receive child care assistance for the joint children? No Child Care Costs v

20. Does Parent B receive Medical Assistance for the joint child(ren)?  Yes  No

21. Does Parent A receive Medical Assistance?  Yes  No

**Important Disclaimer:** The child support guidelines worksheet, instructions, and calculator are for information and educational use only and are not a guarantee of the amount of child support that will be ordered. The results obtained are only as accurate as the information used. The actual child support order may be affected by other factors. The Court has the final authority to determine the amount of the child support order. If this worksheet is attached to a court order, it is part of the Court's decision. This worksheet may or may not show the amount the Court decided to order. If the amount in the order is different, that is the amount to be paid.

Calculate Reset



# Minnesota Child Support Parenting Time Calendar Tool

## Parent A

Total overnights: 0

> Year 1: 0

> Year 2: 0

Parenting time: 0.0%

Yearly average overnights: 0

## Parent B

Total overnights: 0

> Year 1: 0

> Year 2: 0

Parenting time: 0.0%

Yearly average overnights: 0

### Comments:

#### October 2021

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#### November 2021

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#### December 2021

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#### January 2022

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#### February 2022

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#### March 2022

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#### April 2022

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#### May 2022

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#### June 2022

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#### July 2022

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#### August 2022

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#### September 2022

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**October 2022**

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**November 2022**

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**December 2022**

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**January 2023**

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**February 2023**

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**March 2023**

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**April 2023**

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**May 2023**

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**June 2023**

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**July 2023**

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**August 2023**

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**September 2023**

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**October 2023**

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Updated: 2019-12-04



# Minnesota Child Support Parenting Time Calendar Tool

## Parent A

**Total overnights: 417**

> Year 1: 209

> Year 2: 208

**Parenting time: 57.1%**

**Yearly average overnights: 208.5**

## Parent B

**Total overnights: 104**

> Year 1: 52

> Year 2: 52

**Parenting time: 14.2%**

**Yearly average overnights: 52**

### Comments:

#### October 2021

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#### November 2021

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#### December 2021

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#### January 2022

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#### February 2022

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#### March 2022

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#### April 2022

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#### June 2022

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#### July 2022

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#### August 2022

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#### September 2022

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**October 2022**

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**November 2022**

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**December 2022**

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**January 2023**

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**February 2023**

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**March 2023**

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**April 2023**

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**May 2023**

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**June 2023**

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**July 2023**

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**August 2023**

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**September 2023**

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**October 2023**

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Updated: 2019-12-04



January 2022 call with Minnesota practitioner who works with low income domestic violence victims (opinion only, not speaking on behalf of the organization)



- Minnesota moved initially from child support set as a % of the NCP's income to an income shares model with "cliff" parenting time adjustments; then there was significant committee work to move to income shares with a graduated parenting time adjustment.
- The general view in moving to the graduated parenting time adjustment was that there would be some winners and some losers (may result in a little less or a little more for some) but this was the best outcome.
- Low income parents had a voice on the work group tasked with making the recommendation to gradual.
- Parenting time adjustments aren't causing an issue with the court.
- In her practice they don't get a lot of child support questions – "it just is what it is" for the client (hear a lot less from victims).
- Both parties in her cases are usually receiving some sort of state benefits.
- Regarding overnight equivalents (comes up in split shift situations), if there are two attorneys they will most often come to an agreement as to what will count as overnight; if an agreement is not reached, the judge will decide.
- Self-support reserve applies to the obligor only (though there have been recommendations to apply to both obligor and obligee).

Excerpt from Child Support Work Group Final Report, p.3 (updated January 29, 2016)

<https://www.leg.mn.gov/docs/2016/mandated/160242.pdf>:

#### "Definition of Problem

The work group was created to review and recommend changes to the parenting expense adjustment currently used in the formula for calculating child support payments in Minnesota. Minnesota's current child support guidelines provide for an adjustment in the basic support portion of a child support order based on the amount of parenting time spent with the child. The primary issue with the current parenting expense adjustment is that it creates two large "cliffs" where the change in the child support obligation hinges on one overnight equivalent—especially when a parent changes from 45 to 45.1 percent parenting time. The cliff also occurs when going from 10 to 9.9 percent parenting time. For example, if a parent has:

- Less than 10 percent of parenting time, no adjustment is given;
- 10 to 45 percent parenting time, a flat adjustment of 12 percent is given;
- 45.1 percent parenting time or more, an alternative formula is used when parenting time is presumed equal.

These cliffs often cause conflict among parents during custody hearings because one or two overnight equivalents per year will initiate a significant change in the child support obligation amount. Parental conflict over child support amounts tied to these cliffs diminishes the best interests of the child from the center of custody and parenting time discussions, and shifts to conflict over child support payments.

Another issue with the current parenting expense adjustment is that it assumes that parenting expenses are the same for parents with 10 percent parenting time (or 36.5 overnight equivalents per year) and 45 percent parenting time (or 164.25 overnight equivalents per year).

To fulfill the legislative requirement, the Child Support Work Group was convened six times between

Aug. 31, 2015 and Dec. 1, 2015, and reviewed five alternative parenting expense adjustment formulas presented to them by Dr. Jane Venohr, Ph.D., an economist from the Center for Policy Studies in Colorado.”



# New Jersey

## **New Jersey**

**Child support model:** Income Shares

**When were the guidelines last updated?:** 2018

**Authority:** NJ R PRAC App. 9-A(14)(h)

### **Authority language:**

h. Calculating the Shared-Parenting Adjustment. Appendix IX-F sole-parenting awards are adjusted for shared-parenting by calculating the PAR's income share of the total two-household expenses (the basic support obligation plus the PAR's time adjusted-fixed expenses) for the child and then deducting the PAR's time-adjusted fixed and variable expenses for the child. This mechanism adjusts the award to accommodate the PAR's fixed and variable expenses incurred while the child is with that parent and the PPR's reduced variable expenses while the child is not in that parent's household. The PAR's income share of the net supplemental expenses (e.g., child care, court-approved special needs) is added to the PAR's adjusted basic obligation. Detailed instructions and a worksheet for calculating shared-parenting awards are provided in Appendices IX-B and IX-D respectively.

**Category:** Formula

### **Does the state offer a calculator, worksheets, formulas, or other calculation assistance?**

Worksheet, NJ R PRAC App. 9-D, <https://www.njchildsupport.org/Resources-Forms/Other-Resources/Guidelines-Calculator/Guidelines-Calculator.aspx>

### **What unit is used to measure parenting time?** Overnights

#### **How is the unit defined?**

NJ R PRAC App. 9-A(14)(b)(1)

[T]he majority of a 24-hour day (i.e., more than 12 hours"

#### **Is there a parenting time threshold?**

NJ R PRAC App. 9-A(14)(c)(2)

(2) The PAR has or is expected to have the child for the substantial equivalent of two or more overnights per week over a year or more (at least 28% of the time) and the PAR can show that separate living accommodations for the child are provided during such times (i.e., evidence of separate living accommodations maintained specifically for the child during overnight stays).

#### **How does the state determine shared parenting?**

NJ R PRAC App. 9-A(14)(c)

c. Criteria for Determining a Shared-Parenting Award--The criteria listed below must be met before the shared-parenting worksheet and instructions are used to calculate a shared-parenting award. The existence of these criteria does not make a shared-parenting award presumptive, but permit the calculation of the award so that the court can determine if it is appropriate for a particular family.

(1) A parenting plan that specifies parenting times and responsibilities must be filed with or ordered by the court.

(2) The PAR has or is expected to have the child for the substantial equivalent of two or more overnights per week over a year or more (at least 28% of the time) and the PAR can show that separate living accommodations for the child are provided during such times (i.e., evidence of separate living accommodations maintained specifically for the child during overnight stays).

(a) At the discretion of the court, the determination of qualifying shared-parenting time may include extended-PAR Time periods of five or more consecutive overnights that are part of a regularly scheduled rotation between the parents as set forth in a parenting plan or court order if the PAR shows that marginal housing-related costs were incurred for those periods. Qualifying shared-parenting time shall not include extended PAR Time periods of five or more overnights that represent vacations, holidays, or other periodic events (see Extended PAR Time above).

(b) Although a PAR may not be eligible for the shared-parenting adjustment (both fixed and variable expenses) due to limited time with the child, a regular PAR Time credit (variable expenses only) may be appropriate (see paragraph 13).

Excerpt from September 15 Meeting Minutes

Johanna Kiehl gave the final report with a practitioner in New Jersey who attended Emory Law School and practiced in Georgia for a few years before moving north. She also plans to interview another family law practitioner in New Jersey. Carol Walker also participated in the call and offered her observations as well.

Johanna:

- New Jersey uses two separate worksheets. The sole parenting worksheet is applicable up to 28% parenting time. Parenting time does not include vacations and holidays and is based on overnights, which are 12 hours or more of a 24-hour day. You plug in a number of days, and it tells you which calculator to use and the calculator does all the math.
- The non-custodial parent gets a percent adjustment for variable expenses and even if that minimal level of visitation is zero to 28%, they get an adjustment for variable expenses. Within their BCSO, variable expenses account for 37% of that number, fixed expenses account for 38%, and the last 25% is called control expenses, for things like food and transportation.
- The shared parenting is 28% and above, and you get credit for variable and fixed expenses like housing and utilities, but there is a bit of a cliff.
- I asked if she could see a benefit to children for the parenting time adjustment, and her response was absolutely. And, that it is necessary to have the adjustment because of the cost of housing.
- They have a continuing issue of determining what are fixed versus variable expenses. She said also, when there are multiple children, it's a lot more complicated, because when a child goes off to college, the housing expenses do not change.

Carol:

- New Jersey seems to place a lot more emphasis on what kind of parenting is going on during the regular year, day to day, week to week, and are not just looking at an artificial number for say 30 days in the summer. It affects the whole issue of whether a parent is going to get the adjustment for housing, which is evidently a big deal because of the cost of housing.

Johanna:

- 50/50 is not often done, but most everyone she sees reaches the 28% threshold. Once you get to 50/50, exactly, you must back out a percent of the BCSO. So, the parties are kind of splitting the control expenses, which normally the custodial parent is given 100% credit for. Otherwise, the lesser income parent ends up getting the shaft, as was stated. They don't argue over what classifies as a day, they do argue about the regular visitation. They don't really argue about holidays and vacations.

Carol:

- The primary residential parent always feels like they're getting the short end of the stick with the parenting time adjustment. Judges in New Jersey don't always examine outcomes as closely as they should, such as, whether the extra bedroom requirement is really being met.

Johanna:

- A parent has to show evidence of different living accommodations, if you're going to get that controlled expense adjustment. The judges are okay with the adjustment and get angry if you try to deviate from what the parenting time adjustment says it should be.
- They do have some extracurricular costs factored into their BCSO, but they do a lot of add-ons and divide those expenses pro rata.
- We talked about parties who are not pursuing custody orders and how parenting time works in those situations. If they're going to get a child support order, they can do that in the court system and they are given credit for what they tell the judge their arrangement is even if there is no custody order. Making it sort of a de facto visitation arrangement, because they're plugging this information in the calculator.
- Carol asked if the practitioner for any words of wisdom. She said knowing about the huge economic disparity in Georgia, she thinks it's going to be important for us to know the economic principles on which the guidelines are based. She reminded us that we have Metropolitan Georgia and the rest of Georgia. She said it's very different from Dade County in the northwest corner to DeKalb County, and it's almost two different places.

## I. Brief, general recap of NJ process for awarding a parenting time adjustment

- Two separate worksheets are available for parties with a combined net income of 187k or less – one is for “Sole Parenting” (lesser time parent has less than 28% parenting time; holidays and vacations do not count) and the other is for “Shared Parenting” (more than 28%). Calculators do the math based on the parenting time inputted by the user.
- 3 categories of expenses make up child support amounts: variable (37% of total support amount), *fixed* (38%) and *controlled* (25%) expenses. The parenting time adjustment is applied and credited to different categories, depending on the amount of parenting time. It is not applied to the entire support amount.
  - Sole parenting worksheet: used when the lesser time parent has less than 28% parenting time (holidays and vacations do not count toward parenting time); there is a presumption the lesser time parent gets an adjustment for *variable* expenses.
  - Shared parenting worksheet: used when the lesser time parent has more than 28% parenting time; there is a presumption the lesser time parent gets an adjustment for *variable* expenses AND *fixed* expenses (must show separate living accommodations for the child).
- Final category of *controlled* expenses is credited 100% to greater time parent unless parenting time is exactly 50/50.
- Guidelines are established by court rule.
- NJ has a gradual linear adjustment up to 28% shared PT; there is a “cliff” effect at 28% because the lesser time parent can then get credit for variable and fixed expenses, but it is back to a gradual linear adjustment from there.

## II. General thoughts and takeaways in reviewing NJ

- NJ’s model is complex in that it has 3 different categories of expenses making up support awards and two separate worksheets. But, the automated nature of the calculations makes it simple for judges and attorneys to apply. There is a more simplified tool for pro se litigants but it doesn’t always yield the same exact figures as the tool used by judges and attorneys. There is still a burden on law clerks to assist with pro se situations.
- NJ’s parenting time adjustment has been very well thought out and is generally accepted to be fair by litigants, attorneys and judges (though payors may perceive it as more fair than recipients).
- There are protections built in for low-income payors and recipients, but there may be some over-application of the parenting time adjustment. Judges do not often exercise their discretion NOT to apply the parenting time adjustment when they are authorized to do so, resulting in lower awards for low-income primary custodians.

- There is a “cliff” at 28% parenting time, but it is gradual linear increase below and above the 28% mark.
- Initial opinions (Johanna’s)

While the 3 categories make sense for NJ with the extensive research they have conducted and can continue to conduct, it would be very complicated for Georgia to adopt without a major undertaking – economic studies, education, etc. (especially when considering economic disparities across the state and trying to categorize expenses and designate appropriate portions of support for those categories).

However, insight can be gained from NJ:

- It may be appropriate that only small support adjustments be awarded for minimal parenting time and much greater adjustments awarded as the time moves closer to 50/50.
- NJ’s 28% cliff results in a distinct monetary incentive to reach that threshold; Georgia should consider a state like Minnesota’s past experience with cliffs and more recent “correction” to an exponential/curve model.
- NJ has a clear definition of parenting time in that “overnight” is defined as “12 hours or more” that creates very little litigation. Georgia could adopt a similar approach and use “day” defined as “the majority of a 24-hour day (i.e., more than 12 hours)”.
- Having a presumptive formula would yield more uniformity (though there is a risk judicial discretion will not being exercised when appropriate to do so).
- Having a presumption for deviation may result in awards obligors are more likely to pay.
- With any parenting time adjustment, there MUST be built in protection for a low-income recipient/payee household (even if there is a self-support reserve for the paying parent).
- Before recommending a new model for PT deviation, there must be a clear understanding of BCSOs with updated economic data.

### **III. Summary of New Jersey practitioner responses to interview questions (blue – legal services attorney; red – private practitioner) – both experienced practitioners**

- If the way your state adjusts child support for parenting time has changed since you’ve been a practitioner, can you provide a brief explanation of what it was prior to the change (the pros and cons of prior methodology)? What was the reason for the change (if you know)?
  - The guidelines have been in this format since 1997, although there were child support guidelines in place starting in 1986. She believes NJ adopted child support guidelines to 1) provide more uniformity in decision-making; and 2) comply with federal requirements to have guidelines.

- Unlike many states, NJ's child support guidelines are part of the rules of court rather than legislated. The statutes have some broad language about child support, and govern some specific details such as termination of child support and certain enforcement mechanisms. But the calculation of the amount of support is based upon rules of court.
- Do you see a benefit to children for parenting time adjustments to child support? If so, what is it?
  - It may provide an order that the obligor is more likely to pay. Data shows that orders that are too high are often not paid at all.
  - In her practice she often sees motions filed by the other party to expand parenting time to qualify for a shared parenting deduction ("shared" parenting is 28% or more parenting time and qualifies the NCP for a reduction in variable AND fixed expenses, much larger than the typical overnight parenting-time adjustment; "typical" PT for her cases is 28% overnights or less for the NCP). Those motions for more time are then often dropped when the attorney learns that the shared parenting deduction does not apply when the custodial parent's household income is below 200% of the FPL (meaning they won't get the reduced child support by winning more time). That may suggest that the incentive is not to have more time, but to have a smaller support order. The outstanding question is whether the full amount of parenting time ordered is utilized – when it is not, the non-custodial parent is getting an inappropriate reduction.
  - It's necessary – PAR (parent of alternate residence) needs the adjustment for fixed expenses because of the cost of housing
- What are your thoughts about the pros and cons of the current methodology for parenting time adjustments to child support in your state?
  - They have a continuing issue of determining what are fixed v. variable expenses; also, when there are multiple children, it gets much more complicated when one goes to college (NJ allows support through college) because the housing expenses for the parents do not change when that child leaves.
- Is the issue of parenting time adjustments to child support an ongoing topic of discussion in your state?
  - The deductions have not been debated in the 17 years that she has been paying close attention to the guidelines. The underlying economic data (share of income going to housing vs entertainment is reviewed by an economist during each quadrennial review (the process takes typically 10 years to complete).
  - Yes – reviewed every other year; guidelines are set out in Rules; easy to amend; lots of money goes into review



- Does your state have any kind of presumed parenting time, whether statutorily defined or simply understood to be the standard?
  - Most common is probably every other weekend Friday evening to Sunday evening + one weeknight dinner time visit each week. But this may be expanding somewhat. [this is 14% PT based on 2/14 overnights – since holidays and vacations do not count]
  - No presumption of 50/50 in the law. In her practice, almost 100% meet the 28% parenting time threshold to get the fixed expense adjustment.
- How does your state calculate parenting time – hours, days, overnights?
  - NJ calculates by “overnights”, excluding vacation and holidays, and overnight is defined as “the majority of a 24-hour day (i.e., more than 12 hours)”
  - Although holidays and vacations do not typically “count”, there are cases where a CP and child move out of state and an adjustment is given to the parent left behind to reflect the extended vacation periods.
  - Parties don’t tend to fight for holidays and vacations; focus is on the regular schedule.
- What are the benefits or downfalls of this methodology?
  - It gives parents incentive to equate money with time instead of what’s best for the children; but without the adjustment for housing, the PAR (parent of alternate residence) could not afford adequate housing and pay support
- Do parties litigate what classifies as a “day” or other unit of measure often?
  - She litigated this issue in a case and lost. In that case dad had primary residential custody. Mom picked up the kids from school every day, did their homework with them, fed them dinner and brought them back to dad’s place around bedtime. Dad’s mom put them to bed. Then dad got home from work – got the kids up in the morning and ready for school. She argued that mom had more than half the time that either parent spent with the kids (i.e. waking hours when they were not in school). Mom lost the argument.
  - People do not often litigate what qualifies as an overnight; they litigate getting the nights; if there is a dispute about parenting time at first appearance, there is a free mediation with court staff and there is no predisposition to any particular type of parenting schedule.
- Can you elaborate on 50/50 shared custody arrangements (whether it is litigated often) and the provision: “the PPR is the parent with whom the child resides while attending school” – particularly when the child goes back and forth during the school week or every other week?
  - Who should be the PPR is always a difficult issue when litigated. In practice, the lower earning parent is often named as the PPR. While parents often love the idea of 50/50 split – it is impractical for most people. NJ is the third smallest state but they have over

600 independent school districts/systems. Unless the parents are very intentional about living in very close proximity to each other, it typically does not work once a child reaches school age.

- No presumption of 50/50 and not seeing it that much - where people live in NJ, it's hard to make it happen – not practical; there is a separate calculation for 50/50 referenced in the *Wunsch-Deffler v Deffler* case; have to be very careful with the 50/50 calculation because if it's not done correctly the lesser income parent “gets the shaft” [when the parties share an equal number of overnights, a special 3-step procedure is used to “back out” the 25% for controlled expenses and reflect that both parents pay controlled expenses]
- Does your state’s methodology for the parenting time adjustment result in any “cliff” effects (more drastic jumps in deviation based on a specific number of days awarded to the lesser time parent, e.g., a threshold number of days or several jumps)? If so, do you feel this presents a challenge in your practice either from the payee or payor perspective?
  - As a legal services attorney serving only low-income clients, she rarely has a shared-parenting adjustment that applies to her cases because of the exclusion of its application for custodial parent household income below 200% of the Federal Poverty Level (“FPL”). They definitely see motions to expand parenting time to 28% of overnights or more but the motions are dropped when the moving attorney learns the shared parenting deduction will not be applied. She assumes there are similarly motivated motions in higher earning families.
  - There is a cliff effect and in her practice, almost 100% meet the 28% parenting time threshold to get the fixed expense adjustment.
- Do you have an online tool for calculating the amount of parenting time?
  - They do not have a specific online tool for this, but it is built in to most (if not all) software for preparing child support guidelines worksheets. It works well. Typically it takes the schedule for an average (non-holiday) week of parenting time and calculates number of overnights by 7 days in the week, to get the percentage – that system excludes holiday and other extended parenting time. The math is simpler than other aspects of the guidelines (but likely still too complicated for some).
- Do you have an online tool for applying the parenting time adjustment (i.e., a child support worksheet that incorporates the parenting time formula)? Do most practitioners, pro se litigants and judges use the tool?
  - The NJ Office of Child Support Services publishes a child support estimation calculator – which does not include every nuance of the guidelines, but covers the adjustments that apply to most cases – including the overnight adjustment. <http://quickguide.njchildsupport.org/> ; she’s not sure how frequently this is actually used by pro se litigants. It can be hard to locate.

- There are commercial software packages used by attorneys and the courts to calculate the guidelines. Link to software is at <https://www.njchildsupport.org/>. Pro ses only have access to the Guidelines Worksheets to do by hand and the child support estimate calculator referenced above.
  - There is public calculator but the outcome may be different from the in-house tool used by the judiciary staff. Many pro ses don't know how to use the tool; the burden falls on law clerks.
- Is the parenting time adjustment to child support discretionary in your state? If discretionary, is it treated as a strong presumption more often than not?
  - It is a presumption. Even at the lowest “tier” of adjustment (when the noncustodial parent exercises less than 28% parenting time but can still get an adjustment for variable expenses) the guidelines say that application of the parenting time deviation is discretionary if the custodial parent has a household income below a certain level (either 150% or 200% FPL). This discretion to forego the adjustment is almost never used, however, and there is no guidance on when it should be applied. On the other hand, the shared parent adjustment (28% or more parenting time – parent can get an adjustment for variable and fixed expenses) is rarely applied to cases with household income below 200% of FPL.
  - The software used to calculate child support for the court and attorneys includes a system to flag cases where the custodial parent is below 200% FPL. It requires an override to use the shared parenting worksheet.
  - Not treated as discretionary by judiciary.
- Do you see parenting time adjustments to child support applied a) not enough, b) too often) or c) in an appropriate number of cases?
  - Too often – the discretion to not apply the parenting time adjustment when the custodial parent is low-income is very rarely exercised when the NCP parenting time is under 28%.
  - It's done in an appropriate number of cases; parties are not typically arguing about the parenting time adjustment itself; they are arguing about something else.
- How do the judges view (in your experience) the current formula for parenting time adjustments? Favorable, unfavorable, underutilized, etc.?
  - It is very much an accepted and largely unchallenged portion of the guidelines. In fact, there is typically little debate about the use of the guidelines. It has become very mechanical. A study done around 2004 found that the NJ child support guidelines were applied in (she thinks) 94% of child support cases. Only about 4% noted a deviation from the guidelines or were for income above the guidelines. To her that seems like a remarkable level of compliance.
  - Judges favor the formula and get angry if you try to deviate.

- In your opinion, does the ability to ask for a parenting time adjustment to child support result in more conflict in parenting time negotiations/litigation? Please describe the basis for your opinion, giving examples if possible.
  - See above discussion of motions for parenting time that are dropped by moving party upon learning that shared parenting adjustment will not apply.
  - NJ permits motions/applications to modify support upward if parenting time is not utilized. They typically recommend that custodial parents in this situation use a calendar to mark when visits occur or do not occur at the time of the scheduled visit – creating a log, which along with communications about the parenting time can be very useful evidence about how parenting time has been or has not been exercised.
- From what you’ve seen in your practice, is the parenting time adjustment viewed to be “fair” by litigants in your jurisdiction?
  - Very much accepted part of practice – so, “yes”.
  - If the client is the recipient of the child support, “not enough” is the view held by the client (she spends time explaining to the client what both parents are spending); if the client is the obligor, he/she is not upset by the outcome typically.
- If your jurisdiction has an adjustment which is multi-faceted (i.e., based on fixed or variable expenses), is one type of adjustment viewed by litigants as “more fair” (i.e. easier for a litigant to understand and agree to)?
  - It is a complex system that is not well understood by litigants – and attorneys did not take math in law school – so this is rarely thought about much by litigants or their attorneys.
- If your state applies the parenting time adjustment to a component of the child support obligation (i.e., certain types of expenses only, like variable expenses for food and transportation), how often is this issue litigated?
  - Almost never.
- In your opinion, would it be more practical for the adjustment to apply to the entire obligation (if currently only a portion like NJ) or vice versa if it already applies to the entire obligation?
  - If there is going to be an adjustment – the current method seems relatively fair. Exercising discretion more often for very low-income custodial parents might be an improvement in the system.
- Does your state have a self-support reserve for payor, payee, both? And from what you’ve seen in your practice, does this offer adequate protection to the payee in low-income situations if a parenting time deviation is awarded to the payor?
  - There is a SSR for payor, but it is not applied if payee is also below threshold, which was raised to 150% of FPL on 9/1/21 after about a decade of review. The new self-support

reserve will kick in only in very few cases, as the amount is still lower than NJ minimum wage (\$12/hr).

- Expansion to 200% of FPL might be appropriate and needs further consideration. Note, this lengthy deliberation also resulted in the NJ Courts recognizing that the primary cases that apply the SSR are those involving payors who receive Social Security concurrent benefits – so it was made clear concurrent benefits are means tested and should not count as income.
- In your opinion, are there any aspects of your state’s method for adjustment of child support for parenting time that result in poor outcomes for children? If so, what are they?
  - Guidelines amounts can be based on economic data pulled when the market is not good – so support amounts may not be sufficient.
- How often do parties request extraordinary expenses be factored into the calculation or are they more often handled pro rata in the court order?
  - There are some expenses built in, but parties will sometimes debate things like car insurance. NJ is one of the most expensive states to insure (might at \$2000/year to insure a 17 year old).
  - Some portion is already included in CS amount but judges consistently order a proportionate split of these “add-ons” because the child support amount “just doesn’t cover it”.

# Tennessee

## Tennessee

**Child support model:** Income Shares

**When were the guidelines last updated?:** 2018

**Authority:** TN ADC 1240-02-02-.04(7)

### **Authority language:**

(7) Adjustment for Parenting Time.

(a) These Guidelines presume that, in Tennessee, when parents live separately, the children will typically reside primarily with one parent, the PRP, and stay with the other parent, the ARP, a minimum of every other weekend from Friday to Sunday, two (2) weeks in the summer, and two (2) weeks during holidays throughout the year, for a total of eighty (80) days per year. The Guidelines also recognize that some families may have different parenting situations and, thus, allow for an adjustment in the child support obligation, as appropriate, in compliance with the criteria specified below.

(b) Parenting Time.

1. The adjustment is based upon the ARP's number of days of parenting time with the children in the case under consideration.

2. Fifty-Fifty / Equal-Parenting Situations.

In this situation, there is no PRP and/or ARP designation based upon parenting time. Accordingly, the PRP / ARP designation will be made as follows, solely for the purpose of calculating the parenting time adjustment:

(i) Fifty-Fifty / Equal-Parenting.

The Father or Parent 2 is deemed the ARP when calculating the parenting time adjustment solely for an equal parenting situation.

(ii) Fifty-Fifty / Equal-Parenting Combined with Split Parenting.

The Father or Parent 2 is deemed the ARP when calculating the parenting time adjustment for an equal parenting situation in conjunction with a split parenting situation.

(iii) Fifty-Fifty / Equal-Parenting Combined with Standard Parenting.

The ARP in the standard parenting situation will also be the ARP in the equal parenting situation when calculating the parenting time adjustment for an equal parenting situation in conjunction with a standard parenting situation.

3. No more than one (1) day of credit for parenting time can be taken in any twenty-four (24) hour period, i.e., only one parent can take credit for parenting time in one twenty-four (24) hour period. Except in extraordinary circumstances, as determined by the tribunal, partial days of parenting time that are not consistent with this definition shall not be considered a "day" under these Guidelines. Routinely incurred parenting time of shorter duration may be cumulated as a single day for parenting time purposes.

4. Average Parenting Time.

If there are multiple children for whom support is being calculated, and the ARP is spending a different amount of time with each child, then an annual average of parenting time with all of the children shall be calculated. For example, if the ARP has sixty-seven (67) days of parenting time per year with Child A, eighty-four (84) days of parenting time per year with Child B, and one hundred thirty-two (132) days of parenting time per year with Child

C, then the Parenting Time Adjustment would be calculated based upon ninety-four (94) days of parenting time [67 + 84 + 132 = 283 / 3 = 94]. The Income Shares Worksheet formula will automatically calculate this average by using the actual number of days spent with each child. For this purpose, standard rounding rules apply.

(c) In cases of split parenting, both parents are eligible for a parenting time adjustment for the child(ren) for whom the parent is the ARP unless a SSR is applied.

(d) In a non-parent caretaker situation, neither parent is eligible for a parenting time adjustment. However, a SSR may be applicable.

(e) Parenting time adjustments are not mandatory, but presumptive. The presumption may be rebutted in a case where the circumstances indicate the adjustment is not in the best interest of the child.

(f) Due to the method for calculation of the adjustment, it is anticipated, in a case where the PRP has greater income than the ARP and the ARP has a high level of parenting time with the child, that support may be due from the PRP to the ARP to assist with the expenses of the children during the times spent with the ARP. In this circumstance, a support payment from the PRP to the ARP is allowed. The SSR is also considered in this circumstance.

(g) The automated child support worksheet provided by the Department will automatically calculate all parenting time adjustments when the user enters the requested information. No manual calculation is required, however, instructions for manual calculation are provided in these rules. See: Rule 1240-02-04-.08(2)(c)5.

(h) Reduction in Child Support Obligation for Additional Parenting Time.

1. If the ARP spends ninety-two (92) or more days per calendar year with a child, or an average of ninety-two (92) days with all applicable children, an assumption is made that the ARP is making greater expenditures on the child during his/her parenting time for transferred costs such as food and/or is making greater expenditures for child-rearing expenses for items that are duplicated between the two (2) households (e.g., housing or clothing). A reduction to the ARP's child support obligation may be made to account for these transferred and duplicated expenses, as set forth in this chapter. The amount of the additional expenses is determined by using a mathematical formula that changes according to the number of days the ARP spends with the child and the amount of the BCSO. The mathematical formula is called a "variable multiplier."

2. Upon reaching the threshold of ninety-two (92) days, the variable multiplier shall be applied to the BCSO, which will increase the amount of the BCSO in relation to the ARP's parenting time, in order to account for the child-rearing expenses incurred by the ARP during parenting time. These additional expenses are divided between the parents according to each parent's PI. The PRP's share of these additional expenses represents an amount owed by the PRP to the ARP and is applied as a credit against the ARP's obligation to the PRP.

3. The presumption that more parenting time by the ARP results in greater expenditures which should result in a reduction to the ARP's support obligation may be rebutted by evidence.

4. Calculation of the Parenting Time Credit.

(i) First, the variable multiplier is determined by multiplying a standard per diem of .0109589 [2 / 182.5] by the ARP's parenting time determined pursuant to paragraph (7)(b) above. For example, the 94 days of parenting time calculated in the example from part (7)(b)4. above is multiplied by .0109589, resulting in a variable multiplier of 1.0301366 [94 x .0109589].

(ii) Second, the variable multiplier calculated in subpart (i) above is applied to the amount of the parties' total BCSO, which results in an adjusted BCSO. For example, application of the variable multiplier determined above for



ninety-four (94) days of parenting time to a BCSO of one thousand dollars (\$1000) would result in an adjusted BCSO of one thousand thirty dollars and fourteen cents (\$1030.14) [ $\$1000 \times 1.0301366$ ].

(iii) Third, the amount of the BCSO is subtracted from the adjusted BCSO. The difference is the child-rearing expenses associated with the ARP's additional parenting time. In the example above, the additional child-rearing expenses associated with the ninety-four (94) days of parenting time would be thirty dollars and fourteen cents (\$30.14) [ $\$1030.14 - \$1000$ ].

(iv) The additional child-rearing expenses determined in subpart (iii) above are pro-rated between the parents according to each parent's percentage of income (PI). The PRP's share of these additional expenses is applied as an adjustment against the ARP's pro-rata share of the original BCSO. For instance, if the PRP's PI is forty percent (40%), the PRP's share of the additional expenses in the example above would be twelve dollars and six cents (\$12.06) [ $\$30.14 \times 40\%$ ]. The twelve dollars and six cents (\$12.06) is applied as a credit against the ARP's share of the BCSO, resulting in a child support obligation for the ARP of five hundred eighty-seven dollars and ninety-four cents (\$587.94) [ $\$1000 \times 60\% = \$600 - \$12.06$ ].

(v) Once the BCSO is reduced for parenting time, only one parent will owe a BCSO. Once it is determined who that one parent is, that parent's AGI and number of children for whom support is being determined shall be checked against the "shaded area" to determine if the SSR applies to that parent. If it does, the BCSO shall be the lower of the amount from (iv) or the shaded area based on the obligor's AGI and number of children for whom support is being determined. In the example above, (iv) indicates that the ARP's share of the BCSO is five hundred eighty-seven dollars and ninety-four cents (\$587.94). If the ARP's income is four thousand eight hundred ninety dollars (\$4,890) per month, the ARP's income does not fall into the shaded area and no additional adjustment is made. If the circumstance is as described in (f) where the PRP owes the ARP, which can result from the calculation if the PRP has greater income than the ARP and the ARP has a high level of parenting time with the child, then the BCSO shall be the lower of the PRP's BCSO from (iv) and the PRP's AGI using the shaded area and the number of children for whom support is being determined.

(i) Increase in Child Support Obligation for Less Parenting Time.

1. If the ARP spends sixty-eight (68) or fewer days per calendar year with the child(ren) in the case, or an average of sixty-eight (68) days with all applicable children, the ARP's child support obligation may be increased for the lack of parenting time. The first step in calculating the increase is to determine the number of days fewer than sixty-nine (69) the ARP spends with the child and then divide this number of days by three hundred sixty-five (365). For example, if the ARP has sixty-eight (68) days of parenting time, the percentage of days is 0.002739726 [ $69 - 68 = 1$ ;  $1/365$ ].

2. The second step is to multiply the percentage of days by the ARP's share of the BCSO. For example, if the ARP's share of the BCSO is one thousand two hundred dollars (\$1,200), and the parenting time is sixty-eight (68) days, the increased share of support is three dollars and twenty-nine cents (\$3.29) [ $0.002739726 \times \$1,200 = \$3.29$ ]. If the ARP's share of the BCSO is adjusted for the SSR, the percentage of days would also be multiplied to the ARP's share of the BCSO

3. The increased share of support is added to the ARP's share of the BCSO resulting in the adjusted BCSO. Continuing the example from above, the ARP's increased BCSO is one thousand two hundred three dollars and twenty-nine cents (\$1,203.29). [ $\$1,200 + \$3.29$ ]

4. The presumption that less parenting time by the ARP should result in an increase to the ARP's support obligation may be rebutted by evidence.

(i) In an action to modify an existing child support order to reflect a change in parenting time, the parent seeking the credit must prove a significant variance pursuant to 1240-02-04-.05 when comparing the current order to the proposed order with application of the parenting time adjustment.

**Category:** Adjustment

**Does the state offer a calculator, worksheets, formulas, or other calculation assistance?**

Calculator, TN ADC 1240-02-02-.08, <https://www.tn.gov/humanservices/for-families/child-support-services/child-support-guidelines/child-support-calculator-and-worksheet-1.html>

**What unit is used to measure parenting time?** Days

**How is the unit defined?**

TN ADC 1240-02-02-.02(10)

(10) “Days” -- For purposes of this chapter, a “day” of parenting time occurs when the child spends more than twelve (12) consecutive hours in a twenty-four (24) hour period under the care, control or direct supervision of one parent or caretaker. The twenty-four (24) hour period need not be the same as a twenty-four (24) hour calendar day. Accordingly, a “day” of parenting time may encompass either an overnight period or a daytime period, or a combination thereof. In extraordinary circumstances, routinely incurred parenting time of shorter duration may be cumulated as a single day for parenting time purposes.

**Is there a parenting time threshold?**

TN ADC 1240-02-02-.02(12), (26), (27)

(12) “Fifty-fifty Parenting/Equal Parenting” -- For purposes of this chapter, parenting is fifty-fifty (50-50) or equal when the parents of the child each spend fifty percent (50%) of the parenting time with that child. On the Child Support Worksheet, each parent will be designated as having one hundred eighty-two point five (182.5) days with the child. For purposes of calculating the support obligation, fifty-fifty/equal parenting is a form of standard parenting.

(26) “Split Parenting”-- For purposes of this chapter, “split parenting” can only occur in a child support case if there are two (2) or more children of the same parents, where one (1) parent is PRP for at least one (1) child of the parents, and the other parent is PRP for at least one (1) other child of the parents. In a split parenting case, each parent is the PRP of any child spending more than fifty percent (50%) of the time with that parent and is the ARP of any child spending more than fifty percent (50%) of the time with the other parent. A split parenting situation will have two (2) PRPs and two (2) ARPs, but no child will have more than one (1) PRP or ARP.

(27) “Standard Parenting” -- For purposes of this chapter, “standard parenting” refers to a child support case in which all of the children supported under the order spend more than fifty percent (50%) of the time with the same PRP. There is only one (1) PRP and one (1) ARP in a standard parenting case.

TN ADC 1240-02-02-.04(7)(a)

(a) These Guidelines presume that, in Tennessee, when parents live separately, the children will typically reside primarily with one parent, the PRP, and stay with the other parent, the ARP, a minimum of every other weekend from Friday to Sunday, two (2) weeks in the summer, and two (2) weeks during holidays throughout the year, for a total of eighty (80) days per year.

**How does the state determine shared parenting?**

TN ADC 1240-02-02-.04(7)(b) et. seq.

(b) Parenting Time.

1. The adjustment is based upon the ARP's number of days of parenting time with the children in the case under consideration.

2. Fifty-Fifty / Equal-Parenting Situations.

In this situation, there is no PRP and/or ARP designation based upon parenting time. Accordingly, the PRP / ARP designation will be made as follows, solely for the purpose of calculating the parenting time adjustment:

(i) Fifty-Fifty / Equal-Parenting.

The Father or Parent 2 is deemed the ARP when calculating the parenting time adjustment solely for an equal parenting situation.

(ii) Fifty-Fifty / Equal-Parenting Combined with Split Parenting.

The Father or Parent 2 is deemed the ARP when calculating the parenting time adjustment for an equal parenting situation in conjunction with a split parenting situation.

(iii) Fifty-Fifty / Equal-Parenting Combined with Standard Parenting.

The ARP in the standard parenting situation will also be the ARP in the equal parenting situation when calculating the parenting time adjustment for an equal parenting situation in conjunction with a standard parenting situation.

3. No more than one (1) day of credit for parenting time can be taken in any twenty-four (24) hour period, i.e., only one parent can take credit for parenting time in one twenty-four (24) hour period. Except in extraordinary circumstances, as determined by the tribunal, partial days of parenting time that are not consistent with this definition shall not be considered a "day" under these Guidelines. Routinely incurred parenting time of shorter duration may be cumulated as a single day for parenting time purposes.

4. Average Parenting Time.

If there are multiple children for whom support is being calculated, and the ARP is spending a different amount of time with each child, then an annual average of parenting time with all of the children shall be calculated. For example, if the ARP has sixty-seven (67) days of parenting time per year with Child A, eighty-four (84) days of parenting time per year with Child B, and one hundred thirty-two (132) days of parenting time per year with Child C, then the Parenting Time Adjustment would be calculated based upon ninety-four (94) days of parenting time  $[67 + 84 + 132 = 283 / 3 = 94]$ . The Income Shares Worksheet formula will automatically calculate this average by using the actual number of days spent with each child. For this purpose, standard rounding rules apply.

(c) In cases of split parenting, both parents are eligible for a parenting time adjustment for the child(ren) for whom the parent is the ARP unless a SSR is applied.

(d) In a non-parent caretaker situation, neither parent is eligible for a parenting time adjustment. However, a SSR may be applicable.

## Excerpt from September 15 Meeting Minutes

Next, Study Committee member, Carol Walker, gave her report on her conversation with a practitioner from Tennessee who has been practicing for a long time, since before Tennessee switched to an income shares model for child support. She noted it was especially interesting to speak with a practitioner from Tennessee because Georgia's child support guidelines statute was modeled on Tennessee's.

- Their law basically says that there is a rebuttable presumption for custody in Tennessee, of a minimum of every other weekend, Friday to Sunday, two weeks in the summer and two weeks for holidays.
- Tennessee looks at costs, and they call them by names like transferred costs, which are things such as food, and duplicated costs, and housing and clothing.
- Tennessee allows a parenting time adjustment starting at 94 days, which is basically 25% of parenting time, you have a primary residential parent, and you have an alternate residential parent.
- And the parent who has more days is the primary residential parent. There is a mathematical formula, which is the number of days which is called a variable multiplier that is built into the child support tables, which increases the amount of the BCSO in relation to the parenting time. And then that is divided proportionately by the parents' income, and then there is a subtraction in the amount from the alternative residential parent to the primary residential parent. Sounds really complicated, but simple in application.
- The week-to-week custodial basis is not uncommon. So almost every case that you have, there is going to be a parenting time adjustment, because you're going to get over that 25% threshold.
- So that statutory presumption as every other weekend is not applicable for the most part, even though it's in the statute; it's like it doesn't really belong there anymore. People don't fight much about days.
- Days are most of a 24-hour period, but it doesn't have to be 24-hour midnight to midnight, it can be 24 hours otherwise.
- Judges sometimes will not accept the presumptive amount with the adjustment depending upon what the amount is. And there's just not a lot of litigation at this point over the parenting time adjustment.
- The calculator tool is required, the worksheets are required, and for the most part, the judges are following it without deviation because there is a strong presumption that the adjustment is appropriate.
- If you have less than 60 days of parenting time, there's an adjustment upward for the primary residential parent. So, if someone is not exercising parenting time, there is a statutory calculation for that.
- Their child support calculator is easy to use and accessible, although pro se litigants may have difficulty.

## Excerpt from October 6 Draft Minutes

Ms. Connell called upon Carol Walker to give an update on Tennessee. She began by reminding the committee that Tennessee's definition of parenting time adjustment is based upon the concept of a day, which is defined as the majority of a 24-hour period. She suggested this definition might help solve the issue for parents who have overnight work conflicts since there is flexibility to aggregate partial days and count them as a "day." Ms. Walker also discussed the interplay of a self-support reserve and an adjustment for parenting time. She found in their state's training materials that the parenting time adjustment may cause a child support obligation to be less than the minimum amount stated in the statute. This suggests there could be a situation where if you have low-income parents, and you have someone who has a minimal amount of a child support obligation, but has significant parenting time, you could end up with no child support or even a situation where the custodial parent would have an obligation to pay a child support. Ms. Walker also explained that Tennessee's threshold for applying a parenting time adjustment is about 92 days or 25% of the time and noted that 68 days or less of parenting time allows an upward adjustment. Ms. Walker stated she thinks the Tennessee model makes sense, because what it does is adds additional, basically support, to the idea of the BSCO and then allocates that extra amount based upon what a parent has in terms of parenting time, and then a credit is given for the amount of support that comes over to the custodial parent.

## REPORT - TENNESSEE'S PARENTING TIME ADJUSTMENT<sup>1</sup>

The issue of parenting time adjustments appears to be well settled in Tennessee, having been in existence since Tennessee adopted income shares. For the most part, it is well accepted by practitioners and the public at large, and does not represent a major or ongoing topic of discussion or controversy in Tennessee.

There is a statutory statement of a rebuttable presumption that when the parents live separately, the alternate residential parent (ARP) will have a minimum of 80 days per year parenting time and the primary residential parent (PRP) will have the balance. This presumption is further described as Friday-Sunday alternating weekend time, two weeks in the summer and two holiday weeks, which, as a practical matter, is generally more restrictive of shared parenting time than divorce custody orders routinely entered in Tennessee presently. This presumption equals 22% of parenting time.<sup>2</sup>

The parenting time adjustment commences at a 92 day ARP parenting time threshold, which equals roughly 25% of total parenting time. It is uncertain why that percentage of parenting time was chosen as the threshold. The number of days for the ARP is multiplied by a percentage number which is called a "variable multiplier"; that total is then applied to the BCSO to increase the amount of the BCSO. These additional expenses, once added to the BCSO, are then divided according to the percentage share of the parents' income. The PRP's share of these additional expenses represents an amount owed by the PRP to the ARP and is applied as a credit against the ARP's obligation to the PRP. The formula assumes that each additional day of parenting time for the ARP creates an adjustment of .0109589 per day of parenting time.

There are three online calculators which generate the required child support worksheets: web-based, Excel based and an IOS format which can also be used as an App. The Excel based calculator is very much like the former Excel calculator which Georgia used prior to going to the sole web-based calculator, which is not surprising, since Georgia's statutory scheme was in large part modeled on Tennessee's law. These calculators are used by practitioners and judges and they work as intended. Tennessee's tool is as reasonably accessible as Georgia's present tools for pro se litigants. The online calculators generate the required worksheets. There is an ongoing concern among practitioners that low income litigants are not always treated fairly, and Tennessee child support guidelines were recently modified to address the self support reserve for ARP.

The practitioner interviewed stated that it is commonly perceived there is a benefit to children for both parents to share in parenting time and that it is appropriate there should be an adjustment for

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<sup>1</sup> This report is based upon an interview with an experienced Tennessee domestic relations litigator and Rule 31 mediator.

<sup>2</sup> Evidently Tennessee has a different jurisdictional statutory scheme for the determination and establishment of child custody when parents are not married. Cases of unmarried parents are determined in the Juvenile Court, and, as related to me, it is uncommon that more parenting time than the statutory presumption is granted in the Juvenile Court. The practical outcome of that model results in no parenting time adjustment to child support. The author was unable to confirm this assertion independently with child support services, and further clarification of this assertion would be appropriate.

this benefit. Most child custody orders entered in divorce cases exceed the 92 day threshold, and in communities where it is practical, extended time for the ARP is the norm, including 50/50 time. There is not much actual litigation over parenting time in the practitioner's experience.

The parenting time adjustment is based on "day", which is defined as the majority of a twenty-four hour period. If the judge finds that there are "extraordinary circumstances", they may consider whether partial days of parenting time not consistent with this definition may be considered as a day, including routinely incurred parenting time of shorter duration may be cumulated as a single day for parenting time adjustment purposes, although rarely done. There is a case law in Tennessee which defines in more detail what a "day" is, and there is little litigation over this issue once the schedule is defined.

For the most part, judges will follow the calculations but have the ability to modify the presumption if appropriate based upon the circumstances if properly documented and analyzed. While the adjustment makes the assumption that the ARP is making greater expenditures on the child for transferred costs such as food and/or is making greater expenditures for items that are duplicated between the two households, such as housing or clothing, the adjustment is subject to challenge upon proper evidence. However, judges are careful to examine the worksheets and schedules to ensure that an appropriate amount is being paid by both parties to support the children. In metropolitan areas, there are divorce referees in place which assist with the calculations. There is a mechanism which ensures when you have significantly higher income on the ARP (payor) side, that the children are adequately cared for financially in the PRP residence even if the ARP has significant parenting time.

Tennessee recently changed their guidelines addressing the self support reserve after significant discussion and disagreement between members of the commission. The guidelines effective May 2020 includes both a minimum basic obligation of \$ 100 and a minimum order of \$ 100 per month for the ARP. However, training materials listed on the Tennessee Child Support Commission website effective October 1, 2021 indicate that a parenting time adjustment could lower the minimum basic obligation.

The Tennessee guidelines are subject to change as a Rule rather than as a statutory change, which allows for greater flexibility than is present in Georgia's statutory scheme.

Examples of outcome for ARP given different parenting times:

Standard facts: PRP makes \$ 4000 month and ARP makes \$ 6000 month. 2 children.

- a) 80 days parenting time for ARP.  
\$ 926.40 amount paid to PRP by ARP which represents % share of BCSO of \$ 1544.00
- b) 95 days of parenting time for ARP  
\$ 901.02 amount paid to PRP by ARP - monthly credit to ARP of \$ 25.38
- c) 146 days of parenting time for ARP (40%)  
\$ 555.82 amount paid to PRP by ARP – monthly credit to ARP of \$ 370.56

- d) 182 days of parenting time for ARP (roughly 50%)  
\$ 312.18 amount paid to PRP by ARP – monthly credit to ARP of \$ 614.22

There is also a provision which provide for an increase in payment of support to PRP in the event that ARP has 68 or less parenting days per year. The variable multiplier has a different amount for its per diem increase in child support paid.<sup>3</sup>



# Virginia

## Virginia

**Child support model:** Income shares

**When were the guidelines last updated?:** 2018

**Authority:** VA Code Ann. § 20-108.2(G)(2)-(6)

### Authority language:

2. Split custody support. In cases involving split custody, the amount of child support to be paid shall be the difference between the amounts owed by each parent as a noncustodial parent, computed in accordance with subdivision 1, with the noncustodial parent owing the larger amount paying the difference to the other parent. Unreimbursed medical and dental expenses shall be calculated and allocated in accordance with subsection D.

For the purpose of this section and § 20-108.1, split custody shall be limited to those situations where each parent has physical custody of a child or children born of the parents, born of either parent and adopted by the other parent or adopted by both parents. For the purposes of calculating a child support obligation where split custody exists, a separate family unit exists for each parent, and child support for that family unit shall be calculated upon the number of children in that family unit who are born of the parents, born of either parent and adopted by the other parent or adopted by both parents. Where split custody exists, a parent is a custodial parent to the children in that parent's family unit and is a noncustodial parent to the children in the other parent's family unit.

3. Shared custody support.

(a) Where a party has custody or visitation of a child or children for more than 90 days of the year, as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the ratio in which the parents share the custody and visitation of any child or children shall be calculated in accordance with this subdivision. The presumptive support to be paid shall be the shared custody support amount, unless a party affirmatively shows that the sole custody support amount calculated as provided in subdivision G 1 is less than the shared custody support amount. If so, the lesser amount shall be the support to be paid. For the purposes of this subsection, the following shall apply:

(i) Income share. "Income share" means a parent's percentage of the combined monthly gross income of both parents. The income share of a parent is that parent's gross income divided by the combined gross incomes of the parties.

(ii) Custody share. "Custody share" means the number of days that a parent has physical custody, whether by sole custody, joint legal or joint residential custody, or visitation, of a shared child per year divided by the number of days in the year. The actual or anticipated "custody share" of the parent who has or will have fewer days of physical custody shall be calculated for a one-year period. The "custody share" of the other parent shall be presumed to be the number of days in the year less the number of days calculated as the first parent's "custody share." For purposes of this calculation, the year may begin on such date as is determined in the discretion of the court, and the day may begin at such time as is determined in the discretion of the court. For purposes of this calculation, a day shall be as defined in subdivision G 3 (c).

(iii) Shared support need. "Shared support need" means the presumptive guideline amount of needed support for the shared child or children calculated pursuant to subsection B of this section, for the combined gross income of the parties and the number of shared children, multiplied by 1.4.

(iv) Sole custody support. "Sole custody support" means the support amount determined in accordance with subdivision G 1.

(b) Support to be paid. The shared support need of the shared child or children shall be calculated pursuant to subdivision G 3 (a) (iii). This amount shall then be multiplied by the other parent's custody share. To that sum for each parent shall be added the other parent's or that parent's spouse's cost of health care coverage to the extent allowable by subsection E, plus the other parent's work-related child-care costs to the extent allowable by subsection F. This total for each parent shall be multiplied by that parent's income share. The support amounts thereby calculated that each parent owes the other shall be subtracted one from the other and the difference shall be the shared custody support one parent owes to the other, with the payor parent being the one whose shared support is the larger. Unreimbursed medical and dental expenses shall be calculated and allocated in accordance with subsection D.

(c) Definition of a day. For the purposes of this section, "day" means a period of 24 hours; however, where the parent who has the fewer number of overnight periods during the year has an overnight period with a child, but has physical custody of the shared child for less than 24 hours during such overnight period, there is a presumption that each parent shall be allocated one-half of a day of custody for that period.

(d) Minimum standards. Any calculation under this subdivision shall not create or reduce a support obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child. If the gross income of either party is equal to or less than 150 percent of the federal poverty level promulgated by the U.S. Department of Health and Human Services from time to time, then the shared custody support calculated pursuant to this subsection shall not be the presumptively correct support and the court may consider whether the sole custody support or the shared custody support is more just and appropriate.

(e) Support modification. When there has been an award of child support based on the shared custody formula and one parent consistently fails to exercise custody or visitation in accordance with the parent's custody share upon which the award was based, there shall be a rebuttable presumption that the support award should be modified.

(f) In the event that the shared custody support calculation indicates that the net support is to be paid to the parent who would not be the parent receiving support pursuant to the sole custody calculation, then the shared support shall be deemed to be the lesser support.

4. Multiple shared custody support. In cases with different shared custody arrangements for two or more minor children of the parties, the procedures in subdivision G 3 shall apply, except that one shared guideline shall be used to determine the total amount of child support owed by one parent to the other by:

(a) Calculating each parent's custody share by adding the total number of days, as defined in subdivision G 3 (c), that each parent has with each child and dividing such total number of days by the number of children of the parties to determine the average number of shared custody days; and

(b) Using each parent's custody share as determined in subdivision G 4 (a) for each parent to calculate the child support owed, in accordance with the provisions of subdivision G 3.

5. Sole and shared custody support. In cases where one parent has sole custody of one or more minor children of the parties, and the parties share custody of one or more other minor children of the parties, the procedures in subdivisions G 1 and 3 shall apply, except that one sole custody support guideline calculation and one shared custody support guideline calculation shall be used to determine the total amount of child support owed by one parent to the other by:

(a) Calculating the sole custody support obligation by:

(i) Calculating the per child monthly basic child support obligation by determining, for the number of children of the parties, the scheduled monthly basic child support obligation and dividing that amount by the number of children of the parties;

(ii) Calculating the sole custody pro rata monthly basic child support obligation by multiplying the per child monthly basic child support obligation determined in subdivision G 5 (a) (i) by the number of children subject to the sole custody support obligation; and

(iii) Applying the sole custody pro rata monthly basic child support obligation determined in subdivision G 5 (a) (ii) to the procedures in subdivision G 1.

(b) Calculating the shared custody child support obligation by:

(i) Calculating the per child monthly basic child support obligation by determining, for the number of children of the parties, the scheduled monthly basic child support obligation and dividing that amount by the number of children of the parties;

(ii) Calculating the shared custody pro rata monthly basic child support obligation by multiplying the per child monthly basic child support obligation determined in subdivision G 5 (b) (i) by the number of children subject to the shared custody support obligation; and

(iii) Applying the shared custody pro rata monthly basic child support obligation determined in subdivision G 5 (b) (ii) to the procedures in subdivision G 3.

(c) Determining the total amount of child support owed by one parent to the other. Where one parent owes both the sole custody support obligation and the shared custody support obligation to the other parent, the total of both such obligations calculated pursuant to subdivisions G 5 (a) and G 5 (b) shall be added to determine the total amount of child support owed by one parent to the other. Where one parent owes one such obligation to the other parent, and such other parent owes the other such obligation to the other such parent, the parent owing the greater obligation amount to the other parent shall pay the difference between the obligations to such other parent.

6. Split and shared custody support. In cases where the parents have split custody of two or more children, and there is a shared custody arrangement with one or more other minor children of the parties, the procedures set forth in subdivisions G 2 and G 3 shall apply, except that one split custody child support guideline calculation and one shared custody child support guideline calculation shall be used to calculate the total amount of child support owed by one parent to the other by:

(a) Calculating the split custody child support obligation by:

(i) Calculating the per child monthly basic child custody support obligation by determining, for the number of children of the parties, the scheduled monthly basic child support obligation and dividing that amount by the number of children of the parties;

(ii) Calculating the split custody pro rata monthly basic child support obligation by multiplying the per child monthly basic child support obligation determined in subdivision G 6 (a) (i) by the number of children subject to the split custody support obligation; and

(iii) Applying the split custody pro rata monthly basic child support obligation determined in subdivision G 6 (a) (ii) for each parent to the procedures in subdivision G 2.

(b) Calculating the shared custody child support obligation by:

- (i) Calculating the per child monthly basic child custody support obligation by determining, for the number of children of the parties, the scheduled monthly basic child support obligation and dividing that amount by the number of children of the parties;
  - (ii) Calculating the shared custody pro rata monthly basic child custody support obligation by multiplying the per child monthly basic child support obligation determined in subdivision G 6 (b) (i) by the number of children subject to the shared custody support obligation; and
  - (iii) Applying the shared custody pro rata monthly basic child support obligation determined in subdivision G 6 (b) (ii) to the procedures in subdivision G 3.
- (c) Determining the total amount of child support owed by one parent to the other. Where one parent owes both the split custody support obligation and the shared custody support obligation to the other parent, the total of both such obligations calculated pursuant to subdivisions G 6 (a) and G 6 (b) shall be added to determine the total amount of child support owed by one parent to the other. Where one parent owes one such obligation to the other parent, and such other parent owes the other such obligation to the other such parent, the parent owing the greater obligation amount to the other parent shall pay the difference between the obligations to such other parent.

**Category:** Deviation

**Does the state offer a calculator, worksheets, formulas, or other calculation assistance?**

**What unit is used to measure parenting time?** Days

**How is the unit defined?**

VA Code Ann. § 20-108.2(G)(3)(c)

(c) Definition of a day. For the purposes of this section, “day” means a period of 24 hours; however, where the parent who has the fewer number of overnight periods during the year has an overnight period with a child, but has physical custody of the shared child for less than 24 hours during such overnight period, there is a presumption that each parent shall be allocated one-half of a day of custody for that period.

**Is there a parenting time threshold?**

VA Code Ann. § 20-108.2(G)(3)(c)

(a) Where a party has custody or visitation of a child or children for more than 90 days of the year, as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the ratio in which the parents share the custody and visitation of any child or children shall be calculated in accordance with this subdivision. The presumptive support to be paid shall be the shared custody support amount, unless a party affirmatively shows that the sole custody support amount calculated as provided in subdivision G 1 is less than the shared custody support amount. If so, the lesser amount shall be the support to be paid.

**How does the state determine shared parenting?**

VA Code Ann. § 20-108.2(G)(3)(c)

(a) Where a party has custody or visitation of a child or children for more than 90 days of the year, as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the ratio in which the parents share the custody and visitation of any child or children shall be calculated in accordance with this subdivision. The presumptive support to be paid shall be the shared custody support amount, unless a party affirmatively shows

that the sole custody support amount calculated as provided in subdivision G 1 is less than the shared custody support amount. If so, the lesser amount shall be the support

#### Excerpt from September 15 Meeting Minutes

Pat Buonodono volunteered to give her report on her conversation with a seasoned family law attorney in Virginia, who participated in Virginia's most recent child support guidelines review in 2018. (Pat has a document of her notes, which will be furnished to the members for their review.)

- Virginia has had a parenting time adjustment built into their calculator since the beginning. Originally, parenting time started at 120 days, and it had kind of a cliff effect. So, nothing kicked in until 120 days and that was changed years ago to 90 days, which is about 25% for an adjustment. And if there is a 20% level of visitation, he said he saw a lot less parents arguing over custody.
- The state has gone further in 2018 and come up with worksheet calculations for a family with mixed parenting time, split parenting with one child shared with another, and different amounts of shared parenting time.
- A day is measured at 24 hours, but if a child goes to school during that day, then it's not counted as a day. They have case law starting in the 1990s that supports that time frame, and everyone abides by it.

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- In terms of credit given to a noncustodial for parenting time and the resulting child support amounts, Virginia was stingy, DC the most generous, and Maryland was somewhere in between.
- They have a self-support reserve built into their calculator at a 150% of poverty level.
- Virginia's calculator is privately owned, but there is another calculator. The link did not work, and Pat will try again to secure the correct link.

9/3/2021 – Call with Virginia Attorney

Questions and answers:

1. If the way your state adjusts child support for parenting time has changed since you've been a practitioner, can you provide a brief explanation of what it was prior to the change (the pros and cons of prior methodology?)

They had a parenting formula that started at approximately 1/3 of the time to constitute "shared" – then changed their formula so that "shared parenting" starts at 90 overnights. This way it's less of a cliff effect and he notes that fewer people are trying to get more parenting time to lower their child support amount.

- Reason for the change? The earlier way caused a lot of NCPs to try to reach that "cliff." This method reduced that.

More recently, they have added adjustments for "mixed" parenting time, such as split parenting with one child and shared with another child, etc.

2. Do you see a benefit to children for parenting time adjustments to child support? If so, what is it?

Definitely; believes it is more fair for both parents.

3. What are your thoughts about the pros and cons of the current methodology for parenting time adjustments to child support in your state?

He believes it is extremely fair to both parents and also that the new additions of mixed parenting time make it even more so.

4. Is the issue of parenting time adjustments to child support an ongoing topic of discussion in your state?

No, because their laws are up to date and take parenting time into consideration.

5. Does your state have any kind of presumed parenting time, whether statutorily defined or simply understood to be the standard?

No.

- How does your state calculate parenting time? Overnights

- Is there a specific designation of the unit? There is case law that defines "overnight" as the day plus the overnight. So if, for example, the child is in school during the day, there is no credit for that day even though the child is with the parent overnight.

- Benefits/Downfall – N/A

- Do parties litigate what classifies as a "day," etc. – no, Supreme Court set precedent.



6. Does your state's methodology for the parenting time adjustment result in any "cliff" effects?

No. Previous law did this, recent changes have smoothed it out substantially.

7. Do you have an online tool for calculating the amount of parenting time?

It is part of the CS calculator – parties or attorneys just put in the number of 24 hour days.

8. Do you have an online tool for applying the parenting time adjustment?

It is part of the CS calculator.

Calculator is a private program that people pay to use. Child Support Services has their own calculator that incorporates all the parenting time adjustments.

9. Is there another methodology for parenting time adjustments for child support that you would prefer?

No – he was on the study group that promulgated the present guidelines.

He did point out that he is also admitted in MD and DC – in terms of child support, Virginia is stingiest and DC is most generous. He does believe that modifications should be allowed based on areas of the state – some parts have a much higher cost of living.

10. Is the parenting time adjustment to child support discretionary in your state?

No.

11. Do you see the parenting time adjustment applied a) not enough, b) too often, c) in an appropriate number of cases.

N/A. It is automatically applied in every case.

12. How do the judges view the current formula for parenting time adjustments?

15 years ago, the VA legislature took away the retirement benefit that incentivized good attorneys to become judges (80% pension after serving 7 years on the bench). There were, at that point, really talented people becoming judges. Now, seems like all the judges are former prosecutors or county/state employees for whom salary is a step up. They don't understand child support and how it works.

13. In your opinion, does the ability to ask for a parenting time adjustment...

N/A. It is statutory.

14. From what you've seen in your practice, is the parenting time adjustment viewed to be "fair" by litigants in your jurisdiction?

Yes.

15. If your state applies the parenting time adjustment to a component of the child support obligation, how often is this issue litigated?

Their BCSO assumes and incorporates all components. Out of pocket medical is treated same as GA. Extraordinary expenses (which in their case does not include special expenses of child rearing) may be requested as deviations.

16. In your opinion, would it be more practical for the adjustment to apply to the entire obligation or vice versa if it already applies to the entire obligation?

No.

17. Does your state have a self-support reserve for payor, payee, both?

150% of poverty level – the software alerts the court. [For a family of 4, this means \$3312.50/month].

He doesn't deal with cases in this income bracket so can't say whether this provides adequate protection for either party.

18. If the payor has significantly more income than the payee and the payor has parenting time which would result in a parenting time adjustment, does the trial court have the ability to exercise discretion to deviate to ensure that the children are adequately provided for in the payee's home?

One of the deviations provided for in their guidelines can account for the standard of living prior to divorce.

Also, children are entitled to share in "windfalls" of parents – even a large capital gain.

19. If your state uses multiple versions of a child support worksheet, do you see it as a challenge for pro se litigants or practitioners to choose the correct version?

He is the equality logic advisor for their worksheet program (which is privately owned), so no.

20. In your opinion, are there any aspects of your state's method for adjustment of child support for parenting time that result in poor outcomes for children?

None come to mind.

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CULLEN D. SPECKHART  
LESLIE R. WATSON  
MARSHALL A. WINSLOW, JR.  
EDWARD W. WOLCOTT, JR.

September 13, 2017

Honorable Edward A. Robbins, Jr.  
Circuit Court for the County of Chesterfield  
City of Colonial Heights  
P.O. Box 57  
Chesterfield, VA 23832-00057

**Re: Virginia Child Support Guidelines Review Panel**

Dear Judge Robbins:

In October 2016 you asked the Virginia Family Law Coalition to examine certain issues regarding child support in complex family situations. I asked some members of the Coalition and other stake holders to take a look at the questions presented in your October 2016 letter and report back to the Coalition. I enclose with this correspondence a Report of the Committee on Mixed Custody Guidelines with Exhibits A-C and Proposed Legislation for Mixed Custody Child Support Cases.

Please keep in mind that this report is subject to review by the Coalition at our meeting on November 20, 2017. However, I wanted to provide this information to you in advance of your next Virginia Child Support Guidelines review panel.

The subcommittee members listed on the first page of the report worked tirelessly to put together information to be of assistance to the Child Support Guidelines Review Panel. I appreciate all of the time and effort they put into the evaluation of the issues and the proposed legislation. I will be in contact after our meeting in November to let you know if there are any changes to the report and proposed legislation. If we can be of assistance to you in the future, please let me know.

Sincerely,



Cheshire I'Anson Eveleigh

CIAE/amt  
Enclosures

cc: Steven L. Raynor  
Lawrence D. Diehl  
Brian M. Hirsch  
Daniel L. Gray  
Mitchell D. Broudy  
Beth J. Edwards  
Alice G. Burlinson  
Jeff Palmore  
Yvonne McGhee  
John Ayers

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## REPORT OF COMMITTEE ON MIXED CUSTODY GUIDELINES

**Committee:** Steven L. Raynor, Chair  
Lawrence D. Diehl, Esq.  
Brian M. Hirsch, Esq.  
Daniel L. Gray, Esq.  
Mitchell D. Broudy, DCSE  
Beth J. Edwards, DCSE  
Alice G. Burlinson, DCSE

### **Scope of Committee Assignment:**

The Child Support Guidelines Review Panel requested that the Family Law Coalition of the Virginia Bar Association and the Virginia Trial Lawyers Association review and make suggestions to address the issue of mixed custody child support guidelines. At the present time, there are no guidelines in Virginia Code § 20-108.2, the child support statute, addressing mixed custody situations. The lack of such guidelines has caused inconsistency with the bar and courts as well as a broad variety of proposed methods to address the issues. The committee unanimously agreed that uniformity of such guidelines would greatly add to statewide consistency and fairness in such situations. A statutory approach to provide presumptive guidelines for such arrangements would well serve the bar, the Division of Child Support Enforcement (DCSE), the courts, and, most importantly, the children of parents who are subject to these varied custody arrangements.

The committee would at the outset recognize our Chair, Steve Raynor, for the exemplary job he performed in organizing the meetings, approaching the issues in a fair and independent manner and permitting input and comments on all issues. Mitchell Broudy should be recognized for his tireless efforts in providing voluminous charts, guideline calculations and approaches to the implementation of the proposed guidelines for this committee. His input as a "master number cruncher" was thorough and supports the committee's recommendations. Mitch should also be recognized as the primary individual whose approach has formed the economic foundation of the committee's recommendations. Lawrence Diehl, as usual, performed the task of drafting the proposed recommendations with the assistance and editing of all members of the committee. This was truly a full committee effort on what at the outset was a formidable task.

### **Studies of the Committee:**

The committee started its approach by reviewing the existing resources that addressed the issues. The committee reviewed statutes of other states, but very few addressed the issue. The closest approach which Mitch later suggested was Maine's statute, but the committee believes our approach is more sound both in the organization of the statute and the underlying economic basis. The committee also reviewed the VADER comments of Richard Byrd who provided various suggested approaches to mixed custody statutes and his preferences for which ones made more sense economically. The committee recognized that his approaches have probably been the main Virginia source and approach to these issues used to date by the bar and courts.

The committee identified three (3) basic mixed custody situations that would cover most custody arrangements existing beyond those addressed in Virginia's current statute: (1) mixed shared custody arrangements – where all of the children are subject to shared arrangements (*i.e.*, each party has the children more than 90 days per year), but the number of days varies among the children, (2) sole and shared custody arrangements – where one or more children of the parties is subject to the sole or basic child support guidelines and at least one other child is subject to the shared custody arrangement and (3) split and shared custody arrangements, where the parents split custody of two or more children and at least one other child is subject to a shared custody arrangement.

Based on a review of all of the approaches, and thinking through the common sense economic assumptions and approaches for mixed custody arrangements, the committee has suggested and adopted what can be best characterized as the “**per child cost approach**” to mixed custody arrangements. The recommendations of the committee are to enact amendments for each of the three mixed custody situations that are attached to this report. Below is how this works and why the committee thinks it makes sense economically:

For **mixed shared custody arrangements**, the economics would be based on the average number of days each parent has the children when children do not spend the same number of days with each parent in a shared custody arrangement. The underlying method recognizes that an adjustment for each child should be made since all children subject to this guideline would stay more than 90 days with each parent. The proposed statute provides that one determine the total number of days that each parent has the children, then divides those days by the number for both parents, so that the result would add up to 365 days. Then, one would use the basic child support obligation number for those children (just as in the one shared method), multiply that basic child support obligation by 1.4, and proceed with the calculation. That number would be what one parent would owe to the other. By assuming that the days overall reflect the economic needs of all of the children, this makes sense and the results are fair in the calculations reviewed by the committee in providing a method coming with fair support numbers recognizing the variety of the economic needs of the children. It is a method that averages out all of the children's time with each parent, which should reflect their overall economic needs as is used in the current shared statute. A sample Mixed Shared Guideline Worksheet is attached as Exhibit A.

For “**sole and shared**” or “**split and shared**” **mixed custody arrangements** each method will start off by calculating the total basic child support for all of the children of the parties subject to the mixed custody arrangement. Then, a “per child cost” shall be calculated by dividing this total basic child support obligation by the total children of the parties. If there are four children and the total basic child support obligation from the table is \$2,000 per month, that economically assumes that the cost per child is \$500, pro-rating that amount for each child –thus, \$2,000 divided by 4 = \$500. That is the economic basis of the “cost per child” of the current total numbers in the guidelines. Let's assume mother has two children subject to the sole custody guidelines. The economic needs of those children where there are four children total would be assumed to be \$500 per child x 2 sole custody children = \$1,000. That is the number the sole custody guideline would use as the total basic number for just the two children subject to the sole custody part. And in the event of split custody, that would also be the starting point number that would be used to calculate

just the split custody part of the total support obligation for those children only subject to split custody.

Next, the parties would then take the “per child” number just like it is done for sole custody situations. In this case, there are two children subject to the shared so that would  $\$500 \times 2$  shared custody children = \$1,000. That is the assumed cost of the needs of those two children. That number would be used as the starting point which number would then multiplied by 1.4. Next, the shared custody calculation would be determined using the same method as set forth in the current statute. Again, this reflects the shared calculation using the assumed economic needs per child for those who are subject to the shared arrangement – a sound economic basis for this calculation. Thus, for sole or split + shared child support arrangement, only two calculations would need to be made – the sole or split obligation using the economic needs of those children only, and the shared calculation using the economic needs of those children only.

The end result of the total child support owed per month by a parent to the other would be the total of both the sole or split \$ + the shared \$ where both amounts are owed by the same parent to the other. Where each calculation has a different payor parent, the amount owed would be the difference of the two, with the parent owing the higher of the two paying the difference to the other.

**Let’s put this in English:** For example, if dad owes both \$356 for the sole support obligation portion and \$138 for the shared custody obligation portion, the total support would \$494 per month from dad to mom. But if dad owes \$356 to mom for the sole custody obligation portion, and mom owes \$138 to dad for the shared custody obligation portion, then dad pays mom \$218, being the DIFFERENCE of the sole and shared calculation, or  $\$356 - \$138$ , or \$218 from dad to mom. A sample Sole/ Shared Guideline Worksheet is attached as Exhibit B, and a sample Split/ Shared Guidelines Worksheet is attached as Exhibit C.

The committee further reviewed many calculations (Mitch Broudy’s voluminous charts) that were performed at various income levels, income disparities and varying numbers of children for each of the arrangements set forth above. The numbers reflected consistent fairness in the end results and reflected reductions in overall support from what would be the basic support obligations without the adjustments for the shared or partially shared arrangements. The numbers actually came very close to those produced by Richard Byrd’s complex VADER program – but uses fewer calculations.

Not only is the economic basis believed to be sound and the numbers fair, but this proposal limits the number of calculations needed (two at most) from the often extensive number of calculations needed to use the VADER recommendations on these mixed arrangements. The simplicity of the method and the clarity of how this works is a superior method and that once adopted and used by bar, courts and the DCSE, will provide a fair approach to calculate child support in mixed custodial arrangements. The committee therefore recommends the adoption of its statutory proposal attached.

### Mixed Shared Guideline Worksheet

**Guideline Calculation**

**A. Income**

- A1 Monthly Gross Income
- A2 Adjustments for Spousal Support
- A3 # of other children residing with the party
- A4 Mother \_\_\_\_\_ Father \_\_\_\_\_
- A5 Other child support obligations
- A6 Combined Monthly Available Gross Income
- A7 Percentage of combined gross income

| <u>Mother</u> |            | <u>Father</u> |            |
|---------------|------------|---------------|------------|
| 1             | \$1,250.00 | 8             | \$1,570.00 |
| 2             | \$0.00     | 9             |            |
| 3             |            | 10            |            |
| 4             | \$0.00     | 11            | \$0.00     |
| 5             | \$0.00     | 12            | \$0.00     |
| 6             | \$1,250.00 | 13            | \$1,570.00 |
| 7             | 44%        | 14            | 56%        |
|               |            | 15            | \$2,820.00 |

**B. Shared Child Support Needs**

- B1 Number of children
- B2 Basic child support obligation
- B3 1.4 Multiplier applied to line above
- B4 Total # of days each year parent has custody of child 1
- B5 Total # of days each year parent has custody of child 2
- B6 Total # of days each year parent has custody of child 3
- B7 Total # of days each year parent has custody of child 4
- B8 Total # of days each year parent has custody of child 5
- B9 Total # of days each year parent has custody of child 6
- B10 Total # of Days each year parent has with children
- B11 Average # of days each year parent has custody of children
- B12 Each parent's custody share
- B13 Shared Custody basic support obligation owed to the other parent
- B14 Parent's Shared Custody Support Obligation owed to other parent
- B15 Net Shared Custody Support Obligation
- B16 Payable to Mother  Father

| <u>Mother</u> |          | <u>Father</u> |          |
|---------------|----------|---------------|----------|
| 15            | 2        |               |          |
| 16            | \$711.00 | 30            | \$711.00 |
| 17            | \$995.40 | 31            | \$995.40 |
| 18            | 137      | 32            | 228      |
| 19            | 274      | 33            | 91       |
| 20            |          | 34            | 0        |
| 21            |          | 35            | 0        |
| 22            |          | 36            | 0        |
| 23            |          | 37            | 0        |
| 24            | 411      | 38            | 319      |
| 25            | 206      | 39            | 160      |
| 26            | 56%      | 40            | 44%      |
| 27            | \$434.98 | 41            | \$560.42 |
| 28            | \$192.81 | 42            | \$312.01 |
| 29            | \$192.81 | 43            | \$312.01 |
|               |          | 44            | \$119.20 |

**D. Health Care/Work-Related Day Care Calculation**

- D1 Father's cost for health care coverage
- D2 Mother's cost for health care coverage
- D3 Father's cost for work-related daycare
- D4 Mother's cost for work-related daycare
- D5 Total = Line D1+Line D2+Line D3+Line D4
- D6 Parent's Obligation to the other (Line D\*Line A5) needs work
- D7 Payable to Mother  Father

| <u>Mother</u> |        | <u>Father</u> |        |
|---------------|--------|---------------|--------|
| 45            | \$0.00 | 51            |        |
| 46            |        | 52            | \$0.00 |
| 47            | \$0.00 | 53            |        |
| 48            |        | 54            | \$0.00 |
| 49            | \$0.00 | 55            | \$0.00 |
| 50            | \$0.00 | 56            | \$0.00 |
|               |        | 57            | \$0.00 |

**E. Combined Child Support Amount**

- E1 Parent owing the net basic monthly amount per shared custody
- E2 Parent owing the net health care/work-related day cost
- E3 Calculate: Add E1+E2 in each column then subtract the amounts
- E4 Payable to Mother  Father

| <u>Mother</u> |        | <u>Father</u> |          |
|---------------|--------|---------------|----------|
| 58            | \$0.00 | 61            | \$119.20 |
| 59            | \$0.00 | 62            | \$0.00   |
| 60            | \$0.00 | 63            | \$119.20 |
|               |        | 64            | \$119.20 |

**F. Adjustment for Parent's SSDI derived benefit paid to other parent**

- F1 Mother's SSDI derivative benefit paid to the father
- F2 Father's SSDI derivative benefit paid to the mother
- F3 Net SSDI derivative benefit
- F4 Credited to: Mother  Father
- Should the child support be recalculated due to the derivative benefit

|    |        |    |        |
|----|--------|----|--------|
| 65 | \$0.00 | 67 |        |
| 66 |        | 68 | \$0.00 |
|    |        | 69 | \$0.00 |
| 70 | No     |    |        |

**G. Total Adjusted Monthly Child Support Obligation**

- G1 Parent owing the combined child support amount
- G2 Parent credited the derivative benefit
- G3 Payable to Mother  Father

|    |    |    |    |
|----|----|----|----|
| 71 | NA | 73 | NA |
| 72 | NA | 74 | NA |
|    |    | 75 | NA |



### Sole/Shared Guideline Worksheet

**Guideline Calculation**

**Number of Children**

**A. Income**

A1 Monthly Gross Income

A2 Adjustments for Spousal Support

A3 # of other children residing with the party

A4 Mother \_\_\_\_\_ Father \_\_\_\_\_

A5 Other child support obligations

A6 Combined Monthly Available Gross Income

A7 Percentage of combined gross income

A8 Per child guideline schedule amount

|  | Mother |            | Father |            |               |
|--|--------|------------|--------|------------|---------------|
|  | 1      | 4          |        |            |               |
|  | 2      | \$1,257.00 | 8      | \$1,570.00 |               |
|  | 3      | \$0.00     | 9      |            |               |
|  | 4      | \$0.00     | 10     | \$0.00     |               |
|  | 5      | \$0.00     | 11     | \$0.00     |               |
|  | 6      | \$1,257.00 | 12     | \$1,570.00 | 14 \$2,827.00 |
|  | 7      | 44%        | 13     | 56%        | 15 \$955.00   |
|  |        |            |        |            | 16 \$238.75   |

**Sole Child Support Needs**

B1 Sole Custody: # of children

B2 Sole Custody: pro rata basic child support obligation

B3 Sole Custody: child support obligation

B4 Payable to: Mother

|  |    |          |    |          |             |
|--|----|----------|----|----------|-------------|
|  | 17 | 2        |    |          |             |
|  | 18 | \$212.32 | 19 | \$265.18 | 20 \$477.50 |
|  |    |          |    |          | 21 \$265.18 |

**C. Shared Child Support Needs**

C1 Shared Custody: # of children

C2 Shared Custody: pro rata basic child support obligation

C3 1.4 Multiplier to line above

C4 Total # of days each year parent has custody of child(ren)

C5 Each parent's custody share

C6 Shared Custody basic support obligation owed to the other parent

C7 Parent's Shared Custody Support Obligation owed to other parent

C8 Net Shared Custody Support Obligation

C9 Payable to Mother   Father

|  | Mother |          | Father |          |             |
|--|--------|----------|--------|----------|-------------|
|  | 22     | 2        |        |          |             |
|  | 23     | \$477.50 | 30     | \$477.50 |             |
|  | 24     | \$668.50 | 31     | \$668.50 |             |
|  | 25     | 225      | 32     | 140      |             |
|  | 26     | 62%      | 33     | 38%      |             |
|  | 27     | \$256.41 | 34     | \$412.09 |             |
|  | 28     | \$114.01 | 35     | \$228.86 |             |
|  | 29     | \$114.01 | 36     | \$228.86 | 37 \$114.85 |

**D. Health Care/Work-Related Day Care Calculation**

D1 Father's cost for health care coverage

D2 Mother's cost for health care coverage

D3 Father's cost for work-related daycare

D4 Mother's cost for work-related daycare

D5 Total = Line D1+Line D2+Line D3+Line D4

D6 Parent's net obligation to the other (Line D\*Line A7)

D7 Payable to Mother   Father

|  | Mother |        | Father |        |           |
|--|--------|--------|--------|--------|-----------|
|  | 38     | \$0.00 | 44     |        |           |
|  | 39     |        | 45     | \$0.00 |           |
|  | 40     | \$0.00 | 46     |        |           |
|  | 41     |        | 47     | \$0.00 |           |
|  | 42     | \$0.00 | 48     | \$0.00 |           |
|  | 43     | \$0.00 | 49     | \$0.00 |           |
|  |        |        |        |        | 50 \$0.00 |

**E. Combined Child Support Amount**

E1 Parent owing the sole custody support obligation

E2 Parent owing the net shared custody support obligation

E3 Parent owing the net health care/work-related day cost

E4 Calculate: Add E1+E2+ E3 in each column then subtract the amounts

E5 Payable to Mother   Father

|  | Mother |        | Father |          |             |
|--|--------|--------|--------|----------|-------------|
|  | 51     | \$0.00 | 55     | \$265.18 |             |
|  | 52     | \$0.00 | 56     | \$114.85 |             |
|  | 53     | \$0.00 | 57     | \$0.00   |             |
|  | 54     | \$0.00 | 58     | \$380.03 | 58 \$380.03 |

**F. Adjustment for Parent's SSDI derived benefit paid to other parent**

F1 Mother's SSDI derivative benefit paid to the father

F2 Father's SSDI derivative benefit paid to the mother

F3 Net SSDI derivative benefit

F4 Credited to: Mother   Father

Should the child support be recalculated due to the derivative benefit

No

|  |    |        |    |        |           |
|--|----|--------|----|--------|-----------|
|  | 59 | \$0.00 | 61 |        |           |
|  | 60 |        | 62 | \$0.00 |           |
|  |    |        |    |        | 63 \$0.00 |

**G. Total Adjusted Monthly Child Support Obligation**

G1 Parent owing the combined child support amount

G2 Parent credited the derivative benefit

G3 Payable to Mother   Father

|  |    |    |    |    |       |
|--|----|----|----|----|-------|
|  | 64 | NA | 66 | NA |       |
|  | 65 | NA | 67 | NA |       |
|  |    |    |    |    | 68 NA |

### Split/Shared Guideline Worksheet

**Guideline Calculation**

**Number of Children**

Mother 1 5 Father

**A. Income**

|                                                |   |            |    |            |               |
|------------------------------------------------|---|------------|----|------------|---------------|
| A1 Monthly Gross Income                        | 2 | \$1,257.00 | 8  | \$1,570.00 |               |
| A2 Adjustments for Spousal Support             | 3 | \$0.00     | 9  |            |               |
| A3 # of other children residing with the party |   |            |    |            |               |
| A4 Mother <u>0</u> Father <u>0</u>             | 4 | \$0.00     | 10 | \$0.00     |               |
| A5 Other child support obligations             | 5 | \$0.00     | 11 | \$0.00     |               |
| A6 Combined Monthly Available Gross Income     | 6 | \$1,257.00 | 12 | \$1,570.00 | 14 \$2,827.00 |
| A7 Percentage of combined gross income         | 7 | 44%        | 13 | 56%        | 15 \$1,051.00 |
| A8 Per child guideline schedule amount         |   |            |    |            | 16 \$210.20   |

**Split Child Support Needs**

|                                                                                          |    |          |    |          |            |
|------------------------------------------------------------------------------------------|----|----------|----|----------|------------|
| B1 # of children Mother has sole custody of & Father owes support for:                   | 17 |          | 23 |          | 1          |
| B2 # of children Father has sole custody of & Mother owes support for:                   | 18 | 2        | 24 |          |            |
| B3 Split Custody: Parent's pro rata basic child support obligation                       | 19 | \$420.40 | 25 | \$210.20 |            |
| B4 Split Custody Child Support Obligation                                                | 20 | \$186.93 | 26 | \$116.74 |            |
| B5 Split Custody Net Support Obligation                                                  | 21 | \$186.93 | 27 | \$116.74 | 28 \$70.19 |
| B6 Payable to Mother <input type="checkbox"/> Father <input checked="" type="checkbox"/> |    |          |    |          | 29 \$70.19 |

**C. Shared Child Support Needs**

|                                                                                          |    |          |    |          |            |
|------------------------------------------------------------------------------------------|----|----------|----|----------|------------|
| C1 Shared Custody: # of children                                                         | 30 | 2        |    |          |            |
| C2 Shared Custody: Parent pro rata basic child support obligation                        | 31 | \$420.40 | 38 | \$420.40 |            |
| C3 1.4 Multiplier applied to the line above                                              | 32 | \$588.56 | 39 | \$588.56 |            |
| C4 Total # of days each year parent has custody of child(ren)                            | 33 | 137      | 40 | 228      |            |
| C5 Each parent's custody share                                                           | 34 | 38%      | 41 | 62%      |            |
| C6 Shared Custody basic support obligation owed to the other parent                      | 35 | \$367.65 | 42 | \$220.91 |            |
| C7 Parent's Shared Custody Support Obligation owed to other parent                       | 36 | \$163.47 | 43 | \$122.69 |            |
| C8 Net Shared Custody Support Obligation                                                 | 37 | \$163.47 | 44 | \$122.69 | 37 \$40.79 |
| C9 Payable to Mother <input type="checkbox"/> Father <input checked="" type="checkbox"/> |    |          |    |          |            |

**D. Health Care/Work-Related Day Care Calculation**

|                                                                               |    |        |    |        |           |
|-------------------------------------------------------------------------------|----|--------|----|--------|-----------|
| D1 Father's cost for health care coverage                                     | 38 | \$0.00 | 42 | \$0.00 |           |
| D2 Mother's cost for health care coverage                                     | 39 | \$0.00 | 43 | \$0.00 |           |
| D3 Father's cost for work-related daycare                                     | 40 | \$0.00 | 44 | \$0.00 |           |
| D4 Mother's cost for work-related daycare                                     | 41 | \$0.00 | 45 | \$0.00 |           |
| D5 Total = Line D1+Line D2+Line D3+Line D4                                    |    |        |    |        | 46 \$0.00 |
| D6 Parent's net obligation to the other (Line D*Line A7)                      |    |        |    |        |           |
| D7 Payable to Mother <input type="checkbox"/> Father <input type="checkbox"/> |    |        |    |        |           |

**E. Combined Child Support Amount**

|                                                                                          |    |          |    |        |             |
|------------------------------------------------------------------------------------------|----|----------|----|--------|-------------|
| E1 Parent owing the basic monthly amount per split custody                               | 47 | \$70.19  | 50 | \$0.00 |             |
| E2 Parent owing the net basic monthly amount per shared custody                          | 48 | \$40.79  | 51 | \$0.00 |             |
| E3 Parent owing the net health care/work-related day cost                                | 49 | \$0.00   | 52 | \$0.00 |             |
| E4 Calculate: Add E1+E2 +E3 in each column then subtract the amounts                     |    | \$110.98 |    | \$0.00 | 56 \$110.98 |
| E5 Payable to Mother <input type="checkbox"/> Father <input checked="" type="checkbox"/> |    |          |    |        |             |

**F. Adjustment for Parent's SSDI derived benefit paid to other parent**

|                                                                                 |    |        |    |        |           |
|---------------------------------------------------------------------------------|----|--------|----|--------|-----------|
| F1 Mother's SSDI derivative benefit paid to the father                          | 53 | \$0.00 | 54 | \$0.00 |           |
| F2 Father's SSDI derivative benefit paid to the mother                          |    |        |    |        |           |
| F3 Net SSDI derivative benefit                                                  |    |        |    |        | 55 \$0.00 |
| F4 Credited to: Mother <input type="checkbox"/> Father <input type="checkbox"/> |    |        |    |        |           |
| Should the child support be recalculated due to the derivative benefit          |    | No     |    |        |           |

**G. Total Adjusted Monthly Child Support Obligation**

|                                                                               |    |    |    |    |       |
|-------------------------------------------------------------------------------|----|----|----|----|-------|
| G1 Parent owing the combined child support amount                             | 56 | NA | 58 | NA |       |
| G2 Parent credited the derivative benefit                                     | 57 | NA | 59 | NA |       |
| G3 Payable to Mother <input type="checkbox"/> Father <input type="checkbox"/> |    |    |    |    | 60 NA |

## **PROPOSED LEGISLATION for MIXED CUSTODY CHILD SUPPORT CASES**

Add following paragraphs as new §20-108.2(G) (4), (5) and (6) after the shared custody section (G) (3) as follows:

“4. Multiple shared custody support. In cases with different shared custody arrangements for two or more minor children of the parties, the procedures in subdivision G 3 as well as the definitions in §20-108.2 shall apply except that one shared guideline calculation shall be used to determine the amount of child support owed by one parent to the other by:

- (a) Adding the total number of days for each child of the parties for each parent and dividing that total number of days by the number of children.
- (b) Using the average number of shared custody days determined in subsection (a) above for each parent to determine the child support paid in accordance with the provisions of subdivision G 3 using the total number of children.

5. Sole and shared custody support. In cases where one parent has sole custody of one or more minor children of the parties and the parties share custody of one or more other minor children of the parties, the procedures in subdivisions G 1 and G 3 as well as the definitions in §20-108.2 shall apply—except that one sole guideline calculation and one shared guideline calculation shall be used to determine the amount of child support owed by one parent to the other by:

- (a) Calculating the sole custody child support obligation by:
  - i. Calculating the per child monthly basic child custody support obligation by determining for the number of children the scheduled monthly basic child support obligation and dividing that amount by the number of children.
  - ii. Calculating the sole custody pro rata monthly basic child support obligation by multiplying the per child monthly basic child support obligation determined in subsection (i) above by the number of children subject to the sole custody support obligation.
  - iii. Applying the sole custody pro rata monthly basic child support obligation to the procedures in G 1.
- (b) Calculating the shared custody child support obligation by:
  - i. Calculating the per child monthly basic child custody support obligation by determining for the number of children the scheduled monthly basic child support obligation and dividing that amount by the number of children.
  - ii. Calculating the shared custody pro rata monthly basic child support obligation for each parent as the noncustodial parent by multiplying the per child monthly

basic child support obligation as determined in subsection (i) above by the number of children subject to the shared custody support obligation for whom physical custody is with the other parent.

- iii. Applying the shared custody pro rata monthly basic child support obligation to the procedures in subdivision G 3, which includes using the shared custody multiplier.
- (c) Determining the total amount of child support owed by one parent to the other. Where one parent owes both the sole and shared obligations to the other parent, total both obligations calculated in subsections (a) and (b) above. Where one parent owes one of the calculations and the other parent owes the other calculation to the other parent, the parent owing the greater calculation to the other parent shall pay the difference between the calculations to the other parent.

6. Split and shared custody support. In cases where the parents have split custody of two or more children and there is a shared custody arrangement with one or more other minor children of the parties, the procedures as set forth in subdivisions G 2 and G 3 as well as the definitions in §20-108.2 shall apply to this subdivision—except that one split guideline calculation and one shared guideline calculation shall be used to calculate the amount of child support owed by one parent to the other by:

- (a) Calculating the split custody child support obligation by:
  - i. Calculating the per child monthly basic child custody support obligation by determining for the number of children the scheduled monthly basic child support obligation and dividing that amount by the number of children.
  - ii. Calculating the split custody pro rata monthly basic child support obligation for each parent as the noncustodial parent by multiplying the per child monthly basic child support obligation as determined in subsection (i) above by the number of children subject to the split custody support obligation for whom physical custody is with the other parent.
  - iii. Applying the split custody pro rata monthly basic child support obligation for each parent to the procedures in subdivision G 2.
- (b) Calculating the shared custody child support obligation by:
  - i. Calculating the per child monthly basic child custody support obligation by determining for the number of children the scheduled monthly basic child support obligation and dividing that amount by the number of children.

- ii. Calculating the shared custody pro rata monthly basic child support obligation by multiplying the per child monthly basic child support obligation as determined in subsection (i) above by the number of children subject to the shared custody support obligation.
  - iii. Applying the shared custody pro rata monthly basic child support obligation to the procedures in subdivision G 3, which includes using the shared custody multiplier.
- (c) Determining the total amount of child support owed by one parent to the other. Where one parent owes both the split and shared obligations to the other parent, total both obligations calculated in subsections (a) and (b) above. Where one parent owes one of the calculations and the other parent owes the other calculation to the other parent, the parent owing the greater calculation to the other parent shall pay the difference between the calculations to the other parent.

# Appendix M

Updated:  
January 28, 2022

## The Interaction between a Parenting Time Deviation and a Special Activities Deviation

### Overview

The issue being addressed is that when there is a parenting time deviation, the BCSO (Basic Child Support Obligation—"child cost table") is reallocated from being fully incurred by the custodial parent to being shared by both parents. In turn, the portion allocated to special activities tracks the sharing of the overall BCSO amount. The problem with current guidelines and worksheet is that there is a 7 percent set aside of special activities for non-consideration in the deviation is not reallocated between both parents in the BCSO. Taking out the 7 percent amount for special activities from the BCSO is the only simple and understandable way to fix the interaction issue. This would coincide with all special activities costs being considered for deviation. There would be no messy formulas.

### Facts Leading to the Interaction Problem

**The custodial parent presumptively incurs all of the BCSO costs.**

The economic consultant that developed Georgia's child cost schedule as originally implemented in 2007 and still used as of 2022 specifically stated before the Georgia Child Support Commission that Georgia's child cost schedule does not take into account any parenting time costs of the custodial parent.

The schedules [referring to the BCSO in 2007 and in effect at least through 2018] do not factor in an adjustment for the obligor's direct expenditures on the child in shared physical custody situations or during routine visitation.<sup>1</sup>

**Essentially, the custodial parent presumptively incurs all of the BCSO costs.** This is with the concurrent presumption that none of the presumptive BCSO costs are incurred by the noncustodial parent. This is confirmed in Georgia appellate opinion.<sup>2</sup> This means that there is no parenting time adjustment built into the BCSO.

**The BCSO is estimated to have 7 percent of the total spent on special activities.**

This is stated in child support statute.

**O.C.G.A. § 19-6-15(i)(2)(J)(ii) Special expenses incurred for child-rearing.** Special expenses incurred for child-rearing, including, but not limited to, quantifiable expense variations related to the food, clothing, and hygiene costs of children at different age levels, may be a basis for a deviation from the presumptive amount of child support. Such expenses include, but are not limited to, summer camp; music or art lessons; travel; school sponsored extracurricular activities, such as band, clubs, and athletics; and other activities intended to enhance the athletic, social, or cultural development of a child but not otherwise required to be used in calculating the presumptive amount of child support as are health insurance premiums and work related child care costs. **A portion of the basic child support obligation is intended to cover average amounts of special expenses incurred in the rearing of a child.** In order to determine if a deviation for special expenses is warranted, the court or the jury shall consider the full amount of the special expenses as described in this division; and **when such special expenses exceed 7 percent of the basic child support obligation, then the additional amount of special expenses shall be considered as a deviation to cover the full amount of the special expenses.** [emphasis added].

As noted above, current code and child support worksheet require a set aside of the first 7 percent of special activities costs before the remainder are shared on a prorata basis.

- Code and the worksheet do not make any changes in the size of the 7 percent set aside when there is a parenting time deviation even though there should be a sharing of the set aside between the custodial and noncustodial parents.

### An Example of the Interaction Problem

First, let's assume a child support case in which there is no parenting time deviation. There is one child and each parent's monthly adjusted gross income is \$4,000. The below table shows the relevant presumptive BCSO costs and its presumptive allocation between both parents. It is assumed that there are no Schedule D costs.

**Table 1**

| Child Support Presumptive Worksheet                                     |            |            |            |
|-------------------------------------------------------------------------|------------|------------|------------|
|                                                                         | Mother     | Father     | Total      |
| 1. Monthly Gross Income                                                 | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| 2. Monthly Adjusted Income                                              | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| 3. Pro Rata Shares of Combined Income                                   | 50.00%     | 50.00%     | 100.0%     |
| 4. Basic Child Support Obligation (from Table)                          |            |            | \$1,125    |
| 5. Pro Rata Shares of the Basic Child Support Obligation                | \$562.50   | \$562.50   |            |
| 6. Adjustment for Work Related Child Care and Health Insurance Expenses | \$0.00     | \$0.00     |            |
| 7. Adjusted Child Support Obligation                                    | \$562.50   | \$562.50   |            |
| 8. Adjustment for Additional Expenses Paid                              | \$0.00     | \$0.00     |            |
| 9. Presumptive Amount of Child Support                                  | \$562.50   | \$562.50   |            |
| The amount on Line 9 is the Presumptive Child Support Amount            |            |            |            |
| 10. Deviations from Presumptive Child Support Amount                    | \$0.00     | \$0.00     |            |
| 11. Subtotal                                                            | \$562.50   | \$562.50   |            |
| 12. Social Security Payments                                            | \$0.00     | \$0.00     |            |
| 13. Final Child Support Amount                                          | \$563.00   | NA         |            |

### No Parenting Time Adjustment Scenario (Presumptive Plus Special Activities)

The total presumptive BCSO amount is \$1,125 (Table 1, line 4).

The CP spends \$300 per month on the child's special activities.<sup>3</sup>

With no parenting time adjustment, the custodial parent (CP) is assumed to spend \$1,125 (just BCSO costs) on the child with 7 percent (\$78.75) of it going to special activities.

For the cost of special activities that is shared with the NCP, 7 percent must first be deducted. This results in \$300.00 minus \$78.75 or \$221.25 for the amount that is prorated between both parents. The NCP's share of special activities costs is \$110.63 (\$221.25 times 0.50). See Table 2, line 9.

The total award to be paid (Table 2, line 14) is the NCP's share of the presumptive BCSO (Table 2, line 12) plus the NCP's share of special activities costs after the 7 per cent set aside (Table 2, line 13).

**Table 2**

| <b>Special Activities Calculation with No Parenting Time Adjustment</b> |                                                          |            |            |            |
|-------------------------------------------------------------------------|----------------------------------------------------------|------------|------------|------------|
|                                                                         |                                                          | CP         | NCP        | Combined   |
| Line                                                                    |                                                          |            |            |            |
| 1.                                                                      | Adj. gross income                                        | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| 2.                                                                      | Share of combined                                        | 0.50       | 0.50       |            |
| 3.                                                                      | Total presumptive BCSO                                   | \$1,125.00 |            | \$1,125.00 |
| 4.                                                                      | 7 percent                                                | 0.07       |            |            |
| 5.                                                                      | Presumptive special activities                           | \$78.75    |            |            |
| 6.                                                                      | Actual special activities                                | \$300.00   |            |            |
| 7.                                                                      | Presumptive set aside                                    | \$78.75    |            |            |
| 8.                                                                      | Special activities to be shared with NCP                 | \$221.25   |            |            |
| 9.                                                                      | NCP share of special activities costs                    |            | \$110.63   |            |
| <b>Calculation of Total Award</b>                                       |                                                          |            |            |            |
| 10.                                                                     | Total presumptive BCSO                                   |            |            | \$1,125.00 |
| 11.                                                                     | Each parent's share of BCSO                              | \$562.50   | \$562.50   |            |
| 12.                                                                     | BCSO share of award to be paid                           |            | \$562.50   |            |
| 13.                                                                     | NCP share of special activities with 7 percent set aside |            | \$110.63   |            |
| 14.                                                                     | Total award to be paid                                   |            | \$673.13   |            |

**Parenting Time Adjustment Scenario (Parenting Time Adjustment Plus Special Activities)**

Now assume the noncustodial parent (NCP) has 40 of the parenting time and that the court awards a parenting time adjustment. A parenting time adjustment is essentially a reduction in the share of the BCSO that that NCP pays to the CP.

Assume that the court awards a parenting time adjustment that is equal to 40 percent of the total BCSO (\$450). (Table 3, line 5)

Now, the CP is assumed to spend an amount equal to 60 percent of the total BCSO on the child. However, the child support code and the child support worksheet still assume that the CP incurs 7 percent of the total BCSO for special activities (\$78.75). For the special activities deviation, the worksheet calculation still requires a full 7 percent of the BCSO against the CP's special activities costs.

Table 3 shows the presumptive BCSO portion of the award calculation (line 4), the PT adjustment (line 5) reflecting a 40 percent adjustment, and the NCP share of the BCSO after the PT adjustment (line 6).



With a PT adjustment of \$450 (lines 5 and 12) and a special activities share of \$110.63 (lines 9 and 14), the total award to be paid is \$223.13 (line 15).

**Table 3**

| <b>Special Activities Calculation with Parenting Time Adjustment and 7 Percent Set Aside</b> |                                                          |            |            |            |
|----------------------------------------------------------------------------------------------|----------------------------------------------------------|------------|------------|------------|
|                                                                                              |                                                          | CP         | NCP        | Combined   |
| Line                                                                                         |                                                          |            |            |            |
| 1.                                                                                           | Adj. gross income                                        | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| 2.                                                                                           | Share of combined                                        | 0.5        | 0.5        |            |
| 3.                                                                                           | Total presumptive BCSO                                   | \$1,125.00 |            |            |
| 4.                                                                                           | Share of BCS to be paid before PT adjustment             |            | \$562.50   |            |
| 5.                                                                                           | PT adjustment                                            |            | -\$450.00  |            |
| 6.                                                                                           | BCS with PT adjustment                                   |            | \$112.50   |            |
| 7.                                                                                           | Actual special activities                                | \$300.00   |            |            |
| 8.                                                                                           | Set aside of special activities                          | \$78.75    |            |            |
| 9.                                                                                           | Special activities to be shared with NCP                 | \$221.25   |            |            |
| 9.                                                                                           | NCP share of special activities costs                    |            | \$110.63   |            |
| <b>Calculation of Total Award</b>                                                            |                                                          |            |            |            |
| 10.                                                                                          | Total presumptive BCSO                                   |            |            | \$1,125.00 |
| 11.                                                                                          | Each parent's share of BCSO                              | \$562.50   | \$562.50   |            |
| 12.                                                                                          | Parenting time credit (BCSO times .4)                    |            | -\$450.00  |            |
| 13.                                                                                          | NCP payment of BCSO                                      |            | \$112.50   |            |
| 14.                                                                                          | NCP share of special activities with 7 percent set aside |            | \$110.63   |            |
| 15.                                                                                          | Total award to be paid                                   |            | \$223.13   |            |

If the BCSO total is reduced by 7 percent, there is no need for a set aside calculation and the special activities cost can be shared by simple prorating of its total (no set aside). This is seen in Table 4.

### **A Simple Way of Fixing the Interaction Problem**

If the portion of special activities costs first is deducted from BCSO cost table, then there are no presumptive special activities costs to be deducted against actual special activities costs. This means that the BCSO table costs are lowered by 7 percent across the board.

Some attorneys who work with child support cases argue that it is inappropriate to have special activities costs built into the presumptive BCSO total. For example, some on the parenting time deviation study subcommittee noted that many child support cases do not have costs for special activities—notably for infants and toddlers. But this also holds true for other ages for the child. They hold the view that it makes sense take out the 7 percent of the BCSO for special activities and then, when there are special activities, that the full costs simply be allocated on a prorata basis.

In Table 4, the current total BCSO is reduced by 7 percent to get a BCSO with 7 percent deducted (line 4). This amount is then prorated so that the NCP share of BCSO costs is one half (line 5).

The 40 percent PT adjustment is applied to the adjust BCSO total, resulting in an adjustment of \$418.50 (line 6). The NCP's share of the adjusted BCSO is \$104.64 (line 7).

The NCP's share of special activities costs is \$150.00 (line 16) or \$39.37 more than with the standard calculation with a 7 percent set aside.

In this example, the award is \$31.50 higher (\$254.63 minus \$223.13) for the calculations with no 7 percent set aside for special activities.

The larger the parenting time adjustment, the more the CP is shorted in the final award when the 7 percent set aside remains.

Table 4

| Special Activities Calculation with Parenting Time Adjustment and Prorated 7 Percent Set Aside |                                                                    |            |            |            |
|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|------------|------------|------------|
|                                                                                                |                                                                    | CP         | NCP        | Combined   |
| Line                                                                                           |                                                                    |            |            |            |
| 1.                                                                                             | Adj. gross income                                                  | \$4,000.00 | \$4,000.00 | \$8,000.00 |
| 2.                                                                                             | Share of combined                                                  | 0.5        | 0.5        |            |
| 3.                                                                                             | Total presumptive BCSO                                             | \$1,125.00 |            |            |
| 4.                                                                                             | Total presumptive BCSO with 7 percent deducted                     | \$1,046.25 |            |            |
| 5.                                                                                             | Share of BCS to be paid before PT adjustment                       |            | \$523.13   |            |
| 6.                                                                                             | PT adjustment                                                      |            | -\$418.50  |            |
| 7.                                                                                             | BCS with PT adjustment                                             |            | \$104.63   |            |
| 8.                                                                                             | Actual special activities                                          | \$300.00   |            |            |
| 9.                                                                                             | Set aside of special activities                                    | \$0.00     |            |            |
| 10.                                                                                            | Special activities to be shared with NCP                           | \$300.00   |            |            |
| 11.                                                                                            | NCP share of special activities costs                              |            | \$150.00   |            |
| <b>Calculation of Total Award</b>                                                              |                                                                    |            |            |            |
| 12.                                                                                            | Total presumptive BCSO with 7 percent deducted                     |            |            | \$1,046.25 |
| 13.                                                                                            | Each parent's share of BCSO (with 7 percent deduction)             | \$523.13   | \$523.13   |            |
| 14.                                                                                            | Parenting time credit (BCSO 7 percent adjusted times .4)           |            | -\$418.50  |            |
| 15.                                                                                            | NCP payment of BCSO                                                |            | \$104.63   |            |
| 16.                                                                                            | NCP share of special activities with <b>no</b> 7 percent set aside |            | \$150.00   |            |
| 17.                                                                                            | Total award to be paid                                             |            | \$254.63   |            |

### Endnotes

<sup>1</sup> *Economic Basis for Updating a Child Support Schedule for Georgia*, Submitted to: Georgia Administrative Office of the Courts, submitted by: Center for Policy Research, Denver, CO, Jane Venohr, April 11, 2011, p. 33.

<sup>2</sup> See *Hardman v. Hardman*, 763 S.E.2d 861 (2014). "Georgia's child support laws establish a presumption that the custodial parent will bear the expenses related to the children, assisted by child support paid by the non-custodial parent, with the amount of the child support obligation calculated principally in proportion to the adjusted gross income of each parent."

<sup>3</sup> It should be noted that the child support worksheet allows for the noncustodial parent's special activities costs. The calculation for the special activities deviation includes both parents' costs for calculating whether the 7 percent set aside has been met. However, with no parenting time adjustment presumptively, only the custodial parent's costs for special activities should be applied to the set aside amount. The current calculation for the set aside is a major

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error in applying this deviation in the worksheet. This needs to be corrected in the worksheet. However, discussion of this problem is outside the scope of this memo. Having only the custodial parent incurring special activities costs avoids addressing these issues in this memo.

# Appendix N

## Roles of parties defined

| State                | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                           | Citation                                    |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| Alabama              | (12) NONCUSTODIAL PARENT. A parent who does not have the child in his or her care and is responsible for paying support. The term includes an obligor.                                                                                                                                                                                                                                                                      | Ala. Code 1975 § 30-3-191 (12)              |
| Alaska               | (b) In this section, “noncustodial parent” means the parent who has actual physical custody of the child for less time than the other parent                                                                                                                                                                                                                                                                                | AS § 25.24.152 (b) and AS § 25.24.232 (b)   |
| Arizona              | None found<br>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                            |                                             |
| Arkansas             | (7) “Noncustodial parent” means a natural or adoptive parent who does not reside with his or her dependent child;                                                                                                                                                                                                                                                                                                           | A.C.A. § 9-14-201 (7)                       |
| California           | None found<br>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                            |                                             |
| Colorado             | (4) On and after February 1, 1999, the term “custody” and related terms such as “custodial” and “custodian” have been changed to “parental responsibilities”. It is not the intent of the general assembly to modify or change the meaning of the term “custody” nor to alter the legal rights of any custodial parent with respect to the child as a result of changing the term “custody” to “parental responsibilities”. | C.R.S.A. § 14-10-103 (4)                    |
| Connecticut          | (8) “Custodial parent” means the parent who provides the child's primary residence.                                                                                                                                                                                                                                                                                                                                         | Regs. Conn. State Agencies § 46b-215a-1 (8) |
| Delaware             | None found<br>“Custodial parent” and “noncustodial parent” are used in Child Support Guidelines but are not defined                                                                                                                                                                                                                                                                                                         |                                             |
| District of Columbia | None found                                                                                                                                                                                                                                                                                                                                                                                                                  |                                             |
| Florida              | None found                                                                                                                                                                                                                                                                                                                                                                                                                  |                                             |

Roles of parties defined

| <b>State</b> | <b>Party terminology</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Citation</b>                    |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| Georgia      | <p>(9) "Custodial parent" means the parent with whom the child resides more than 50 percent of the time. When a custodial parent has not been designated or when a child resides with both parents an equal amount of time, the court shall designate the custodial parent as the parent with the lesser support obligation and the other parent as the noncustodial parent. When the child resides equally with both parents and neither parent can be determined as owing a greater amount than the other, the court shall determine which parent to designate as the custodial parent for the purpose of this Code section.</p> <p>(14) "Noncustodial parent" means the parent with whom the child resides less than 50 percent of the time or the parent who has the greater payment obligation for child support. When the child resides equally with both parents and neither parent can be determined as owing a lesser amount than the other, the court shall determine which parent to designate as the noncustodial parent for the purpose of this Code section.</p> | O.C.G.A. § 19-6-15 (a)(9) and (14) |

Roles of parties defined

| State  | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Citation                                                                                                                   |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| Hawaii | <p>“Custodial parent” means a parent, guardian, or other person having physical custody of the child.</p> <p>“Custodial parent” means a parent, guardian, or other person having custody of the child.</p> <p>1. EQUAL TIME-SHARING means that each parent has the children approximately 183 overnights per year. 41 When there is equal timesharing for child support purposes, child support is determined by Line 21 of the EXTENSIVE TIME-SHARING WORKSHEET.</p> <p>2. EXTENSIVE TIME-SHARING means that a parent has the children more than 143 overnights, but less than 183 overnights, per year. When there is extensive time-sharing for child support purposes, child support is determined by Line 29 of the EXTENSIVE TIME-SHARING WORKSHEET.</p> <p>3. JOINT PHYSICAL CUSTODY is statutorily defined in Hawai’i as: “physical custody . . . shared by the parents . . . in such a way as to assure the child or children of frequent, continuing, and meaningful contact with both parents . . .”42 Under the Guidelines, child support is based on the number of overnights per year. Except for the terms in this Section, child support is not based on the label given to the time-sharing arrangement.</p> <p>4. PHYSICAL CUSTODY to one parent (sometimes referred to as the “custodial parent”) for child support purposes is based on the number of overnights that the children spend with a parent.</p> <p>5. SOLE PHYSICAL CUSTODY to one parent, for child support purposes, means that the other parent has 143 or fewer overnights per year.</p> <p>6. SPLIT CUSTODY means that one parent has sole physical custody of one or more of the children and the other parent has sole physical custody of the remaining child or children. When there is split custody for child support purposes, child support is determined by Line 35 of the EXTENSIVE TIMESHARING WORKSHEET.</p> | <p>HRS § 576E-1</p> <p>HRS § 576D-1</p> <p>Hawai’i Child Support Guidelines (2020) V. Terms and Definitions H. Custody</p> |
| Idaho  | <p>None found</p> <p>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                            |

Roles of parties defined

| State    | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Citation                         |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| Illinois | None found<br>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                  |
| Indiana  | “Custodial parent”, for purposes of IC 31-14-13-8, IC 31-14-15, IC 31-16-6-1.5, IC 31-16-12.5, IC 31-17-2-22, and IC 31-17-4, means the parent who has been awarded physical custody of a child by a court.<br><br>“Noncustodial parent”, for purposes of IC 31-14-15, IC 31-16-6-1.5, and IC 31-17-4, means the parent who is not the custodial parent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | IC 31-9-2-30<br><br>IC 31-9-2-83 |
| Iowa     | 3. “Joint custody” or “joint legal custody” means an award of legal custody of a minor child to both parents jointly under which both parents have legal custodial rights and responsibilities toward the child and under which neither parent has legal custodial rights superior to those of the other parent. Rights and responsibilities of joint legal custody include but are not limited to equal participation in decisions affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction.<br>4. “Joint physical care” means an award of physical care of a minor child to both joint legal custodial parents under which both parents have rights and responsibilities toward the child including but not limited to shared parenting time with the child, maintaining homes for the child, providing routine care for the child and under which neither parent has physical care rights superior to those of the other parent.<br>5. “Legal custody” or “custody” means an award of the rights of legal custody of a minor child to a parent under which a parent has legal custodial rights and responsibilities toward the child. Rights and responsibilities of legal custody include but are not limited to decision making affecting the child's legal status, medical care, education, extracurricular activities, and religious instruction. | I.C.A. § 598.1 (3), (4), and (5) |
| Kansas   | None found<br>“Custodial parent” and “non-custodial parent” are used in Child Support Guidelines but are not defined<br>Various District Court local rules use, but do not define, “residential parent” and “non-residential parent”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                  |



Roles of parties defined

| State     | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Citation           |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Kentucky  | None found<br>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                    |
| Louisiana | <p>B. (1) In a decree of joint custody the court shall designate a domiciliary parent except when there is an implementation order to the contrary or for other good cause shown.</p> <p>(2) The domiciliary parent is the parent with whom the child shall primarily reside, but the other parent shall have physical custody during time periods that assure that the child has frequent and continuing contact with both parents.</p> <p>(3) The domiciliary parent shall have authority to make all decisions affecting the child unless an implementation order provides otherwise. All major decisions made by the domiciliary parent concerning the child shall be subject to review by the court upon motion of the other parent. It shall be presumed that all major decisions made by the domiciliary parent are in the best interest of the child.</p> <p>C. If a domiciliary parent is not designated in the joint custody decree and an implementation order does not provide otherwise, joint custody confers upon the parents the same rights and responsibilities as are conferred on them by the provisions of Title VII of Book I of the Civil Code.</p> | LSA-R.S. 9:335 (B) |

Roles of parties defined

| State         | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Citation                                                                              |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Maine         | <p>7. Primary residence. "Primary residence" means the residence of a child where that child receives residential care for more than 50% of the time on an annual basis if the parents do not provide substantially equal care as defined in subsection 8-A.</p> <p>8. Primary residential care provider. "Primary residential care provider" means the party who provides residential care for a child for more than 50% of the time on an annual basis if the parents do not provide substantially equal care as defined in subsection 8-A.</p> <p>8-A. Substantially equal care. "Substantially equal care" means that both parents participate substantially equally in the child's total care, which may include, but is not limited to, the child's residential, educational, recreational, child care and medical, dental and mental health care needs.</p> <p>3. Custodial parent. "Custodial parent" means a parent, caretaker relative or legal custodian of a dependent child who is the child's primary residential care provider.</p> <p>12. Responsible parent. "Responsible parent" means the parent of a dependent child.</p> | <p>19-A M.R.S.A. § 2001 (7), (8), and (9)</p> <p>9-A M.R.S.A. § 2101 (3) and (12)</p> |
| Maryland      | <p>Acts 2010, c. 262, § 1, and Acts 2010, c. 263, § 1, rewrote the schedule of basic child support obligations contained in subsec. (e); in subsec. (g)(2)(ii)2, replaced "custodial parent" with "obligee"; in subsec. (l), replaced "custodial parent" with "obligee" and "noncustodial parent" with "obligor" in two instances; and in subsec. (m)(5), deleted "if the obligor parent were a noncustodial parent" after "under subsection (l) of this section".</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>MD Code, Family Law, § 12-204<br/>Historical and Statutory Notes</p>               |
| Massachusetts | <p>None found<br/>"Custodial parent" and "noncustodial parent" used throughout statutes but not specifically defined</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                       |
| Michigan      | <p>None found<br/>"Custodial parent" used throughout statutes but not specifically defined</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                       |

Roles of parties defined

| State       | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Citation                                                                             |
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| Minnesota   | <p>Subd. 3. Custody. Unless otherwise agreed by the parties:</p> <p>(a) "Legal custody" means the right to determine the child's upbringing, including education, health care, and religious training.</p> <p>(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.</p> <p>(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.</p> <p>(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties.</p> <p>(e) Wherever used in this chapter, the term "custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.</p> <p>Subd. 17. Primary physical custody. The parent having "primary physical custody" means the parent who provides the primary residence for a child and is responsible for the majority of the day-to-day decisions concerning a child.</p> <p>Subd. 2. Calculation of parenting expense adjustment. (a) For the purposes of this section, the following terms have the meanings given:</p> <p>(1) "parent A" means the parent with whom the child or children will spend the least number of overnights under the court order; and</p> <p>(2) "parent B" means the parent with whom the child or children will spend the greatest number of overnights under the court order.</p> | <p>M.S.A. § 518.003 (3)</p> <p>M.S.A. § 518A.26 (17)</p> <p>M.S.A. § 518A.36 (2)</p> |
| Mississippi | <p>None found</p> <p>"Custodial parent" and "noncustodial parent" used throughout statutes but not specifically defined</p> <p>(a) "Noncustodial parent" means a parent from whom the Department of Human Services is collecting support payments, and shall have the same meaning as "absent parent."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Miss. Code Ann. § 93-11-69(1)(a)</p>                                              |
| Missouri    | <p>None found</p> <p>"Custodial parent" and "noncustodial parent" used throughout statutes but not specifically defined</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                      |

Roles of parties defined

| <b>State</b> | <b>Party terminology</b> | <b>Citation</b> |
|--------------|--------------------------|-----------------|
| Montana      | None found               |                 |
| Nebraska     | None found               |                 |

Roles of parties defined

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| Nevada | <p>1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:</p> <p>(a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or</p> <p>(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.</p> <p>2. The court may award joint legal custody without awarding joint physical custody.</p> <p>1. When a court is making a determination regarding the physical custody of a child, there is a preference that joint physical custody would be in the best interest of a minor child if:</p> <p>(a) The parents have agreed to an award of joint physical custody or so agree in open court at a hearing for the purpose of determining the physical custody of the minor child; or</p> <p>(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.</p> <p>2. For assistance in determining whether an award of joint physical custody is appropriate, the court may direct that an investigation be conducted.</p> <p>1. A court may award primary physical custody to a parent if the court determines that joint physical custody is not in the best interest of a child. An award of joint physical custody is presumed not to be in the best interest of the child if:</p> <p>(a) The court determines by substantial evidence that a parent is unable to adequately care for a minor child for at least 146 days of the year;</p> <p>(b) A child is born out of wedlock and the provisions of subsection 2 are applicable; or</p> <p>(c) Except as otherwise provided in subsection 6 of NRS 125C.0035 or NRS 125C.210, there has been a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that a parent has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person</p> | <p>N.R.S. 125C.002</p> <p>N.R.S. 125C.0025</p> <p>N.R.S. 125C.003</p> |
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Roles of parties defined

| State         | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Citation                   |
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| New Hampshire | <p>residing with the child. The presumption created by this paragraph is a rebuttable presumption.</p> <p>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined</p> <p>Any provision of law that refers to the “custody” of minor children shall mean the allocation of parental rights and responsibilities as provided in this chapter. Any provision of law which refers to a “custodial parent” shall mean a parent with 50 percent or more of the residential responsibility and any reference to a non-custodial parent shall mean a parent with less than 50 percent of the residential responsibility.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | N.H. Rev. Stat. § 461-A:20 |
| New Jersey    | <p>Custodial parent” means the parent or other person who has legal and physical custody of a child for the majority of the time. The custodial parent is responsible for the day-to-day decisions related to the child and for providing the basic needs of the child on a daily basis. The custodial parent is the person to whom child support is payable. In shared parenting situations, the custodial parent is known as the Parent of Primary Residence.</p> <p>“Non-custodial parent” means the parent who does not have physical custody of the child on a day-to-day basis. In shared parenting situations, the non-custodial parent is known as the Parent of Alternate Residence.</p> <p>(1) Parent of Primary Residence (PPR)--The parent with whom the child spends most of his or her overnight time. The primary residence is the home where the child resides for more than 50% of the overnights annually. If the time spent with each parent is equal (50% of overnights each), the PPR is the parent with whom the child resides while attending school. Overnight means the majority of a 24-hour day (i.e., more than 12 hours).</p> <p>(2) Parent of Alternate Residence (PAR)--This is the parent with whom the child resides when not living in the primary residence.</p> | N.J.S.A. 2A:17-56.52       |
| New Mexico    | <p>None found</p> <p>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | NJ R PRAC App. 9-A(14)(b)  |

Roles of parties defined

| State          | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Citation                                                                         |
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| New York       | <p>None found</p> <p>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined</p> <p>The “custodial parent” within the meaning of the Child Support Standards Act is the parent who has physical custody of the child for the majority of the time (see <i>Bast v. Rossoff</i>, 91 N.Y.2d 723, 728, 675 N.Y.S.2d 19, 697 N.E.2d 1009). Where neither parent has the child for a majority of the time, the parent with the higher income, who bears the greater share of the child support obligation, should be deemed the noncustodial parent for the purposes of child support (see <i>Matter of Mitchell v. Mitchell</i>, 134 A.D.3d 1213, 1214, 21 N.Y.S.3d 438; <i>Leonard v. Leonard</i>, 109 A.D.3d 126, 128, 968 N.Y.S.2d 762; <i>Barr v. Cannata</i>, 57 A.D.3d 813, 814, 870 N.Y.S.2d 120; <i>Baraby v. Baraby</i>, 250 A.D.2d 201, 204, 681 N.Y.S.2d 826).</p> | <p><i>Conway v. Gartmond</i>, 144 A.D.3d 795, 796, 41 N.Y.S.3d 90, 91 (2016)</p> |
| North Carolina | None found                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                  |
| North Dakota   | <p>(7) “Primary residential responsibility” means a parent with more than fifty percent of the residential responsibility.</p> <p>(8) “Residential responsibility” means a parent’s responsibility to provide a home for the child.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | NDCC, 14-09-00.1 (7) and (8)                                                     |

Roles of parties defined

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| Ohio | <p>(L) For purposes of the Revised Code:</p> <p>(1) A parent who is granted the care, custody, and control of a child under an order that was issued pursuant to this section prior to April 11, 1991, and that does not provide for shared parenting has “custody of the child” and “care, custody, and control of the child” under the order, and is the “residential parent,” the “residential parent and legal custodian,” or the “custodial parent” of the child under the order.</p> <p>(2) A parent who primarily is allocated the parental rights and responsibilities for the care of a child and who is designated as the residential parent and legal custodian of the child under an order that is issued pursuant to this section on or after April 11, 1991, and that does not provide for shared parenting has “custody of the child” and “care, custody, and control of the child” under the order, and is the “residential parent,” the “residential parent and legal custodian,” or the “custodial parent” of the child under the order.</p> <p>(3) A parent who is not granted custody of a child under an order that was issued pursuant to this section prior to April 11, 1991, and that does not provide for shared parenting is the “parent who is not the residential parent,” the “parent who is not the residential parent and legal custodian,” or the “noncustodial parent” of the child under the order.</p> <p>(4) A parent who is not primarily allocated the parental rights and responsibilities for the care of a child and who is not designated as the residential parent and legal custodian of the child under an order that is issued pursuant to this section on or after April 11, 1991, and that does not provide for shared parenting is the “parent who is not the residential parent,” the “parent who is not the residential parent and legal custodian,” or the “noncustodial parent” of the child under the order.</p> <p>(5) Unless the context clearly requires otherwise, if an order is issued by a court pursuant to this section and the order provides for shared parenting of a child, both parents have “custody of the child” or “care, custody, and control of the child” under the order, to the extent and in the manner specified in the order.</p> <p>(6) Unless the context clearly requires otherwise and except as otherwise provided in the order, if an order is issued by a court pursuant to this section and the order provides for shared parenting of a child, each parent, regardless of where the child is physically located or with whom the child is residing at a particular point in time, as specified in the order, is the “residential parent,” the “residential parent and legal custodian,” or the “custodial parent” of the child.</p> | R.C. § 3109:04 (L) |
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Roles of parties defined

| State          | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Citation                            |
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|                | (7) Unless the context clearly requires otherwise and except as otherwise provided in the order, a designation in the order of a parent as the residential parent for the purpose of determining the school the child attends, as the custodial parent for purposes of claiming the child as a dependent pursuant to section 152(e) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, or as the residential parent for purposes of receiving public assistance pursuant to division (A)(2) of this section, does not affect the designation pursuant to division (L)(6) of this section of each parent as the "residential parent," the "residential parent and legal custodian," or the "custodial parent" of the child. |                                     |
| Oklahoma       | 4. "Custodial person" means a parent or third-party caretaker who has physical custody of a child more than one hundred eighty-two (182) days per year;<br>6. "Noncustodial parent" means a parent who has physical custody of a child one hundred eighty-two (182) days per year or less;                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 43 Okl. St. Ann. § 118A (4) and (6) |
| Oregon         | None found<br>"Custodial parent" used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                     |
| Pennsylvania   | None found<br>"Custodial parent" and "noncustodial parent" used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |
| Rhode Island   | None found<br>"Custodial parent" and "noncustodial parent" used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |
| South Carolina | None found<br>"Custodial parent" and "noncustodial parent" used throughout statutes but not specifically defined                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                     |
| South Dakota   | (4A) "Custodian," a person who has either legal or physical custody, or both, of a dependent child<br>(9A) "Noncustodial parent," the parent who does not have primary care, custody, or control of the child, and has an obligation to pay child support;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | SDCL § 25-7A-1 (4A) and (9A)        |

Roles of parties defined

| State     | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Citation                                                                                  |
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| Tennessee | <p>(4) “Primary residential parent” means the parent with whom the child resides more than fifty percent (50%) of the time</p> <p>(a) Solely for the purpose of all other state and federal statutes and any applicable policies of insurance that require a designation or determination of custody, a parenting plan must designate the parent with whom the child is scheduled to reside a majority of the time as the primary residential parent of the child; provided, that this designation shall not affect either parent’s rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside a majority of the time is deemed to be the primary residential parent for the purposes of such federal and state statutes.</p> <p>(b) Notwithstanding any law to the contrary, when the child is scheduled to reside an equal amount of time with both parents, the parents may agree to a designation as joint primary residential parents or to waive the designation of a primary residential parent. In the absence of an agreement between the parties, a single primary residential parent must be designated; provided, that this designation shall not affect either parent’s rights and responsibilities under the parenting plan.</p> <p>(22) “Primary Residential Parent (PRP).”</p> <p>(a) The “primary residential parent” (PRP) is the parent with whom the child resides more than fifty percent (50%) of the time. The PRP also refers to the parent designated as such by Tennessee Code Annotated § 36-6-402 and, if not determined by these rules, the parent designated as such by the tribunal.</p> <p>(b) A non-parent caretaker that has physical custody of the child is the child’s PRP for the purposes of these rules. See: Tennessee Code Annotated §§ 36-5-101(b); 71-3-124(a)(6)</p> <p>(c) If a primary residential parent has not been otherwise designated, the primary residential parent will be determined consistent with the criteria of subparagraphs (a) and (b) above.</p> | <p>T. C. A. § 36-6-402 (4)</p> <p>T. C. A. § 36-6-410</p> <p>TN ADC 1240-2-4-.02 (22)</p> |

Roles of parties defined

| State      | Party terminology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Citation                                                                                                             |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Texas      | <p>“Joint managing conservatorship” means the sharing of the rights and duties of a parent by two parties, ordinarily the parents, even if the exclusive right to make certain decisions may be awarded to one party.</p> <p>“Managing conservatorship” means the relationship between a child and a managing conservator appointed by court order.</p> <p>(a) If a managing conservator is appointed, the court may appoint one or more possessory conservators.</p> <p>(b) The court shall specify the rights and duties of a person appointed possessory conservator.</p> <p>(c) The court shall specify and expressly state in the order the times and conditions for possession of or access to the child, unless a party shows good cause why specific orders would not be in the best interest of the child.</p> | <p>V.T.C.A., Family Code § 101.016</p> <p>V.T.C.A., Family Code § 101.019</p> <p>V.T.C.A., Family Code § 153.006</p> |
| Utah       | <p>None found</p> <p>“Noncustodial parent” used throughout statutes but not specifically defined</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                      |
| Vermont    | <p>None found</p> <p>“Custodial parent” and “noncustodial parent” used throughout statutes but not specifically defined. Both terms are defined in the context of juvenile and guardianship proceedings</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                      |
| Virginia   | <p>“Custodial parent” means the natural or adoptive parent with whom the child resides; a stepparent or other person who has physical custody of the child and with whom the child resides; or a local board that has legal custody of a child in foster care.</p> <p>“Noncustodial parent” means a responsible person who is or may be obligated under Virginia law for support of a dependent child or child's caretaker.</p>                                                                                                                                                                                                                                                                                                                                                                                         | <p>VA Code Ann. § 63.2-1900</p>                                                                                      |
| Washington | <p>(12) “Obligee” means the custodian of a dependent child, the spouse or former spouse or domestic partner or former domestic partner, or person or agency, to whom a duty of support or duty of maintenance is owed, or the person or agency to whom the right to receive or collect support or maintenance has been assigned.</p> <p>(13) “Obligor” means the person owing a duty of support or duty of maintenance.</p>                                                                                                                                                                                                                                                                                                                                                                                             | <p>RCWA 26.18.020 (12) and (13)</p>                                                                                  |

Roles of parties defined

| <b>State</b>  | <b>Party terminology</b>                                                                                                                                                                                                                                                                                                              | <b>Citation</b>         |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| West Virginia | <p>“Custodial parent” or “custodial parent of a child” means a parent who has been granted custody of a child by a court of competent jurisdiction. “Noncustodial parent” means a parent of a child with respect to whom custody has been adjudicated with the result that such parent has not been granted custody of the child.</p> | W. Va. Code, § 48-1-218 |
| Wisconsin     | (2) Noncustodial parent. (a) In this subsection, “custodial parent” means a parent who lives with his or her child for substantial periods of time.                                                                                                                                                                                   | W.S.A. 767.55 (2)       |
| Wyoming       | (i) “Noncustodial parent” means the parent who was not awarded primary physical custody of the child by the court;<br><br>“Custodial parent” used throughout statutes but not specifically defined                                                                                                                                    | W.S.1977 § 20-6-102     |

# Appendix O

## PENNSYLVANIA – Deviation for Parenting Time

**Is income disparity addressed? (e.g. parent seeking deviation makes 4x more than the custodial parent) – Yes.**

Pennsylvania calculates a party's child support obligation similar to that of Georgia and each party's obligation is determined based on their "pro rata" share. In high-income cases, if the combined *net monthly* income exceeds \$30,000, the Court must follow a three-step process to calculate each party's respective child support obligation as outlined in 231 Pa. Code § 1910.16-3.1. After following this process, the Court may adjust the child support amount calculated, subject to the presumptive minimum.

**Do they count days (or hours)? – Days (overnights only)**

**Is there a threshold number of nights before deviation can kick in? – Yes, if the obligor has the child(ren) for at least 40% of overnights, their obligation is discounted by 10%. If the obligor's total overnights are at 39%, no reduction is provided.**

**Is there a formula for determining the deviation? – Yes, see 231 Pa. Code § 1910.16-4 – Part II of subdivision (a), which outlines the formula for determining this deviation.**

Basically, if the obligor has the child(ren) for more than 40% of overnights, they will receive a deviation of any percentage above 30% (e.g. 44% of overnights = 14% reduction in support).

**What about 50/50 parenting time? Is there a specific formula? – Yes, per the formula, if the parties share 50/50 custody, the obligor shall receive a 20% deviation from his/her child support obligation (because his/her obligation is reduced by the amount over 30% of overnights).**

**Based on gross or net income? – Child Support is based on a party's monthly, disposable net income in order to address tax implications, such as the party's tax bracket and which party claims the minor child(ren).**

Additionally, Pennsylvania has specific rules on how NDI (net disposable income) is calculated as outlined in 231 Pa. Code § 1910.16-2.

## OHIO – Deviation for Parenting Time

The Ohio Child Support revised their laws on June 29, 2018 when Gov. John Kasich signed into law House Bill 366.

### **Is income disparity addressed? (e.g. parent seeking deviation makes 4x more than the custodial parent)**

If the combined annual income of both parents is greater than \$300,000.00 (per OCR § 3119.021), the Court shall determine the amount of the obligor's child support obligation on a case-by-case basis and shall consider the needs and the standard of living of the children who are the subject of the child support order and of the parents.

The Court shall compute a basic combined child support obligation that is no less than the obligation that would have been computed under the basic child support schedule and applicable worksheet for a combined annual income equal to the maximum annual income of \$300,000.00, unless the Court determines that it would be unjust or inappropriate and therefore not in the best interest of the child, obligor, or obligee to order that amount. If the Court makes such a determination, it shall enter in the journal the figure, determination, and findings.

### **Do they count days (or hours)? – Days**

**Is there a threshold number of nights before deviation can kick in?** – Yes, at 90 & 147 overnights the Court has the ability to provide deviations to the obligor.

Per OCR § § 3119.051/ 3119.231(A), if a party's parenting time is greater than 90 overnights per year, he/she is eligible for a 10% reduction of his/her *annual* child support obligation. This deviation can be in addition to any adjustments provided under § 3119.051(A). The Court reserves the ability to remove the deviation if just cause is shown that the obligor is not exercising the ordered parenting time.

Per OCR § 3119.231(B), if a party's parenting time is greater than 147 overnights a year, the Court shall consider providing a deviation to his/her child support obligation pursuant to § 3119.051 (*the LCS analysis of HB366 states "in this circumstance the court must consider a substantial deviation*). In the event the Court does not grant the deviation, it must specify the facts used as the basis for the Court's decision in its Order.

**Is there a formula for determining the deviation?** – No. In reviewing statutes surrounding parenting time deviations, there does not appear to be a scale/ formula regarding a daily, weekly, or monthly deviation above and beyond the 10% deviation referenced in § 3119.051(A).

**What about 50/50 parenting time? Is there a specific formula?** – No, there is no specific formula based on 50/50 parenting time.

**Based on gross or net income?** – Child Support is based on a party's gross income, including any overtime, bonuses, and/or commissions.

**Resources:**

Ohio LCS Bill Analysis of HB366 –

<https://www.legislature.ohio.gov/download?key=9008&format=pdf>

ORC Statutes (attached to email) –

<https://casetext.com/statute/ohio-revised-code/title-31-domestic-relations-children/chapter-3119-calculation-of-child-support-obligation-health-insurance-coverage>

Anne Harvey Law - <https://anneharvey.com/recent-changes-to-ohio-child-support-laws/>

**REPORT TO GEORGIA**  
**CHILD SUPPORT COMMISSION TASK FORCE ON**  
**PARENTING TIME ADJUSTMENT - REVIEW OF PARENTING**  
**TIME ADJUSTMENTS IN MINNESOTA, NEW JERSEY AND**  
**NORTH CAROLINA**

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*March 9, 2021*



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**ADJUSTMENT - REVIEW OF PARENTING TIME ADJUSTMENTS IN MINNESOTA,**  
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*Carol Walker and Johanna Kiehl<sup>1</sup>*

*March 9, 2021*

**I. OVERVIEW OF MINNESOTA CHILD SUPPORT STATUTE**

**A. BRIEF HISTORY**

- a. Pre-2007 → no parenting time (hereinafter “PT”) adjustment; child support based on non-custodial parent’s income
- b. 2007 → Income shares method of child support established. Both parents’ income used in calculation and 3 levels of PT adjustment established:
  - o <10% PT: No adjustment
  - o 10-45% PT: 12% reduction in support for non-custodial parent
  - o 45.1%-50%: Equal parenting time formula
- c. 2016 → New formula adopted to be effective August 1, 2018; increases adjustment for each overnight and eliminates “cliffs” (cliffs cited in several resources as reason for the change)<sup>2</sup> – tables based on recommendations from Dr. Jane Venohr, Economist to a task force specifically charged with addressing issues of parenting time adjustments

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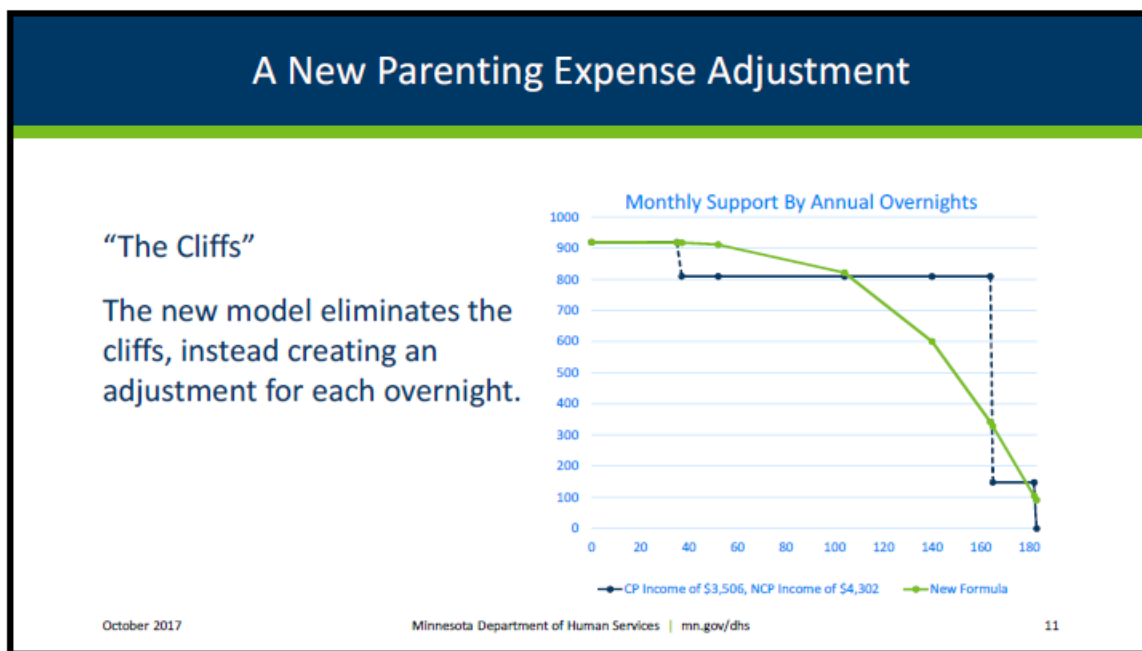
<sup>1</sup> Carol Walker is a sole practitioner attorney in Gainesville, Georgia. She is a Fellow of the American Academy of Matrimonial Lawyers and the recipient of the Tuggle Award for Professionalism of the Family Law Section of the State Bar of Georgia. Johanna Kiehl is the Director of the Northeastern Judicial Circuit Family Law Information Center and Guardian ad Litem Program. Special thanks are given to Sarah K. C. Mauldin, Law Librarian for DeKalb County Law Library, Georgia for her invaluable assistance in providing background legislative history and information.

<sup>2</sup> See:

<https://mn.gov/dhs/people-we-serve/children-and-families/services/child-support/programs-services/parenting-expense-adjustment.jsp>;  
<https://static1.squarespace.com/static/53275798e4b0ba32c2416c44/t/5b7acf7d352f53632c9cc040/1534775600193/2018+PEA+presentation.pdf>  
[http://mfsrc.org/Conferences\\_files/2017/Handouts/Shelling%20the%20Pea.pdf](http://mfsrc.org/Conferences_files/2017/Handouts/Shelling%20the%20Pea.pdf)  
<https://www.house.leg.state.mn.us/hrd/pubs/chldsupp.pdf>  
[http://mfsrc.org/Conferences\\_files/2017/Handouts/Shelling%20the%20Pea.pdf](http://mfsrc.org/Conferences_files/2017/Handouts/Shelling%20the%20Pea.pdf)

To some degree, it appears that Minnesota used Michigan as a model for its changes and formula.

The illustration below shows how the change to the calculation eliminates the “cliff” effect created by the 2007 statute, by eliminating the sharp changes inherent in the prior statute , which to some degree could have radical reductions (or additions) to the presumptive amount for the non-custodial parent with the addition of or subtraction of as little as one day.



## B. KEY POINTS OF MINNESOTA LAW:

- There is a rebuttable presumption that a parent is entitled to receive a minimum of 25% of the parenting time with a child.
- Amount of percentage of parenting time for purposes of calculating parenting time adjustment based on two year average
- No parenting time adjustment without court ordered parenting time
- Percentage of parenting time determined by calculating number of overnights or overnight equivalents. Overnight equivalents calculated by a method if the parent has significant time periods on separate days where the child is in the parent’s physical custody and under the direct care of the parent but does not stay overnight. This appears to mean that time spent in school does not count as an overnight equivalent, given the requirement of direct care.<sup>3</sup>

<sup>3</sup> Authors’ research found no appellate cases which defined overnight equivalence – appears to be in discretion of trial judge. See Morrell v. Milota-Wallenberg, 2012 WL 686104, unpublished opinion.

- If a parent has more than 55% court ordered parenting time, rebuttable presumption that the parent has a zero dollar support obligation. To overcome the presumption, a party must show and a court must consider:
  - Significant income disparity, which may include potential income determined under Section 518A.32
  - The benefit and detriment to the child and the ability of each parent to meet the needs of the child; and
  - Whether the application of the presumption would have an unjust or inappropriate result.
- Presumption that while exercising parenting, a parent is responsible for and incurs costs...including, but not limited to, food, clothing, transportation, recreation and household expenses
- If parenting time is equal and parental incomes for purposes of determining child support are equal, no basic child support shall be paid unless the court determines that the expenses for the child are not equally shared. However, there is flexibility and discretion in deviations based on statutory factors.
- Based on algebraic calculation which would be difficult to hand calculate, just as most child support calculations in most states are now difficult to hand calculate. The calculator used is easy to complete and has specific place for selection of a) true 50/50 custody and b) other parenting time arrangements
- There is a biennial cost of living award (COLA) if language included in order.
- Minnesota has an easily used color coded parenting time fill in calendar which allows calculation of the overnights easily – it is linked to the child support calculator which will insert the proper parenting overnights for the calculation of child support
- Deviations available with special findings

## **C. SELECTED STATUTORY PROVISIONS<sup>4</sup>**

### **518.175. Parenting time**

#### **Subdivision 1. General. . . .**

(g) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive a minimum of 25 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

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<sup>4</sup> The statutory provisions are attached at the end of this document.

## **Child Support Law (518A.26 – 518A.78) - select code provisions (emphasis added)**

### **518A.26 DEFINITIONS**

Subd. 14. Obligor. "Obligor" means a person obligated to pay maintenance or support. For purposes of ordering medical support under section 518A.41, a parent who has primary physical custody of a child may be an obligor subject to a payment agreement under section 518A.69. *If a parent has more than 55 percent court-ordered parenting time, there is a rebuttable presumption that the parent has a zero dollar basic support obligation.* A party seeking to overcome this presumption must show, and the court must consider, the following:

- (1) a significant income disparity, which may include potential income determined under section 518A.32;
- (2) the benefit and detriment to the child and the ability of each parent to meet the needs of the child; and
- (3) whether the application of the presumption would have an unjust or inappropriate result.

The presumption of a zero dollar basic support obligation does not eliminate a parent's obligation to pay child support arrears under section 518A.60. The presumption of a zero dollar basic support obligation does not apply to an action under section 256.87, subdivision 1 or 1a.

### **518A.34 COMPUTATION OF CHILD SUPPORT OBLIGATIONS.**

- (a) To determine the presumptive child support obligation of a parent, the court shall follow the procedure set forth in this section.
- (b) To determine the obligor's basic support obligation, the court *shall*: . . .
- (6) apply the parenting expense adjustment formula provided in section 518A.36 to determine the obligor's basic support obligation. . . .
- (h) The final child support order shall separately designate the amount owed for basic support, child care support, and medical support. If applicable, the court *shall* use the self-support adjustment and minimum support adjustment under section 518A.42 to determine the obligor's child support obligation.

### **518A.36 PARENTING EXPENSE ADJUSTMENT.** [was 518.722 in 2005, revised 2006/2016, effective 2018]

Subdivision 1. General. (a) The parenting expense adjustment under this section reflects the presumption that while exercising parenting time, a parent is responsible for and incurs costs of caring for the child, including, but not limited to, food, clothing, transportation, recreation, and household expenses. Every child support order shall specify the percentage of parenting time granted to or presumed for each parent. For purposes of this section, the percentage of parenting time means the *percentage of time a child is scheduled to spend with the parent during a calendar year according to a court order averaged over a two-year period.* Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting

time. The percentage of parenting time may be determined by *calculating the number of overnights or overnight equivalents* that a parent spends with a child pursuant to a court order. For purposes of this section, overnight equivalents are calculated by using a method other than overnights if the parent has *significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.*

(b) If there is not a court order awarding parenting time, the court shall determine the child support award without consideration of the parenting expense adjustment. If a parenting time order is subsequently issued or is issued in the same proceeding, then the child support order shall include application of the parenting expense adjustment. . . .

[Subd 2 – formula for parenting expense adjustment] . . .

Subd. 3. Calculation of basic support when parenting time is equal. If the parenting time is equal and the parental incomes for determining child support of the parents also are equal, no basic support shall be paid *unless the court determines that the expenses for the child are not equally shared.*

#### **518A.42 ABILITY TO PAY; SELF-SUPPORT ADJUSTMENT.**

Subdivision 1. Ability to pay. (a) It is a rebuttable presumption that a child support order should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, the court shall follow the procedure set out in this section.

(b) The court shall calculate the obligor's income available for support by subtracting a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person from the obligor's gross income. If the obligor's income available for support calculated under this paragraph is equal to or greater than the obligor's support obligation calculated under section 518A.34, the court shall order child support under section 518A.34.

(c) If the obligor's income available for support calculated under paragraph (b) is more than the minimum support amount under subdivision 2, but less than the guideline amount under section 518A.34, then *the court shall apply a reduction to the child support obligation in the following order, until the support order is equal to the obligor's income available for support:*

- (1) medical support obligation;
- (2) child care support obligation; and
- (3) basic support obligation.

(d) *If the obligor's income available for support calculated under paragraph (b) is equal to or less than the minimum support amount under subdivision 2 or if the obligor's gross income is less than 120 percent of the federal poverty guidelines for one person, the minimum support amount under subdivision 2 applies.*

Subd. 2. Minimum basic support amount. (a) If the basic support amount applies, the court must order the following amount as the minimum basic support obligation:

- (1) for one or two children, the obligor's basic support obligation is \$50 per month;
- (2) for three or four children, the obligor's basic support obligation is \$75 per month; and
- (3) for five or more children, the obligor's basic support obligation is \$100 per month.

(b) If the court orders the obligor to pay the minimum basic support amount under this subdivision, the obligor is presumed unable to pay child care support and medical support.

If the court finds the obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under this subdivision does not apply.

Subd. 3. Exception. This section does not apply to an obligor who is incarcerated.

### **518A.43 DEVIATION FROM CHILD SUPPORT GUIDELINES**

Subdivision 1. General factors. Among other reasons, deviation from the presumptive child support obligation computed under section 518A.34 is intended to encourage prompt and regular payments of child support and *to prevent either parent or the joint children from living in poverty*. In addition to the child support guidelines and other factors used to calculate the child support obligation under section 518A.34, the court *must* take into consideration the following factors in setting or modifying child support or in determining whether to deviate upward or downward from the presumptive child support obligation: . . .

(1) all earnings, income, circumstances and resources of each parent, including real and personal property....

(2) the extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) *the standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households; . . . .*

Subd. 1a. Income disparity between parties. The court may deviate from the presumptive child support obligation under section 518A.34 and elect not to order a party who has between ten and 45 percent parenting time to pay basic support where such a significant disparity of income exists between the parties that an order directing payment of basic support would be detrimental to the parties' joint child.

. . .

Subd. 6. Self-support limitation. If, after payment of income and payroll taxes, the obligor can establish that they do not have enough for the self-support reserve, a downward deviation *may* be allowed.



## **D. BASIC CALCULATION SUMMARY<sup>5</sup>**

1. Uses gross income
2. Adjustments applied
  - Alimony and child support orders for nonjoint children subtracted
  - Child's SS/veteran's benefits added to income for parent upon who's eligibility child receives
  - Resulting income referred to as parental income for determining child support – "PICS"
3. BCSO pulled from combined PICS (both parents) and % shares established (tables in 518A.35)
4. Parent expense adjustment applied to get new BCSO for obligor – formula  $[(Ao)^3(Bs)^3 - (Bo)^3(As)] / [(Ao)^3 + (Bo)^3]$  (518A.36)
5. Shares of child care, medical and dental costs added (federal child care tax credits deducted from total cost before shares assigned to each parent)
6. SS payment deducted from support if obligee receives the SS/veteran's payment based on obligor's eligibility
7. Ability to pay is calculated – i.e., self support reserve (\$1288 in 2021) is subtracted from PICS.
  - If monthly child support is lower than ability to pay, no reduction is needed.
  - If monthly support is higher than ability to pay, support amount is reduced to figure calculated for ability to pay. However minimum support obligations kick in.

## **E. QUESTIONS AND ANSWERS**

1. Is the formula for PT adjustment gradual or step? – the power formula creates small adjustments when the parent with less time has few overnights; adjustments increase as parties get closer to equal PT
2. Is there a specific designation category for 50/50? – yes. 518A.36 Subdivision 3. If parental income is equal and PT is equal there shall be no support "unless the court determines that the expenses for the child are not equally shared".
3. Can the parent with more time be ordered to pay support if s/he has significantly higher income? Yes, but there is a rebuttable presumption of no support at 55% PT (418A.26)

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<sup>5</sup> Specifics in 518A.34

4. Can the parenting time adjustment calculation be done by hand? In theory, yes, but values are in the billions. Handheld calculators may not have enough places. Can be done using an online calculator (e.g., Google) but the formula will be too complicated for most people.
5. How is parenting time calculated? By calculating overnights or overnight equivalents averaged over a two-year period (“significant time periods on separate days where the child is in the parent’s physical custody and under the direct care of the parent but does not stay overnight”; age considered) – Court has discretion to use either method; holidays are included in the counts
6. What is the economic basis of the current Minnesota guidelines? The 2019 Minnesota Child Support Task Force report (referenced below) indicates the state uses a 2001 study of data from the Consumer Expenditure Survey on the cost of child-rearing conducted by the USDA. Legislative Report, 2019 Minnesota Child Support Task Force, Minnesota Department of Human Services, dated October 31, 2019.

7. Tables:

As part of her work for the Minnesota report, Dr. Jane Venohr made recommendations which are included in the recommended tables set of by the Child Support Task Force in their 2019 report. The three changes that were suggested are:

- High income adjustment to extend the tables from \$ 15,000 combined family income to \$ 30,000 combined family income (monthly)
- Extend the tables to include families with 4, 5 and 6 children. They did not follow the Venohr recommendation of multipliers, which was greater percentage multiplier.
- Low-income adjustment to the table figures. Again, the task force, while making some changes, did not completely accept the multipliers suggested by Venohr.

8. Self-support reserve

- Only applied to obligor as of 2021
- 2019 Minnesota Child Support Task Force Legislative Report recommendation is to continue with SSR as 120% of federal poverty guidelines, but apply to both parents and deduct from PICS, rather than from gross income (calculator IS deducting from PICS as of Feb 2021). The SSR can have a significant impact on a low income CP who has medical or child care expenses. The SSR appears to put a cap on what the NCP pays, regardless of these expenses. 518A.42. The 2019 task force report addresses this issue.

9. Where are extraordinary costs factored in? There is no specific terminology for these kinds of expenses, but could be a deviation under 518A.43(2). This would be discretionary.

## **F. CHILD SUPPORT CALCULATOR AND PARENTING TIME CALENDAR TOOL**

The Minnesota child support calculator online is relatively easy to use – no more difficult than Georgia’s present online calculator. For ease of calculating the parenting time adjustment, there is a link to a fillable two year color coded Parenting Time Calendar Tool which can be completed to determine the yearly average overnights based on the overall two year requirement. The tool also calculates the percentage of parenting time.

There are two options readily available – one for true 50/50 parenting time and one for something lesser.

The Minnesota Child support calculator is located at:

<https://childsupportcalculator.dhs.state.mn.us/Calculator.aspx>

The Minnesota Parenting Time Calendar Tool is located at:

<https://mn.gov/dhs/child-support-calendar/>

An example of the Calendar tool result and the child support worksheet result is at the end of this document.

## II. OVERVIEW OF NEW JERSEY CHILD SUPPORT STATUTE

### A. BRIEF HISTORY

- a) Current guidelines as they are relevant to parenting time adjustments appear to go back to at least 2001 (*Benisch v. Benisch*, 347 N.J. Super. 393 (2002) references the 3 categories of expenses – fixed, variable and controlled) and may have been included in the initial adoption of the income-shares model
- b) New Jersey child support guidelines are set out annually in rules adopted by the New Jersey Supreme Court which make changes from year to year. Current Rules are set out in Appendices.<sup>6</sup>

### B. KEY POINTS OF NEW JERSEY CHILD SUPPORT RULES<sup>7</sup>

- NJ Child Support is set by Court Rule 5:6A – (primarily as appendices to the Court Rule)
- Uses sole parenting awards (Appendix IX-F award and schedule) as the starting point for analysis.. States that Appendix IX-F awards are appropriate only if the child resides in the custodial parent’s household 100% of the time. Otherwise, some adjustment if court ordered parenting time is appropriate to consider and apply.
- New Jersey case law defines child support as having three consumption categories:
  - fixed expenses, which are those incurred even when the child is not residing with the parent, representing 38% of the child support amount. Examples of fixed expenses are dwelling, utilities, household furnishings and household care items
  - variable expenses, which are those incurred only when the child is with the parent, representing 37% of the child support amount. Examples of variable expenses are food, transportation and some entertainment.
  - Controlled expenses, which are those like clothing, personal care, entertainment and other miscellaneous expenses. They represent 25% of the child support amount, apportioned between the parents based on their income shares. The assumption is that controlled expenses are only incurred by the PPR. Wunsch-Deffler v. Deffler, 968 A.2d. 713, 406 N.J. Super, 505 (N.J. Super, 2009)<sup>8</sup>

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<sup>6</sup> The most current New Jersey Appendices are included at the end of this document.

<sup>7</sup> New Jersey uses the following definitions and for purposes of ease of reference, the definitions are set out below:

“PPR” - Parent of Primary Residence – “The parent with whom the child spends most of his or her overnight time. The primary residence is the home where the child resides for more than 50% of the overnights annually. If the time spent with each parent is equal (50% of overnights each), the PPR is the parent with whom the child resides while attending school. Overnight means the majority of a 24-hour day (i.e., more than 12 hours).”

“PAR” – Parent of Alternate Residence – “This is the parent with whom the child resides when not living in the primary residence.”

“PAR time” (formerly visitation)

<sup>8</sup> This case is included at the end of the materials – it has a good discussion on the issue of 50/50 custody and application of the New Jersey law. It is binding precedent, unlike many other cases which address this topic.

- In situations where the PAR has a regular level of parenting participation in child-rearing that is *less* than the substantial equivalent of two or more overnights with the child each week, (approximately 28% of overnights excluding vacations and holidays), the PAR may receive an adjustment to the IX-F award for the PAR’s time share (% of overnight time) of variable costs. For example, if the sole-parenting basic support award is \$100 and PAR spends 20% of the time with the child, the maximum PAR time credit is \$ 7.40, calculated as \$100 (basic award) x .37 (variable costs) x .20 (% time). In the rules, this situation is sometimes referred to as “visitation”.
- In situations where the PAR has a the child for the substantial equivalent of two or more overnights with the child each week, (approximately 28% of overnights excluding vacations and holidays), the PAR may receive a shared parenting adjustment if PAR can show evidence of separate living accommodations maintained specifically for the child. A shared parenting adjustment applies to both fixed and variable expenses. When there is shared parenting, in the discretion of the court, the parent’s share of the IX-F award may be adjusted based on expenses assumed to be duplicated or shifted. In the rules, this situation is referred to as shared parenting arrangement.
- In determining whether the 28% threshold is met, which would open the door to sharing of the variable and fixed expenses, extended PAR time of more than five consecutive nights that represents a single event or intermittent occurrence like vacation and holiday time is not to be considered in the calculation. It appears from a policy standpoint that the adjustment for shared parenting is intended to be reserved for those situations where the parties are sharing on a regular rotating basis some type of significant co-parenting. However, even if a parent does not qualify for the shared parenting adjustment, the parent may request an abatement for the variable expenses for the child during the vacation/holiday time. The court, in its discretion, may decide whether the abatement is appropriate, its amount, and how it should be applied.
- If a dispute arises about controlled expenses and whether it should be considered in the shared parenting adjustment, the PAR may rebut the controlled expense presumption.
- Uses a one year period for calculating the percentages.
- There is protection for a low income PPR. If the PPR’s weekly household net income plus support award is less the twice poverty guideline for number of people in household or if the court finds that the net income of PPR household is not sufficient to maintain the household, shared parenting adjustment is not to be used unless the parties otherwise agree. A table is provided in the rules for this quick calculation.
- So, there are two different worksheets – one for sole parenting which encompasses the situation where the non-custodial parent has no parenting time, where the PAR has less time than the substantial equivalent of 28% of overnights, or if the PPR’s income falls below a household income reserve; and one where shared parenting is shown, which shall be used if PAR has 28%+ overnights and has shown that separate living accommodations for the child are provided in PAR household.
- Even if PAR shows the existence of shared parenting criteria, *the existence of the criteria does not make a shared-parenting award presumptive*, but permits the calculation of the award so that the court can determine if it is appropriate for a particular family.

- There is no specific designation category for 50/50 custody. If equal overnights, still requires designation of PPR and PAR – the PPR is the parent with whom the child resides while attending school. This appears to be within the discretion of the judge and will not be overturned unless an abuse of discretion is shown.
  - While not binding precedent, Collette v. Welsh, Docket No. A-4576-17T1, Superior Court of New Jersey, Appellate Division, March 28, 2019, found that a judge abused his discretion in failing to determine where the child spent the majority of his twenty-four hour day, instead basing his decision upon “where the child is sleeping overnight.”
  - On the other hand, while not binding precedent, Raucci v. Valotta, Docket No. A-4353-15T1, Superior Court of New Jersey Appellate Division, September 6, 2017, scolded the father for an overly technical reading of the hourly provisions of their custody arrangement, while pointing out that the father had the opportunity to present evidence on the controlled expenses irrespective, and failed to do so.
  - A trial court’s determination that the mother was the PPR in a custodial arrangement of 50/50 “because she was more involved with the school” was not an abuse of discretion in Curtis v. Reed, Docket A-0482-12T2, Superior court of New Jersey, Appellate Division, July 1, 2015 (non-binding precedent); the court pointed out that the father had the opportunity to present evidence he should receive adjustment for controlled expenses and failed to do so.

**C. SELECTED RULE PROVISIONS<sup>9</sup>**

Relevant provisions below with emphasis added

**Appendix IX-A CONSIDERATIONS IN THE USE OF CHILD SUPPORT GUIDELINES (Includes amendments through those effective June 1, 2020)**

Assumptions included in the Child Support Guidelines:

- a. Intact Family Spending Patterns as the Standard for Support Orders - Support guidelines based on spending patterns of intact families provide an adequate level of support for children. . . .
- f. NCP/PAR Time- The awards in the support schedules represent spending on children by intact families. In an intact family, the children reside in one household and no NCP/PAR Time is needed. This is similar to child support actions in which one parent has sole physical custody of a child and there is no NCP/PAR Time. The awards in the Appendix IX-F support schedules represent situations in which the child is with the custodial parent 100% of the time. Although the Appendix IX-F awards are not reduced for NCP/PAR Time, they may be adjusted, if these factors are present in a specific case, through worksheet calculations. . . .
- k. Sharing of Child-Rearing Expenses - These guidelines assume that the parents are sharing in the child-rearing expenses in proportion to their relative incomes. To the extent that this is not true (i.e., if one parent is paying all costs associated with housing for the child from his or her

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<sup>9</sup> A copy of the Rule provisions are at the end of this document.

own income) and can be proven to the court, a guidelines-based support award may require adjustment.

### **Paragraph 8. Expenses Included in the Child Support Schedules**

The awards in the Appendix IX-F child support schedules represent the average amount that *intact families* spend on their children (i.e., *the marginal amount spent on the children*). The Appendix IX-F support awards include the child's share of expenses for housing, food, clothing, transportation, entertainment, unreimbursed health care up to and including \$250 per child per year, and miscellaneous items. . . .

*[Paragraph 8 describes in great detail what is included in the BCSA figures, including housing, food, clothing, transportation, unreimbursed health care up to \$250/yr, entertainment (which includes lessons and instruction, cell phones. Etc.), miscellaneous (person care products and services, school supplies, finance charges, etc.)]*

### **Paragraph 13. Adjustments for PAR Time (formerly Visitation Time)**

a. For the purpose of these guidelines, visitation is a level of parental participation in child-rearing that is less than the substantial equivalent of two or more overnights with the child each week (approximately 28% of overnights excluding vacations and holidays). Overnight means the majority of a 24-hour day (i.e., more than 12 hours). The sharing of parenting responsibilities above this time threshold may qualify for a shared-parenting child support award (see paragraph 14). For noncustodial parents (NCP) who participate in child-rearing responsibilities on a regular basis but for less than the substantial equivalent of two or more overnights per week, it is assumed that:

- (1) fixed costs (e.g., housing-related expenses) for the child are not incurred by the NCP;
- (2) variable costs (e.g., food, transportation, and some entertainment) for the time spent with the child are incurred by the NCP; and
- (3) variable costs represent 37% of the total child-related expenditures.

b. Regular PAR Time - *If a parenting plan that sets forth a visitation schedule is filed with the court or a PAR Time schedule is ordered, or the non-custodial parent exercises regular PAR Time with the child, the court may reduce an Appendix IX-F sole parenting support award to accommodate variable expenses (food and transportation) incurred by the non-custodial parent during PAR Time periods. In determining if such an adjustment is appropriate, the court should consider whether the non-custodial parent has incurred variable expenses for the child during PAR Time and if PAR Time has reduced the other parent's variable expenses for the child. If the non-custodial parent exercises PAR Time for more than the substantial equivalent of two or more overnights per week, a shared-parenting award may be appropriate (see paragraph 14).*

- (1) The reduction in the award shall not exceed the parent's time share (percentage of overnight time with the child) of the variable costs -- food and transportation -- for the child. For example, if the sole-parenting basic support award is \$100 and the non-custodial parent

spends 20% of the time with the child, the maximum PAR Time credit is \$7.40 calculated as: \$100 (basic award) x 0.37 (variable costs) x 0.20 (%time).

(2) Extended PAR Time in excess of five consecutive overnights that represents a single event or intermittent occurrence (e.g., vacation or holiday time) shall not be used to determine the non-custodial parent's annual percentage of overnight time for calculating a regular visitation (see paragraph 13(c)) or a shared-parenting adjustment. Extended PAR Time periods that are part of a regularly scheduled rotation of consecutive weeks between the parents that is set forth in a parenting plan or court order (e.g., a regular schedule that alternates weeks between parents during the year or entire summer) should be included in the calculation of the regular PAR Time adjustment (variable expenses), but shall not be included in the determination of qualifying time for a shared-parenting adjustment (fixed expenses) unless the parent shows and the court finds that marginal housing-related costs for the child were incurred in the PAR's household for the extended PAR Time period.

(3) If the custodial parent's household net income (CP net income from all sources including TANF and the net income of other adults in the household) plus the parenting PAR Time-adjusted child support order is less than two times the poverty guideline for the total number of persons in the household, the adjustment for PAR Time expenses shall not be presumptive, but shall be subject to the discretion of the court.

c. Extended PAR Time (Vacation and Holiday Time) - If a child is in the care of a non-custodial parent for five or more consecutive overnights, that parent may request an abatement of the child support order for the extended-PAR Time period. Upon the filing of a motion by the parent seeking the extended-PAR Time abatement, the court shall decide whether the abatement is appropriate, its amount, and how it shall be applied. Alternatively, the amount of an extended-PAR Time abatement may be specified prospectively in an agreement between the parents. The amount of the abatement shall not exceed the variable expenses (food and transportation) incurred for the child during the extended-PAR Time period (i.e., the abatement should not be for the entire award during the vacation period since the custodial parent continues to have fixed and controlled expenses during that time). Variable expenses represent 37% of a basic child support award before any regular-PAR Time adjustments. If child care or other special expenses are included in the order, an abatement for the non-custodial parent's share of those costs that are not incurred during extended-PAR Time shall be given unless such costs are paid in advance or must be paid during the extended-PAR Time. Extended vacation or holiday time used to calculate a visitation or shared adjustment as permitted in the discretion of the court under paragraph 13(b)(2) or 14(c)(2)(a) does not qualify for the extended-PAR Time abatement under this paragraph.

#### **Paragraph 14. Shared-Parenting Arrangements**

a. The Support Guidelines and Shared Parenting - The awards in the Appendix IX-F support schedules represent spending on children by intact families. In an intact family, the children reside in one household with both parents (i.e., there is no shifting of children between households as with non-intact families). *Thus, the Appendix IX-F awards are appropriate only if*



*the child resides in the custodial parent's household 100% of the time.* In shared-parenting situations, each parent incurs expenses for the child while the child is with that parent. To accommodate shared-parenting situations, each parent's income share of the Appendix IX-F support award may be adjusted based on expenses assumed to be duplicated or shifted and the amount of time spent with the child. Although these guidelines are designed to accommodate shared-parenting arrangements when appropriate, shared-parenting adjustments or awards are not presumptive, but are subject to the discretion of the court in accordance with the factors listed in paragraphs 14(c) and 14(d).

b. **Parties Defined.** In shared-parenting situations, a parent's designation is related to the time the child spends in that parent's residence. The parents should be referred to as the Parent of Primary Residence (PPR) and the Parent of Alternate Residence (PAR). Either the PPR or the PAR may be the obligor of the support order depending on income and the time spent with the child. The designation of PPR and PAR is not related to the gender of either parent or the legal designation of custodial parent. The PPR and PAR are defined as follows:

(1) Parent of Primary Residence (PPR) - The parent with whom the child spends most of his or her overnight time. The primary residence is the home where the child resides for more than 50% of the overnights annually. If the time spent with each parent is equal (50% of overnights each), the PPR is the parent with whom the child resides while attending school. ***Overnight means the majority of a 24-hour day (i.e., more than 12 hours).***

(2) Parent of Alternate Residence (PAR) - This is the parent with whom the child resides when not living in the primary residence.

c. **Criteria for Determining a Shared-Parenting Award** - The criteria listed below must be met before the shared-parenting worksheet and instructions are used to calculate a shared-parenting award. The existence of these criteria does not make a shared-parenting award presumptive, but permit the calculation of the award so that the court can determine if it is appropriate for a particular family.

(1) A parenting plan that specifies parenting times and responsibilities must be filed with or ordered by the court.

(2) The PAR has or is expected to have the child for the substantial equivalent of two or more overnights per week over a year or more (at least 28% of the time) and the PAR can show that separate living accommodations for the child are provided during such times (i.e., evidence of separate living accommodations maintained specifically for the child during overnight stays).

(a) At the discretion of the court, the determination of qualifying shared-parenting time may include extended-PAR Time periods of five or more consecutive overnights that are part of a regularly scheduled rotation between the parents as set forth in a parenting plan or court order if the PAR shows that marginal housing-related costs were incurred for those periods. Qualifying shared-parenting time shall not include extended PAR Time

periods of five or more overnights that represent vacations, holidays, or other periodic events (see Extended Visitation above).

(b) Although a PAR may not be eligible for the shared-parenting adjustment (both fixed and variable expenses) due to limited time with the child, a regular PAR Time credit (variable expenses only) may be appropriate (see paragraph 13).

d. Unless the parties otherwise agree, the final child support order shall not be based on a calculated shared-parenting award if:

(1) the PPR's weekly household net income (including means-tested income such as TANF and the net income of other adults living in the household) plus the shared-parenting child support award is less than two times the U.S. poverty guideline for the number of persons in the household (PPR household income thresholds are shown in table below); or

(2) in any case, the court finds that the net income of the primary household remaining after the calculation of the shared-parenting award is not sufficient to maintain the household for the child. When evaluating the adequacy of the primary household's total income, the court shall consider the cost of living in the region where the child resides (e.g., the average cost of housing, food, and transportation). When determining the PPR's household income to evaluate the primary household income threshold, the court may impute income to the PPR in accordance with Appendix IX-A, paragraph 12.

e. If a shared-parenting award is inappropriate due to the PPR's limited household income, a sole-custody award shall be calculated. [TABLE OMITTED]

f. Relative Spending on Children and Shared-Parenting Situations - For the purpose of the application of these guidelines to shared-parenting situations, there are three broad categories of expenses incurred for children by their parents: fixed, variable and controlled.

**Fixed costs** are those incurred *even when the child is not residing with the parent*. Housing-related expenses (e.g., dwelling, utilities, household furnishings and household care items) are considered fixed costs.

**Variable costs** are incurred *only when the child is with the parent* (i.e., they follow the child). This category includes transportation and food.

**Controlled costs** over which the PPR, as the primary caretaker of the child, has direct control. This category includes clothing, personal care, entertainment, and miscellaneous expenses.

The Appendix IX-F support awards (which represent marginal child-rearing costs) are based on expenditures of intact families that reside in one household. In sharedparenting situations both parents incur fixed and variable expenses for the child while the child resides in their individual households (in a PAR Time situation, it is assumed that the non-custodial parent incurs only variable expenses for the child). It is assumed that controlled expenses for the child are incurred only by the PPR since, generally, that parent manages the day-to-day needs of and expenditures for the child. The Appendix IX-F awards may not be appropriate in shared-parenting situations

since they assume that the PPR incurs all expenses for the child and that the PAR has no expenses related to the child. To arrive at a fair support award in shared-parenting situations, the Appendix IX-F awards may need to be adjusted to accommodate each parent's time-adjusted fixed and variable expenses for the child. Since it is assumed that only the PPR incurs controlled expenses, the adjustment formula provides that such costs are shared by the parents in proportion to their relative incomes only, not in proportion to time spent with the children (see note on controlled expenses at paragraph I).

g. Assumptions of the Shared-Parenting Adjustment - The shared-parenting adjustment assumes that:

(1) relative spending on children in the three broad consumption categories is as follows: 38% fixed expenses, 37% variable expenses, and 25% controlled expenses;

(2) the PAR's fixed expenses are equal to:  $2 \times \text{PAR's percentage of overnights} \times \text{PPR's fixed expenses}$ . The PAR's fixed costs are pro-rated based on the time the child spends in the alternate household. For example, if the PAR spends 30% of overnights with the child, that parent is assumed to incur 60% of the PPR's fixed costs. The PPR's fixed costs remain static (i.e., the full 38% of the basic obligation; they are not reduced for the time the child is not in the household) since that parent must maintain the primary residence for the child at all times. The parents have equal fixed expenses only when time sharing is equal (i.e., fixed expenses are the same when the child spends the same amount of time in both households).

(3) variable costs are incurred only when the child is in the parent's household and, thus, are apportioned based on each parent's percentage of overnights with the child. For example, if the child spends 30% of overnights with the PAR, that parent incurs 30% of the variable expenses for the child and the PPR's variable expenses are reduced by an equal proportion;

(4) controlled expenses are incurred by the PPR only and, thus, are apportioned between the parents based on their income shares, not in relation to time spent with the children.

h. Calculating the Shared-Parenting Adjustment - Appendix IX-F sole parenting awards are adjusted for shared-parenting by calculating the PAR's income share of the total two-household expenses (the basic support obligation plus the PAR's time-adjusted- fixed expenses) for the child and then deducting the PAR's time-adjusted fixed and variable expenses for the child. This mechanism adjusts the award to accommodate the PAR's fixed and variable expenses incurred while the child is with that parent and the PPR's reduced variable expenses while the child is not in that parent's household. The PAR's income share of the net supplemental expenses (e.g., 19 child care, court-approved special needs) is added to the PAR's adjusted basic obligation. Detailed instructions and a worksheet for calculating shared-parenting awards are provided in Appendices IX-B and IX-D respectively.

i. Note on Controlled Expenses - In shared-parenting situations, it is assumed that both parents incur fixed and variable costs. The shared-parenting adjustment formula allocates the total marginal fixed and variable costs between the parents based on their relative incomes and the time spent with the children. Controlled expenses (e.g., clothing, entertainment, and personal

care items) are assumed to be incurred by the PPR only (i.e., the PPR is responsible for the day-to-day needs of the child which includes the purchase of these items). Therefore, controlled expenses are shared in proportion to the parents' incomes only -- such expenses are not time adjusted. Thus, no adjustment is made for direct expenditures made by a PAR for controlled items whether they be duplicated in the PAR's household (e.g., clothing) or made only while the child is present (e.g., entertainment). In some family situations, the PAR may incur expenses for some controlled items either by agreement or on a voluntary basis. The adjustment formula does not accommodate these situations because there is either no empirical data that segregates the expense item into specific percentage of consumption (e.g., entertainment) or the expense item is presumed to be with the autonomy of the PPR (e.g., clothing).

Additionally, it is not always clear whether the duplication of these expenses is appropriate or necessary. If a PAR routinely incurs controlled expenses for the child either in addition to or as substitution for a controlled expense item assumed to be unilaterally provided by the PPR, the PAR may rebut the controlled expense assumption when the award is being determined. If such a rebuttal is made, the court must decide whether the dual expenses are appropriate and necessary and, if so, how each controlled expense category should be treated (i.e., how much of the 25% represents the item in contention and whether it should be treated as a variable or fixed expense).

#### **Appendix IX-B Use of the Child Support Guidelines (Includes amendments through those effective June 1, 2020)**

##### **. . Line Instructions for the Shared-Parenting Worksheet . . .**

Line 9

Number of Overnights with Each Parent

Enter the number of regular overnights that the child spends or is expected to spend with each parent during a one-year period in the appropriate Line 9 columns. Vacations and holidays with the PAR do not count towards the determination of overnight time.

Add the number of overnights with each parent to obtain the total number of overnights.

Enter the total overnights in the Line 9 Combined column.

Generally, the sum of the number of overnights with each parent will be 365. If, however, the child spends overnights with a third party (e.g., grandparents) on a predictable and recurring basis, each parent's and the total number of overnights should be adjusted accordingly so that neither parent receives credit for this time. For example, if a child stays with grandparents for 10 overnights each year, which would have normally been spent with the PPR, the PPR's number of overnights is reduced by 10 and the total number of overnights is reduced to 355 (365 minus 10). If the child would have spent half of the grandparent visitation time (5 of the 10 overnights) with the PAR, both parent's number of overnights is reduced by five. If a child attends summer camp or other overnight care, the parent paying for such care shall be entitled to the credit for the number of overnights.

Line 10

## Each Parent's Share of Overnights with Child

Divide the number of overnights that the child spends with each parent by the total number of overnights. [Math: Line 9 PPR overnights / Line 9 total overnights; Line 9 PAR overnights / Line 9 total overnights). Enter each parent's percentage of overnights in the appropriate Line 10 column. The sum of the shares (ratios) must equal one (the decimal equivalent of 100%).

NOTE: IF THE PAR'S PERCENTAGE OF OVERNIGHTS WITH THE CHILD IS LESS THAN THE SUBSTANTIAL EQUIVALENT OF TWO OR MORE OVERNIGHTS PER WEEK (28%), STOP! THE SOLE PARENTING WORKSHEET MUST BE USED. . . . .

### D. SUMMARY OF WORKSHEET MODEL

- 2 different worksheets (all amounts are WEEKLY)
  - o Sole Parenting WS – “shall” be used if the NCP (ie. PAR) has no parenting time, is below the substantial equivalent of 2 overnights per week (28%) excluding holidays, split parenting situations OR if the adjusted amount in a shared situation would result in the parent of primary residence (PPR) falling below a household income reserve
    - Regular PAR time adjustment - if parenting plan is filed, PAR time is ordered or PAR exercises regular PAR time, court may reduce the support order to accommodate *variable* expenses (food and transport) – variable expenses are 37% of total child expenditures; court considers whether NCP has incurred the expenses and whether they have reduced other parent’s expenses; cap for credit set at NCP’s time share (out of \$100 award, if NCP has 20% time, formula is  $100 \times .2 \times .37 = \$7.40$  credit); in calculating NCP’s time share for the adjustment, holidays and intermittent extended periods don’t count, but regular alternating weeks (i.e., summer) do count
    - Assumption is that fixed costs (housing-related) for the child are not incurred by the NCP (although regular extended PAR time periods like summer rotations could affect this assumption with evidence of marginal housing related expenses)
  - o Shared Parenting WS – “shall” be used if the parent of alternative residence (PAR) has 28%+ overnights AND “has shown that separate living accommodations for the child are provided in the alternate household”
    - *“The existence of these criteria does not make a shared-parenting award presumptive, but permit the calculation of the award so that the court can determine if it is appropriate for a particular family.”*
    - Protection for low income PPR – If the PPR’s weekly household net income plus support award is less than 2X poverty guideline for # of people in the household OR if the court finds the net income in the primary household is not sufficient to maintain the household, the shared parenting award is not to be used UNLESS the parties otherwise agree. Instead, a sole custody award is calculated.

## Calculation

1. Start with gross taxable income
2. Calculator pulls out tax withholdings automatically (although can be tweaked on a separate page); can enter union dues, other dependent deductions (child support orders and other dependents), alimony paid or received (confusing – looks like one part of Rule says to include and other part says it's excluded, maybe relates to taxable v non-taxable and where to enter), other nontaxable income
3. Net child care (after tax credits), health insurance, predictable and recurring unreimbursed health care (\$250+ per year) and court approved predictable and recurring extraordinary expenses (PAR time transport, special diets, private education for gifted or handicapped children, visitation related transport) are added; Extraordinary expenses that are not predictable and recurring should be shared relative to income shares via general language in the order.
4. Once net income is calculated, BCSA (same as BCSO) and shares of total income are shown
5. PPR/PAR calculation in the SHARED PARENTING WORKSHEET:
  - a. Assumptions:
    - i. Fixed expenses are 38% of BCSA (housing)
      1. PAR gets credit for a percentage of the fixed expenses (but would need to show actually has separate living accommodations for child):  $(.38 \text{ of BCSA}) \times (\% \text{ share of overnights}) \times 2$
      2. PPR's share of fixed expenses remains 100% since presumed fixed expenses don't change
      3. New BCSA is calculated by adding the extra amount calculated for PAR's fixed expenses to the original BCSA and new shares are assigned
    - ii. Variable expenses are 37% of BCSA (transportation and food)
      1. PAR gets credit for share of variable expenses based on PT%:  $(.37 \text{ of original BCSA}) \times (\% \text{ share of overnights})$
      2. PPR's cost is reduced by that amount (though PPR figures not shown on calculator)
    - iii. Controlled expenses (i.e., controlled by PPR - clothing, personal care, entertainment, and miscellaneous expenses) are 25% of BCSA and are presumed to be covered by PPR 100% (even though this is not always the case – explained in detail in Rule); \*BUT SEE\* *Wunssch-Deffler v Deffler*, 406 N.J. Super. 505 (2009) (provides a 3-step procedure to adjust the CS obligation in equal parenting time situations “to account for the fact that both parties are responsible for paying the child's ‘controlled

expenses’ during their parenting time”; procedure backs out the 25% in assumed controlled expenses)

- iv. If calculation shows PAR is “paying” for more than his/her respective share of BCSA once fixed expenses are added and variable expenses are adjusted, then the obligation switches to PPR (situation where PPR has much higher income).
6. PPR household test (protects the PPR) – if using the Shared parenting worksheet, the support amount must be compared with a table in the RULE (set based on fed poverty guidelines). If support amount is less than applicable table amount, use SOLE parenting worksheet – which will result in more support (as no credit is given for fixed housing expenses).
  7. Self support reserve test is used in sole and shared versions of worksheet.
  8. Other items of note in calculator: can check a box if child is above age 12 to account for higher expenditures in older children which are mandated automatically by Rule; other household members’ income can be relevant.

#### **E. QUESTIONS AND ANSWERS**

1. Is the formula for parenting time adjustment gradual or step? Gradual to 28% parenting time roughly (PAR can get incremental credit for variable expenses); then cliff effect in that once you reach more than 28% of parenting time for PAR, a shared parenting worksheet is used and PAR potentially gets credit for some fixed expenses if there’s evidence of separate living accommodations. Then appears to be gradual from there – no power formula. And, to some degree, seems to be subject to some discretion, especially with controlled expenses.
2. Is there a specific designation category for 50/50? – No. Even if equal overnights, still requires designation of a PPR and PAR - “the PPR is the parent with whom the child resides while attending school”
  - a. What if the child resides with both parents while attending school? Appears to be discretionary based on case law found
  - b. 50/50 can also impact the credit assigned to each parent for “controlled” expenses – normally assigned 100% to the PPR. *Wunssch-Deffler v Deffler*, 406 N.J. Super. 505 (2009) provides a 3-step procedure to adjust the CS obligation in equal parenting time situations “to account for the fact that both parties are responsible for paying the child’s ‘controlled expenses’ during their parenting time” (procedure backs out the 25% in assumed controlled expenses for clothing, personal care, entertainment, and miscellaneous expenses).
3. Can the parent with more time be ordered to pay support if s/he has significantly higher income? Yes.

4. Can the parenting time adjustment calculation be done by hand? Yes, but the worksheets themselves are highly complicated (like Georgia's).
5. How is parenting time calculated? Overnights are determined. ("Overnight means the majority of a 24-hour day (i.e., more than 12 hours)"). There is no case law which defines this. Vacation and holiday time is not counted unless it is something like rotating summer weeks, and even then it is only considered for adjusting variable expenses, not fixed (unless can prove increase in housing-related costs). There is an opportunity to request abatement of child support for holiday and vacation time, which does seem to be discretionary. Additionally, "if the child spends overnights with a third party (e.g., grandparents) on a predictable and recurring basis, each parent's and the total number of overnights should be adjusted accordingly so that neither parent receives credit for this time. . . . If a child attends summer camp or other overnight care, the parent paying for such care shall be entitled to the credit for the number of overnights."
6. What is the economic basis of the current guidelines? Dr. William Rodgers' 2012 study – estimation method developed by Lazear and Michael treatise (1988); uses CEX data, adjusted; transforms Rothbart parameters into a schedule using a series of steps (all described at great length in the Rule).
7. Tables – "The awards in the support schedules represent spending on children by intact families. In an intact family, the children reside in one household and no NCP/PAR Time is needed. This is similar to child support actions in which one parent has sole physical custody of a child and there is no NCP/PAR Time. The awards in the Appendix IX-F support schedules represent situations in which the child is with the custodial parent 100% of the time." Then, there are adjustments to the tables for various parenting times.
8. Self-support reserve – set at 105% of federal poverty guidelines; protections also in place for PPR if low income household – kicks in to block parenting time adjustment and can revert back to sole worksheet.
9. Where are extraordinary costs factored in? Some amount is already included in the BCSA, but court can approve recurring extraordinary expenses or they are designated in general language in the order pro rata.



## **F. NEW JERSEY CHILD SUPPORT CALCULATOR AND WORKSHEETS**

New Jersey child support calculator:

<https://guidelines.njchildsupport.org/>

An example of the child support worksheet for “shared parenting” is included at the end of the materials.<sup>10</sup>

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<sup>10</sup> Gross income numbers are “weekly” .

### **III. OVERVIEW OF NORTH CAROLINA CHILD SUPPORT STATUTE**

#### **A. BRIEF HISTORY**

- Section 50-13.4 of the North Carolina General Statutes requires the Conference of Chief District Judges to prescribe uniform statewide presumptive guidelines for determining the child support obligations of parents, and to review the guidelines periodically (at least once every four years) to determine whether their application results in appropriate child support orders. The next review will occur during 2022.
- Updated in 2019 to reflect updated consumer price index, current tax rates and federal poverty level

#### **B. KEY POINTS OF NORTH CAROLINA LAW**

- An order for child support in an amount determined pursuant to the guidelines is conclusively presumed to meet the reasonable needs of the child, considering the relative ability of each parent to provide support.
- Deviation is available, upon the motion of the court or either party, if it finds by greater weight of the evidence after hearing evidence and making findings regarding the reasonable needs of the child for support and the relative ability of each parent to provide support that application of the guidelines would not meet, or would exceed, the reasonable needs of the child considering the relative ability of each parent to provide support, or would otherwise be unjust or inappropriate.
- Guidelines are intended to provide adequate awards of child support that are equitable to the child and both of the child's parents.
- Three worksheets used.
- Worksheet A when one parent has primary physical custody of all of the children. Primary custody defined as 243 nights or more each year (66.57534246575342 %).
- Worksheet B when parents share custody of all of the children for who support is being determined or when one parent has primary physical custody of one or more of the children and the parents share custody of a child. "Sharing custody" is defined as "lives with each parent for at least 123 nights (33.6986301369863 %) during the year and each parent assumes financial responsibility for the child's expenses during the time the child lives with that parent". The self support reserve is prohibited when using Worksheet B. The recent case of Jonna v. Yaramada, 848 S.E.2d 33 (Ct. App. NC 2020) makes it very clear that shared custody worksheet should only be used "if both parents have custody of the children for at least one-third of the year *and the situation involves a true sharing of expenses rather than extended visitation* with one parent that exceeds 122 overnights. (emphases added)" Jonna at 55. The court found that five weeks of international travel visitation might not meet the requirement of a true sharing of expenses, and remanded the case for further proceedings accordingly.
- In shared custody, the parents combined basic support obligation is increased by 50% and allocated between the parents based on their respective incomes and amount of time spent

with the other parent. The parent with the higher obligation pays the difference between the two amounts to the other parent.

- Tables were increased in 2019 for combined income of \$ 30,000 per month, up from \$25,000.
- Worksheet C applies to split custody.
- The instructions to Worksheet B, although somewhat different than the guidelines, have been held as a proper tool to determine whether use of Worksheet B was proper. Jonna citing Scotland Cty. Dep't of Soc. Servs. v. Powell, 155 N.C. App. 531,539, 573 S.E.2d 694,699 (2002)

## C. SELECTED GUIDELINE PROVISIONS

### **Self-Support Reserve; Supporting Parents With Low Incomes**

The Guidelines include a self-support reserve that ensures that obligors have sufficient income to maintain a minimum standard of living based on the 2018 federal poverty level for one person (\$1,012.00 per month). For obligors with an adjusted gross income of less than \$1,108.00, the Guidelines require, absent a deviation, the establishment of a minimum support order (\$50). For obligors with adjusted gross incomes above \$1,108.00, the Schedule of Basic Support Obligations incorporates a further adjustment to maintain the self-support reserve for the obligor.

If the obligor's adjusted gross income falls within the shaded area of the Schedule and Worksheet A is used, the basic child support obligation and the obligor's total child support obligation are computed using only the obligor's income. In these cases, childcare and health insurance premiums should not be used to calculate the child support obligation. However, payment of these costs or other extraordinary expenses by either parent may be a basis for deviation. This approach prevents disproportionate increases in the child support obligation with moderate increases in income and protects the integrity of the self-support reserve. In all other cases, the basic child support obligation is computed using the combined adjusted gross incomes of both parents.

...

### **Other Extraordinary Expenses**

Other extraordinary child-related expenses (including (1) expenses related to special or private elementary or secondary schools to meet a child's particular educational needs, and (2) expenses for transporting the child between the parents' homes) may be added to the basic child support obligation and ordered paid by the parents in proportion to their respective incomes if the court determines the expenses are reasonable, necessary, and in the child's best interest.

### **Child Support Worksheets**

*Use Worksheet A* when one parent (or a third party) has primary physical custody of all of the children for whom support is being determined. A parent (or third party) has primary physical custody of a child if the child lives with that parent (or custodian) for 243 nights or more during the year. Primary physical custody is determined without regard to whether a parent has primary,

shared, or joint legal custody of a child. Do not use Worksheet A when (a) a parent has primary custody of one or more children and the parents share custody of one or more children [instead, use Worksheet B] or (b) when primary custody of two or more children is split between the parents [instead, use Worksheet C]. In child support cases involving primary physical custody, a child support obligation is calculated for both parents but the court enters an order requiring the parent who does not have primary physical custody of the child to pay child support to the parent or other party who has primary physical custody of the child.

*Use Worksheet B* when (a) the parents share custody of all of the children for whom support is being determined, or (b) when one parent has primary physical custody of one or more of the children and the parents share custody of another child. Parents share custody of a child if the child lives with each parent for at least 123 nights during the year and each parent assumes financial responsibility for the child's expenses during the time the child lives with that parent. A parent does not have shared custody of a child when that parent has visitation rights that allow the child to spend less than 123 nights per year with the parent and the other parent has primary physical custody of the child. Shared custody is determined without regard to whether a parent has primary, shared, or joint legal custody of a child. Do not apply the self-sufficiency reserve incorporated into the shaded area of the schedule when using Worksheet B.

In cases involving shared custody, the parents' combined basic support obligation is increased by 50% (multiplied by 1.5) and is allocated between the parents based on their respective incomes and the amount of time the children live with the other parent. The adjustment based on the amount of time the children live with the other parent is calculated for all of the children regardless of whether a parent has primary, shared, or split custody of a child. After child support obligations are calculated for both parents, the parent with the higher child support obligation is ordered to pay the difference between his or her presumptive child support obligation and the other parent's presumptive child support obligation.

*Use Worksheet C* when primary physical custody of two or more children is split between the parents. Split custody refers to cases in which one parent has primary custody of at least one of the children for whom support is being determined and the other parent has primary custody of the other child or children. Do not use Worksheet C when the parents share custody of one or more of the children and have primary physical custody or split custody of another child instead, use Worksheet B. The parents' combined basic support obligation is allocated between the parents based on their respective incomes and the number of children living with each parent. After child support obligations are calculated for both parents, the parent with the higher child support obligation is ordered to pay the difference between his or her presumptive child support obligation and the other parent's presumptive child support obligation. Do not apply the self-sufficiency reserve incorporated into the shaded area of the schedule when using Worksheet C.

Summary of worksheet model (3 different worksheets)

- A. One parent has primary custody of all children (243 nights or more per year) – i.e. 67%
- B. Shared custody
  - a. Parents share custody of all children OR
  - b. One parent has primary custody of one or more children and they share custody of another child
- C. Split custody – one parent has primary custody of one or more children and the other parent has primary custody of the other child(ren)

**D. QUESTIONS AND ANSWERS**

1. Is the formula for parenting time adjustment gradual or step? Parenting time is not considered as an adjustment until the NCP gets to 123 nights. Big difference between 122 and 123 nights in support award. 38% higher award for hypo of three children with lesser time parent at \$4000/mo and greater time parent at \$3000 with no extras factored.
2. Is there a specific designation category for 50/50 parenting time? – No.
3. Can the parent with more time be ordered to pay support if s/he has significantly higher income Yes – in worksheets B and C, the parent with the higher support obligation pays the difference between his/her presumptive support obligation and the other parent’s presumptive support obligation.
4. Can the parenting time adjustment calculation be done by hand? Yes. Much simpler calculation.
5. How is parenting time calculated? By “nights” – no further definition in the guidelines. But see *Jonna v. Yaramada*, 848 S.E.2d 33, 55 (Ct. of App. of N.C. 2020) where court held “It is not appropriate to use Worksheet B in cases involving extended visitation. The explicit instructions set forth on Worksheet B<sup>3</sup> address the issue of extended visitation: ‘Worksheet B should be used only if both parents have custody of the child(ren) for at least one-third of the year and the situation involves a true sharing of expenses, rather than extended visitation with one parent that exceeds 122 overnights.’” So, it appears that “nights” may not be dispositive and the appropriate analysis is nights + economic expenditures.
6. What is the economic basis of the current guidelines ? “The income shares model is based on the concept that child support is a shared parental obligation and that a child should receive the same proportion of parental income he or she would have received if the child's parents lived together. The schedule of basic child support obligations is based primarily on an analysis by the Center for Policy Research of economic research regarding family expenditures for children. The child support schedule that is a part of

the guidelines is based on economic data which represent adjusted estimates of average total household spending for children between birth and age 18, excluding child care, health insurance, and health care costs in excess of \$250 per year. Expenses incurred in the exercise of visitation are not factored into the schedule.”

7. Tables – “The schedule of basic child support obligations is based primarily on an analysis by the Center for Policy Research of economic research regarding family expenditures for children.”
8. Self-support reserve – “The Guidelines include a self-support reserve that ensures that obligors have sufficient income to maintain a minimum standard of living based on the 2018 federal poverty level for one person (\$1,012.00 per month). For obligors with an adjusted gross income of less than \$1,108.00, the Guidelines require, absent a deviation, the establishment of a minimum support order (\$50). For obligors with adjusted gross incomes above \$1,108.00, the Schedule of Basic Support Obligations incorporates a further adjustment to maintain the self-support reserve for the obligor.
9. Where are extraordinary costs factored in? These are shared pro rata based on income and added dollar for dollar to basic support obligations. There are required findings of reasonableness, necessity and best interest of the child.

#### **E. WORKSHEET AND CALCULATOR**

North Carolina’s worksheet A is located at <https://ncchildsupport.com/ecoa/workSheetA.htm> and <https://www.nccourts.gov/assets/documents/forms/cv627.pdf?GXPUQ13BPaXaeVErpKk71X7Co9isl.a9>.

North Carolina’s worksheet B is located at <https://ncchildsupport.com/ecoa/workSheetB.htm> and <https://www.nccourts.gov/documents/forms/worksheet-b-child-support-obligation-joint-or-shared-physical-custody>.

North Carolina’s worksheet C is located at <https://ncchildsupport.com/ecoa/workSheetC.htm> and [https://www.nccourts.gov/assets/documents/forms/cv629.pdf?j6p7BtE2\\_oZcQhoYiZSckTIADmKC.Gn](https://www.nccourts.gov/assets/documents/forms/cv629.pdf?j6p7BtE2_oZcQhoYiZSckTIADmKC.Gn).

Appendices to Walker/Kiehl working group report omitted for space considerations except:

**EXAMPLE OF MINNESOTA CHILD SUPPORT  
PARENTING TIME CALCULATOR AND  
MINNESOTA CHILD SUPPORT WORKSHEET**



# Minnesota Child Support Parenting Time Calendar Tool

**Dick Doe**

**Jane doe**

Total overnights: 279  
 > Year 1: 130  
 > Year 2: 149  
 Parenting time: 38.2%  
 Yearly average overnights: 139.5

Total overnights: 451  
 > Year 1: 235  
 > Year 2: 216  
 Parenting time: 61.8%  
 Yearly average overnights: 225.5

### Comments:

| Month          | Calendar                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |    |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
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| March 2021     | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td></tr> <tr><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td></tr> <tr><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td></tr> <tr><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td></tr> <tr><td>28</td><td>29</td><td>30</td><td>31</td><td></td><td></td><td></td></tr> </table>                                                                          | Su | Mo | Tu | We | Th | Fr | Sa |   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                | 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2  | 3  | 4  | 5  | 6  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 7              | 8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 9  | 10 | 11 | 12 | 13 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 14             | 15                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 16 | 17 | 18 | 19 | 20 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 21             | 22                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 23 | 24 | 25 | 26 | 27 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 28             | 29                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 30 | 31 |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| April 2021     | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr> <tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr> <tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr> <tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td></td></tr> </table>                                                                            | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   | 1 | 2 | 3 | 4 | 5 | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
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| 4              | 5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 6  | 7  | 8  | 9  | 10 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 11             | 12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 13 | 14 | 15 | 16 | 17 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 18             | 19                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 20 | 21 | 22 | 23 | 24 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 25             | 26                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 27 | 28 | 29 | 30 |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| May 2021       | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td>1</td></tr> <tr><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td></tr> <tr><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td></tr> <tr><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td></tr> <tr><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td></tr> <tr><td>30</td><td>31</td><td></td><td></td><td></td><td></td><td></td></tr> </table> | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   |   |   | 1 | 2 | 3 | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
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| 2              | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 4  | 5  | 6  | 7  | 8  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 9              | 10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 11 | 12 | 13 | 14 | 15 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 16             | 17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 18 | 19 | 20 | 21 | 22 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 23             | 24                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 25 | 26 | 27 | 28 | 29 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 30             | 31                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |    |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| June 2021      | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> <tr><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td></tr> <tr><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td></tr> <tr><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td></tr> <tr><td>27</td><td>28</td><td>29</td><td>30</td><td></td><td></td><td></td></tr> </table>                                                                            | Su | Mo | Tu | We | Th | Fr | Sa |   |   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |    |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
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| 6              | 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 8  | 9  | 10 | 11 | 12 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 13             | 14                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 15 | 16 | 17 | 18 | 19 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 20             | 21                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 22 | 23 | 24 | 25 | 26 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 27             | 28                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 29 | 30 |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| July 2021      | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr> <tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr> <tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr> <tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td></tr> </table>                                                                          | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   | 1 | 2 | 3 | 4 | 5 | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
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| 4              | 5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 6  | 7  | 8  | 9  | 10 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 11             | 12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 13 | 14 | 15 | 16 | 17 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 18             | 19                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 20 | 21 | 22 | 23 | 24 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 25             | 26                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 27 | 28 | 29 | 30 | 31 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| August 2021    | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td></tr> <tr><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td></tr> <tr><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td></tr> <tr><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td></tr> <tr><td>29</td><td>30</td><td>31</td><td></td><td></td><td></td><td></td></tr> </table>                                                                          | Su | Mo | Tu | We | Th | Fr | Sa | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |    |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 1              | 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 3  | 4  | 5  | 6  | 7  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 8              | 9                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 10 | 11 | 12 | 13 | 14 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 15             | 16                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 17 | 18 | 19 | 20 | 21 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 22             | 23                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 24 | 25 | 26 | 27 | 28 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 29             | 30                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 31 |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| September 2021 | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td><td>4</td></tr> <tr><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td></tr> <tr><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td></tr> <tr><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td></tr> <tr><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td></td><td></td></tr> </table>                                                                            | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   | 1 | 2 | 3 | 4 | 5 | 6 | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    | 1  | 2  | 3  | 4  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 5              | 6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 7  | 8  | 9  | 10 | 11 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 12             | 13                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 14 | 15 | 16 | 17 | 18 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 19             | 20                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 21 | 22 | 23 | 24 | 25 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 26             | 27                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 28 | 29 | 30 |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| October 2021   | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td></td><td>1</td><td>2</td></tr> <tr><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td></tr> <tr><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td></tr> <tr><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td></tr> <tr><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td></tr> <tr><td>31</td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </table> | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   |   | 1 | 2 | 3 | 4 | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    | 1  | 2  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 3              | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 5  | 6  | 7  | 8  | 9  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 10             | 11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 12 | 13 | 14 | 15 | 16 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 17             | 18                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 19 | 20 | 21 | 22 | 23 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 24             | 25                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 26 | 27 | 28 | 29 | 30 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 31             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| November 2021  | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td></tr> <tr><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td></tr> <tr><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td></tr> <tr><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td></tr> <tr><td>28</td><td>29</td><td>30</td><td></td><td></td><td></td><td></td></tr> </table>                                                                            | Su | Mo | Tu | We | Th | Fr | Sa |   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |    |    |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                | 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2  | 3  | 4  | 5  | 6  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 7              | 8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 9  | 10 | 11 | 12 | 13 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 14             | 15                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 16 | 17 | 18 | 19 | 20 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 21             | 22                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 23 | 24 | 25 | 26 | 27 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 28             | 29                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 30 |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| December 2021  | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr> <tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr> <tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr> <tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td></tr> </table>                                                                          | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   | 1 | 2 | 3 | 4 | 5 | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    | 1  | 2  | 3  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 4              | 5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 6  | 7  | 8  | 9  | 10 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 11             | 12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 13 | 14 | 15 | 16 | 17 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 18             | 19                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 20 | 21 | 22 | 23 | 24 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 25             | 26                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 27 | 28 | 29 | 30 | 31 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| January 2022   | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td>1</td></tr> <tr><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td></tr> <tr><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td></tr> <tr><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td></tr> <tr><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td></tr> <tr><td>30</td><td>31</td><td></td><td></td><td></td><td></td><td></td></tr> </table> | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   |   |   | 1 | 2 | 3 | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    |    | 1  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 2              | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 4  | 5  | 6  | 7  | 8  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 9              | 10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 11 | 12 | 13 | 14 | 15 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 16             | 17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 18 | 19 | 20 | 21 | 22 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 23             | 24                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 25 | 26 | 27 | 28 | 29 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 30             | 31                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |    |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| February 2022  | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> <tr><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td></tr> <tr><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td></tr> <tr><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td></tr> <tr><td>27</td><td>28</td><td></td><td></td><td></td><td></td><td></td></tr> </table>                                                                                | Su | Mo | Tu | We | Th | Fr | Sa |   |   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 |    |    |    |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 1  | 2  | 3  | 4  | 5  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 6              | 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 8  | 9  | 10 | 11 | 12 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 13             | 14                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 15 | 16 | 17 | 18 | 19 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 20             | 21                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 22 | 23 | 24 | 25 | 26 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 27             | 28                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |    |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| March 2022     | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> <tr><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td></tr> <tr><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td></tr> <tr><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td></tr> <tr><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td><td></td><td></td></tr> </table>                                                                          | Su | Mo | Tu | We | Th | Fr | Sa |   |   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 1  | 2  | 3  | 4  | 5  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 6              | 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 8  | 9  | 10 | 11 | 12 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 13             | 14                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 15 | 16 | 17 | 18 | 19 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 20             | 21                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 22 | 23 | 24 | 25 | 26 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 27             | 28                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 29 | 30 | 31 |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| April 2022     | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td></td><td>1</td><td>2</td></tr> <tr><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td></tr> <tr><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td></tr> <tr><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td></tr> <tr><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td></tr> </table>                                                                            | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   |   | 1 | 2 | 3 | 4 | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    | 1  | 2  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 3              | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 5  | 6  | 7  | 8  | 9  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 10             | 11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 12 | 13 | 14 | 15 | 16 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 17             | 18                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 19 | 20 | 21 | 22 | 23 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 24             | 25                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 26 | 27 | 28 | 29 | 30 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| May 2022       | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td></tr> <tr><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td></tr> <tr><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td></tr> <tr><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td></tr> <tr><td>28</td><td>29</td><td>30</td><td>31</td><td></td><td></td><td></td></tr> </table>                                                                          | Su | Mo | Tu | We | Th | Fr | Sa |   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                | 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2  | 3  | 4  | 5  | 6  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 7              | 8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 9  | 10 | 11 | 12 | 13 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 14             | 15                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 16 | 17 | 18 | 19 | 20 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 21             | 22                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 23 | 24 | 25 | 26 | 27 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 28             | 29                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 30 | 31 |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| June 2022      | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr> <tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr> <tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr> <tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td></td></tr> </table>                                                                            | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   | 1 | 2 | 3 | 4 | 5 | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    | 1  | 2  | 3  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 4              | 5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 6  | 7  | 8  | 9  | 10 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 11             | 12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 13 | 14 | 15 | 16 | 17 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 18             | 19                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 20 | 21 | 22 | 23 | 24 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 25             | 26                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 27 | 28 | 29 | 30 |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| July 2022      | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td></td><td>1</td><td>2</td></tr> <tr><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td></tr> <tr><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td></tr> <tr><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td></tr> <tr><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td></tr> <tr><td>31</td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </table> | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   |   | 1 | 2 | 3 | 4 | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    | 1  | 2  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 3              | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 5  | 6  | 7  | 8  | 9  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 10             | 11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 12 | 13 | 14 | 15 | 16 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 17             | 18                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 19 | 20 | 21 | 22 | 23 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 24             | 25                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 26 | 27 | 28 | 29 | 30 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 31             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| August 2022    | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> <tr><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td></tr> <tr><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td></tr> <tr><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td></tr> <tr><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td><td></td><td></td></tr> </table>                                                                          | Su | Mo | Tu | We | Th | Fr | Sa |   |   | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |    |    |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 1  | 2  | 3  | 4  | 5  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 6              | 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 8  | 9  | 10 | 11 | 12 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 13             | 14                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 15 | 16 | 17 | 18 | 19 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 20             | 21                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 22 | 23 | 24 | 25 | 26 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 27             | 28                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 29 | 30 | 31 |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| September 2022 | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td></td><td>1</td><td>2</td></tr> <tr><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td></tr> <tr><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td></tr> <tr><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td></tr> <tr><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td></tr> </table>                                                                            | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   |   | 1 | 2 | 3 | 4 | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |    |    |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    | 1  | 2  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 3              | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 5  | 6  | 7  | 8  | 9  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 10             | 11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 12 | 13 | 14 | 15 | 16 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 17             | 18                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 19 | 20 | 21 | 22 | 23 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 24             | 25                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 26 | 27 | 28 | 29 | 30 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| October 2022   | <table border="1"> <tr><th>Su</th><th>Mo</th><th>Tu</th><th>We</th><th>Th</th><th>Fr</th><th>Sa</th></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td>1</td></tr> <tr><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td></tr> <tr><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td></tr> <tr><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td></tr> <tr><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td></tr> <tr><td>30</td><td>31</td><td></td><td></td><td></td><td></td><td></td></tr> </table> | Su | Mo | Tu | We | Th | Fr | Sa |   |   |   |   |   |   | 1 | 2 | 3 | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |  |  |  |  |  |
| Su             | Mo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Tu | We | Th | Fr | Sa |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |    |    |    | 1  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 2              | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 4  | 5  | 6  | 7  | 8  |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 9              | 10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 11 | 12 | 13 | 14 | 15 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 16             | 17                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 18 | 19 | 20 | 21 | 22 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 23             | 24                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 25 | 26 | 27 | 28 | 29 |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |
| 30             | 31                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |    |    |    |    |    |    |    |   |   |   |   |   |   |   |   |   |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |  |  |  |  |  |



November 2022

| Su | Mo | Tu | We | Th | Fr | Sa |
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| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 |    |    |    |

December 2022

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| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

January 2023

| Su | Mo | Tu | We | Th | Fr | Sa |
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| 1  | 2  | 3  | 4  | 5  | 6  | 7  |
| 8  | 9  | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 |    |    |    |    |

February 2023

| Su | Mo | Tu | We | Th | Fr | Sa |
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|    |    |    | 1  | 2  | 3  | 4  |
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| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 |    |    |    |    |

March 2023

| Su | Mo | Tu | We | Th | Fr | Sa |
|----|----|----|----|----|----|----|
|    |    |    |    | 1  | 2  | 3  |
| 4  | 5  | 6  | 7  | 8  | 9  | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

Updated: 2019-12-04

### Child Support Guidelines Worksheet

Parent A: Dick  
Parent B: Jane

IV-D Case Number:  
Court File Number: 000021

Number of Joint Children: 1  
Date: 3/7/2021

|                                            |                                                                                         | Parent A | Parent B | Combined |
|--------------------------------------------|-----------------------------------------------------------------------------------------|----------|----------|----------|
| <b>Income</b>                              | 1a. Monthly Income Received                                                             | \$5000   | \$4000   | ----     |
|                                            | 1b. Child(ren)'s Social Security/Veterans' Benefits Derived From a Parent's Eligibility | \$0      | \$0      | ----     |
|                                            | 1c. Potential Income                                                                    | \$0      | \$0      | ----     |
|                                            | 1d. Spousal Maintenance Orders Obligated to be Paid                                     | \$0      | \$0      | ----     |
|                                            | 1e. Child Support Order(s) Obligated to be Paid for Nonjoint Child(ren)                 | \$0      | \$0      | ----     |
|                                            | 1f. Monthly Gross Income (1a+1b+1c-1d-1e)                                               | \$5000   | \$4000   | ----     |
| <b>Adjustments</b>                         | 2a. Number of Nonjoint Child(ren) in the Home (Maximum number allowed is 2)             | 0        | 0        | ----     |
|                                            | 2b. Deduction for Nonjoint Child(ren) in the Home                                       | \$0      | \$0      | ----     |
|                                            | 3. Parental Income for Determining Child Support (PICS)                                 | \$5000   | \$4000   | \$9000   |
|                                            | 4. Percentage Share of Combined PICS                                                    | 56%      | 44%      | ----     |
|                                            | 5. Combined Basic Support Obligation                                                    | ----     | ----     | \$1143   |
|                                            | 6. Pro Rata Basic Support Obligation                                                    | \$640    | \$503    | ----     |
| <b>Basic Child Support Obligation</b>      | 7. Basic Support Obligation After Parenting Expense Adjustment (if applicable)          | \$421    |          | ----     |
| <b>Child Care Obligation</b>               | 8. Child Care Support Obligation for Joint Child(ren)                                   |          |          | ----     |
| <b>Medical Support Obligation</b>          | 9a. Monthly Cost of Health Care Coverage for Joint Child(ren)                           | \$150    | \$0      | ----     |
|                                            | 9b. Pro Rata Share of Health Care Coverage Costs                                        | \$84     | \$66     | ----     |
| <b>Appropriate Coverage Available</b>      | 9c. Contribution to Health Care Coverage                                                |          | \$66     | ----     |
|                                            | 9d. Monthly Cost of Dental Coverage for Joint Child(ren)                                | \$35     | \$0      | ----     |
|                                            | 9e. Pro Rata Share of Dental Coverage Costs                                             | \$20     | \$15     | ----     |
|                                            | 9f. Contribution to Dental Coverage                                                     |          | \$15     | ----     |
|                                            | 9g. Medical Support Obligation-Appropriate Coverage Available                           |          | \$81     | ----     |
| <b>No Appropriate Insurance Available</b>  | 10. Medical Support Obligation for Public Coverage                                      |          |          | ----     |
| <b>Uninsured/Unreimbursed Expenses</b>     | 11. Share of Uninsured and/or Unreimbursed Medical Expenses                             | 56%      | 44%      | ----     |
|                                            | 12. Net Child Support Obligation                                                        | \$421    | \$81     | ----     |
| <b>Benefits Adjustment</b>                 | 13. Child(ren)'s Social Security/Veterans' Benefits Derived from Parent's Eligibility   |          |          | ----     |
| <b>Computing a Final Obligation</b>        | 14. Total Child Support Obligation                                                      | \$421    | \$81     | ----     |
|                                            | 15a. Monthly Gross Income                                                               | \$5000   | \$4000   | ----     |
| <b>Ability to Pay Calculation</b>          | 15b. Income Available for Support                                                       | \$3712   | \$2712   | ----     |
|                                            | 16. Monthly Child Support Obligation - No Adjustment Necessary                          | \$421    | \$81     | ----     |
|                                            | 17. Amount of Reduction                                                                 | \$0      | \$0      | ----     |
| <b>Child Support Obligation Adjustment</b> | 18. Medical Support                                                                     |          |          |          |
|                                            | Original Obligation                                                                     |          |          | ----     |
|                                            | Amount of Reduction                                                                     |          |          | ----     |
|                                            | New Obligation                                                                          |          |          | ----     |

|                                                     |                                                             |  |  |      |
|-----------------------------------------------------|-------------------------------------------------------------|--|--|------|
|                                                     | 19. Child Care Support                                      |  |  |      |
|                                                     | Original Obligation                                         |  |  | ---- |
|                                                     | Amount of Reduction                                         |  |  | ---- |
|                                                     | New Obligation                                              |  |  | ---- |
|                                                     | 20. Basic Support                                           |  |  |      |
|                                                     | Original Obligation                                         |  |  | ---- |
|                                                     | Amount of Reduction                                         |  |  | ---- |
|                                                     | New Obligation                                              |  |  | ---- |
|                                                     | 21. Monthly Child Support Obligation After Adjustment       |  |  | ---- |
| <b>Presumptive Minimum Order/Basic Support Only</b> | 22a. Presumptive Minimum Order for 1 or 2 Joint Children    |  |  | ---- |
|                                                     | 22b. Presumptive Minimum Order for 3 or 4 Joint Children    |  |  | ---- |
|                                                     | 22c. Presumptive Minimum Order for 5 or More Joint Children |  |  | ---- |

### Parenting Expense Adjustment Supplement

Parent A: Dick  
Parent B: Jane

IV-D Case Number:  
Court File Number: 000021

Number of Joint Children: 1  
Date: 3/7/2021

|                                                                                            | Parent A | Parent B | Combined |
|--------------------------------------------------------------------------------------------|----------|----------|----------|
| 1. Number of Annual Overnights for joint child(ren)                                        | 139.5    | 225.5    | ----     |
| 2. Percentage of Parenting Time                                                            | 38%      | 62%      | ----     |
| 3. Basic Support Obligation                                                                | \$640    | \$503    | \$1143   |
| 4a. Percentage of Adjustment for Parenting Time between 10% and 45%                        |          |          |          |
| 4b. Amount of Adjustment for Parenting Time                                                |          |          |          |
| 4c. Obligation after Parenting Expense Adjustment                                          |          |          |          |
| 5a. Percentage of Parenting Time is at Least 45.1% for Both Parents                        |          |          |          |
| 5b. Each Parent's Percentage Share of Combined PICS                                        |          |          |          |
| 5c. Each Parent's Pro Rata Basic Child Support Obligation                                  |          |          |          |
| 5d. Obligation After Parenting Expense Adjustment                                          |          |          |          |
| 6a. Obligation after Parenting Expense Adjustment Based on the Number of Annual Overnights | \$421    |          | ----     |
| 6b. Greater than 55% Parenting Time Adjustment                                             |          |          | ----     |

### Child Care Support Obligation Supplement

Parent A: Dick  
Parent B: Jane

Number of Joint Children: 1

|                                                     | Parent A | Parent B |
|-----------------------------------------------------|----------|----------|
| 1. PICS                                             | \$5000   | \$4000   |
| 2a. Monthly Cost of Child Care for Joint Child(ren) | \$0      | \$0      |
| 2b. Number of Child(ren) Receiving Child Care       |          |          |
| 2c. Cost of Child Care to be Applied to Tax Tables  |          |          |
| 3. Federal Child Care Credit Percentage             |          |          |
| 4. Estimated Monthly Federal Child Care Credit      |          |          |
| 5. Minnesota Child Care Maximum Allowable Credit    |          |          |
| 6. Estimated Monthly Minnesota Child Care Credit    |          |          |

|                                                                                                                                                     |     |     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|
| 7. Total Estimated Tax Credits                                                                                                                      |     |     |
| 8. Net Child Care Cost                                                                                                                              |     |     |
| 9. Percentage Share of Combined PICS                                                                                                                | 56% | 44% |
| 10. Pro Rata Share of Net Child Care Cost                                                                                                           |     |     |
| 11. Child Care Support Obligation if any Joint Child is Covered by Child Care Assistance and Parent A Meets Income Limits for Child Care Assistance |     |     |

### Child Support Summary

Parent A: Dick  
Parent B: Jane

Number of Joint Children: 1  
Date: 3/7/2021

|                                                         | Parent A     | Parent B    |
|---------------------------------------------------------|--------------|-------------|
| Basic Support Obligation Amount                         | \$421        | \$0         |
| Child Care Support Obligation Amount                    | \$0          | \$0         |
| Medical Support Obligation Amount                       | \$0          | \$81        |
| <b>Child Support Obligation Total Amount</b>            | <b>\$421</b> | <b>\$81</b> |
| Share of Uninsured and/or Unreimbursed Medical Expenses | 56%          | 44%         |
| Notes:                                                  |              |             |

*Disclaimer: The child support guidelines worksheet, instructions, and calculator are for information and educational use only and are not a guarantee of the amount of child support that will be ordered. The results obtained are only as accurate as the information used. The actual child support order may be affected by other factors. The Court has the final authority to determine the amount of the child support order. If this worksheet is attached to a court order, it is part of the Court's decision. This worksheet may or may not show the amount the Court decided to order. If the amount in the order is different, that is the amount to be paid.*

Calculated by the Minnesota Child Support Guidelines Calculator on 3/7/2021 at 12:07 PM

## TENNESSEE – Deviation for Parenting Time

### **Is income disparity addressed? (e.g. parent seeking deviation makes 4x more than the custodial parent)**

A party's child support obligation is based on his/her pro rata share of the combined, monthly adjusted gross income of both parents. However, Tennessee's maximum child support obligation is reached if the parent's combined *net* income exceeds \$10,000.00 per month. This cap can be modified and the obligee can request the obligor's monthly obligation be increased if it can be shown that an increase in the monthly amount is for the reasonable and necessary needs of the minor child(ren). The burden of proof rests on the obligee and he/she can argue the increased child support amount should be awarded to provide the child(ren) with the same advantages that they would have enjoyed if the family had remained intact.

### **Do they count days (or hours)? – Days.**

In the event of split parenting or if an obligor exercises different schedules with multiple children, the average parenting time (for purposes of the parenting time deviation) is calculated by taking the average number of days he/she exercised parenting time collectively.

**Is there a threshold number of nights before deviation can kick in?** – Yes, the obligor may receive an upward deviation of his/her child support obligation if the children are in his/her care for less than 68 days per year. Alternatively, a downward deviation can be added to a child support obligation of the obligor has the child(ren) for 92 days or more per year.

**Is there a formula for determining the deviation?** – Yes, the Court uses a mathematical formula which is referred to as the "variable multiplier". To determine the obligor's deviation for parenting time, the variable multiplier is calculated by taking the total number of days which the obligor has parenting time multiplied by the standard per diem (.0109589). Next, the variable multiplier is applied to the parties' total basic child support obligation, which results in the basic obligation being adjusted. Third, the basic child support obligation is subtracted from the adjusted child support obligation (as calculated using the above) – this figure determines the childrearing expenses associated with the number of days of parenting time the obligor has with the child(ren). After calculating the additional childrearing expenses for the obligor's parenting time, that number is then multiplied by the pro-rata share of the obligee's basic child support obligation and the obligor receives that amount as a deviation of his/her child support obligation.

*Example: Father is the "alternative residential parent" (ARP) whose parenting time totals 94 days per year and he has been ordered to pay child support. The BSCO (basic child support obligation) for both parents is \$1,000.00 – Father's pro rata share is 60% of the BSCO.*

1.  $94 \text{ days} \times .0109589 \text{ (statutory per diem)} = 1.0301366 \text{ (variable multiplier)}$
2.  $1.0301366 \text{ (variable multiplier)} \times \$1,000 \text{ (BCSO)} = \$1,030.14 \text{ (adjusted BCSO)}$
3.  $\$1,030.14 \text{ (adjusted BCSO)} - \$1,000.00 \text{ (BSCO)} = \$30.14 \text{ (add'l childrearing expenses)}$
4.  $\$30.14 \times .040 \text{ (40\% - Mother's BSCO pro rata share)} = \$12.06 \text{ (credit to Father's BSCO)}$
5.  $\$600 \text{ (Father's BSCO)} - \$12.06 \text{ (Mother's pro rata share of add'l expenses)} = \$587.94$

*In this instance, the Father may be entitled to receive a deviation of \$12.06 for the additional parenting time with the children resulting in a total monthly obligation of \$587.94.*

Alternatively, when the obligor exercises 68 days or less of parenting time per year, he/she may be subjected to an upward deviation of their child support obligation. This is determined by first calculating the number of days fewer than 69 that the obligor is exercising parenting time and dividing that number by 365 – this determines the percentage of parenting time per year. Once the percentage is determined, it is multiplied by the obligor’s pro rata share of the basic child support obligation. This figure determines the increased share of support to be paid per day and is added to the predetermined basic child support obligation.

*Example: Mother is the “alternative residential parent” (ARP) whose parenting time totals 68 days per year and she has been ordered to pay child support. The BSCO (basic child support obligation) for the Mother (obligor) is \$1,200.00.*

1.  $69 \text{ days (statutory determination)} - 68 \text{ (days exercised by obligor)} = 1 \text{ day}$
2.  $1 \text{ day} / 365 \text{ days per year} = 0.002739726 \text{ (\% of parenting time per year)}$
3.  $0.002739726 \text{ (\% of parenting time)} \times \$1,200 \text{ (M's \% of BCSO)} = \$3.29 \text{ (per diem amount)}$
4.  $\$1,200 \text{ (Mother's \% of BCSO)} + \$3.29 \text{ (per diem amount)} = \$1,203.29 \text{ (M's total CSO)}$

*In this instance, Mother may be ordered to pay an additional \$3.29 per month in child support\*\*.*

*\*\*the presumption that less parenting time by the obligor should result in an increased child support obligation may be rebutted by evidence.*

**What about 50/50 parenting time? Is there a specific formula?** – No, there is no specific formula for 50/50 parenting time.

**Based on gross or net income?** – Gross income. Variable income such as overtime, commissions, bonuses, etc. are calculated by averaging the amount earned over a “reasonable period of time consistent with the circumstances of the case and added to the fixed salary/wages to determine the party’s gross income”.

Per the May 2020 revisions to the Child Support Guidelines, additional components are now being used to determine a parent’s gross income. Gross income may now be determined by including items such as gifts and inheritance (both cash and income producing real estate).

#### **Resources:**

TN Dept. of Human Services - <https://publications.tnsosfiles.com/rules/1240/1240-02/1240-02-04.20200510.pdf>

Miles Mason Family Law - <https://memphisdivorce.com/tennessee-child-support-laws/changes-to-tennessee-child-support-guidelines-in-2020/>

Miles Mason Family Law - <https://memphisdivorce.com/caps-on-tn-child-support-for-parent-w-greater-than-10kmo-net-income/>

## VIRGINIA – Deviation for Parenting Time

**Is income disparity addressed? (e.g. parent seeking deviation makes 4x more than the custodial parent)**

Virginia determines the parties’ basic child support obligation by combining each of their gross monthly incomes and determining each parties’ pro rata share of that obligation (less any medical and/or childcare expenses allowed).

For parents who earn above and beyond \$35,000 per month (gross income), the following percentages shall be added to the cap – depending on the number of children – to determine the basic child support obligation.

| Combined Gross Monthly Income | 1 Child    | 2 Children | 3 Children | 4 Children | 5 Children | 6 Children |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| \$35,000.00 (cap)             | \$1,989    | \$2,927    | \$3,408    | \$3,807    | \$4,188    | \$4,552    |
| Above \$35,000.00             | 2.6% + cap | 3.4% + cap | 3.8% + cap | 4.2% + cap | 4.6% + cap | 5.0% + cap |

*\*\*Unless agreed to by the parties or for good cause shown, parties may be ordered to pay their pro rata share, based on their gross incomes, any reasonable and unreimbursed medical and/or dental expenses as these expenses shall not be used to adjust the basic child support obligation.*

*The same rule applies if an action is brought within six months of the birth of a child. In these instances, the Court may order the payment of any reasonable and necessary unpaid expenses of the mother’s pregnancy and delivery of the child.*

**Do they count days (or hours)?** – Days. For calculation purposes a “day” is a full 24-hour period. An overnight may count as a half-day if you are the parent with fewer days during the year.

**Is there a threshold number of nights before deviation can kick in?** – Yes, 90 days.

Virginia has separate Guidelines for *sole* and *shared* custody situations.

The Virginia Sole Custody Child Support Guideline is used to calculate child support when one parent has *less than 90 days of visitation per year*. Yet, there is no distinction or deviation provided whether the obligor exercises 1 day of parenting time per year or 89 days per year.

The Virginia Shared Custody Child Support Guideline is used to calculate child support when one parent has *90 days or more* of visitation per year. The Virginia Shared Custody Child Support Guideline discounts child support by using a sliding scale for each day a parent has his/her child over the 90-day threshold. A parent pays progressively less child support as he/she has more days with the child.

**Is there a formula for determining the deviation?** – The child support guidelines for shared custody uses a sliding scale to determine the deviation received by the obligor based on how many day per year he/she exercises parenting time.

**What about 50/50 parenting time? Is there a specific formula?** – No – the Court uses the sliding scale as outlined in the shared custody child support guidelines.

**Based on gross or net income?** – Gross monthly income of each party. Gross monthly income includes salaries, wages, commissions, royalties, bonuses, spousal support, gifts, prizes, and/or awards, etc.

**Resources:**

Virginia Law: Code of Virginia - <https://law.lis.virginia.gov/vacode/title20/chapter6/section20-108.2/>

Cooper, Ginsberg & Gray - <https://www.cgglawyers.com/child-support-spousal-support/#:~:text=When%20a%20parent%20has%20more,time%20increases%20over%2090%20days>

Hofheimer Family Law - <https://hoflaw.com/calculating-days-in-virginia-child-custody/>



## Parenting Time Deviations in Florida, Nevada, and South Carolina

### Florida

Florida's parenting time deviation was established in 1987 in the Florida code at section 61.30(10)(g). The deviation was available where the "secondary residential parent spends a great deal of time with the children" although the section provided no formula for calculating the amount of the deviation. The guidelines have been amended numerous times since their initial adoption.

#### 1993 amendment

Amendments include changing "a great deal of time" to "a substantial amount of their time" and provides for a reduction in support of up to 50% during visitation to a noncustodial parent of more than 28 consecutive days in a renumbered subsection (11)(g).

#### 1999 amendment

Amendments include renumbering parenting time as subsection (11)(a)(10)(b) and adding factors including the amount of time spent under the parenting agreement, child's needs, direct and indirect expenses, comparative parental income, the each parent and child's "station in life," the standard of living during the marriage, and each parent's "financial status and ability."

#### 2001 amendment

The 2001 amendment allows an adjustment for shared parenting where a child spends "significant" time with a noncustodial parent but less than 40% of overnights. It also introduced a formula for calculating a deviation where a child spends "substantial" time that is more than 40% of overnights with the noncustodial parent. The calculation requires calculating the support obligation for each parent and multiplying each obligation by 1.5, calculating each parent's percentage of overnights, and cross multiplying the noncustodial parent's obligation by the custodial parent's percentage of overnights and vice versa. The difference between the resulting amounts is the amount that the parents should transfer between the custodial and noncustodial parents. That amount is adjusted day care and health insurance expenses and may be further adjusted for a parent's low income and the likelihood that visitation will actually be exercised by the parents and children.

#### 2008 amendment

Amendments rename visitation as "time-sharing schedule," considerations as "deviation factors," and replaces references to custodial and noncustodial parent with "one parent," "other parent," or "obligee parent." The formula is unchanged.

#### 2010 amendment

Amendments change the definitions of significant and substantial time by changing 40% of overnights to 20% of overnights and remove the adjustment for day care and health insurance expenses. The formula is unchanged.

#### 2014 amendment

Amendments change "court ordered or agreed time-sharing schedule" to "the particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties." This change fixed an inconsistency that required that there be a court ordered parenting plan and not merely an agreed upon plan to allow a deviation. This issue is described in detail in Kauffman,

Ronald H. "To catch a time-sharing deviation," *Florida Bar Journal*, Vol. 88, No. 10 December 2014 P. 32  
The formula is unchanged.

Florida courts have made numerous decisions regarding the parenting time deviation. Examples include:  
*Department of Revenue ex rel. Sherman v. Daly*, 74 So.3d 165 (Fla. App. 1 Dist., 2011) Court authorized parenting plan required for parenting time deviation

*McKenna v. McKenna*, 31 So.3d 890 (Fla. App. 4 Dist. 2010) Court has discretion to determine calculation in split custody arrangements.

*Dillion v Dept. of Revenue*, 189 So. 3d. 353 (Fla. App. 4 Dist. 2016) Deviation is mandatory if a child spends "substantial time" with the noncustodial parent and it is Florida's public policy to encourage time sharing.

*Sweet v. Sweet*, 993 So. 2d 91 (Fla. App. 2 Dist 2008) Child support obligation should be reduced during period of temporary increased substantial parenting time.

*Nadrich v. Nadrich*, 936 So. 2d 15 (Fla. App. 4 Dist. 2006) Deviation is mandatory if a child spends "substantial time" with the noncustodial parent

*Harwood v. Ying Li*, 909 So. 2d 396 (Fla. App. 4 Dist 2005) Deviation is mandatory if a child spends "substantial time" with the noncustodial parent and deviation may be applied retroactively because of the remedial nature of the law.

*Keeley v. Keeley* 889 So.2d 387 (Fla. App. 2 Dist 2005) Deviation is mandatory if parenting plan provides "substantial time" with the noncustodial parent but deviation may be modified if the noncustodial; parent fails to regularly exercise visitation rights.

*Hecht v. Hecht*, 908 So. 2d 547 (Fla. App. 1 Dist. 2005) Deviation is mandatory if parenting plan provides "substantial time" with the noncustodial parent and Court may only deviate from the substantial time calculation for an enumerated consideration.

*Constantino v. Constantino*, 823 So.2d 155 (Fla. App. 4 Dist. 2002) Calculation of "substantial time" by hours instead of overnights is error.

*Karimi v. Karimi*, 867 So. 2d. 471 (Fla. App. 5 Dist. 2004) Deviation for "significant time" (fewer than 40% of overnights at the time) is discretionary

*Fleishmann v. Fleishmann*, 868 So.2d 1 (Fla. App. 4 Dist 2004) Subsequent amendment of child support guidelines cannot form sole basis for modification of existing support order to include parenting time deviation.

*Lopez v. Lopez*. 994 So. 2d 374 (Fla. App. 3 Dist. 2008) Court did not abuse it's discretion by averaging child support amounts that differed from year to year owing to regular fluctuations in noncustodial parent's overnight visitation time.

*Buhler v. Buhler*, 83 So. 3d 790 (Fla. App. 5 Dist 2011) Deviation is mandatory if parenting plan provides "substantial time" with the noncustodial parent but deviation may be modified if the noncustodial; parent fails to regularly exercise visitation rights, where the failure is not caused by the custodial parent.

*Emmenegger v. Emmenegger*, 135 So. 3d 1103 (Fla. App. 2 Dist 2013) Noncustodial parent waived right to parenting time deviation in supplemental settlement agreement and may not seek modification incorporating deviation.

*Henderson v. Henderson*, 162 So. 3d 203 (Fla. App. 5 Dist 2015) Deviation is mandatory if parenting plan provides "substantial time" with the noncustodial parent in temporary child support order.

*Niemann v. Anderson*, 834 So.2d 319 (Fla. App. 5 Dist 2003) Parenting time deviation must be accompanied by findings including the guideline child support amount, amount of deviation, and reasons for the deviation.

## Nevada

Beginning in 1987, Nevada required that child support obligations were to be calculated as provided in NRS 125B.070 and that deviations were allowed as provided in NRS 125B.080. The calculation was simple and required multiplying the gross monthly income of each parent by a percentage depending upon the number of children and limiting the obligation to \$500 per child per month. Parties could agree upon a support amount that deviated from the calculation if they stipulated facts justifying the deviation. In cases where the parties did not agree the court would determine the amount of income for each party and apply the formula and the court had discretion to deviate from the presumed amount if it provided findings of fact to justify the difference. “The amount of time the child spends with each parent” was specifically included as a deviation factor at NRS 125B.080(9)(j).

A 1998 case, *Wright v. Osburn*, 114 Nev. 1367, established a cross credit formula for establishing the amount of a parenting time deviation.

This court now returns to the language in NRS Chapter 125B for determining the appropriate allocation of child support in shared physical custody arrangements. In NRS 125B.020 and NRS 125B.070, the legislature set forth an objective standard with regard to the support of minor children. These measures, when read together, require each parent to provide a minimum level of support for his or her children, specified by the legislature as a percentage of gross income, depending on the number of children and absent special circumstances. This requirement is independent of the custody arrangements. Therefore, when custody is shared equally, the determination of who receives child support payments and the amount of that payment can be determined as follows: Calculate the appropriate percentage of gross income for each parent; subtract the difference between the two and require the parent with the higher income to pay the parent with the lower income that difference. In this case, with three children, we would take twenty-nine percent of \$1,600, Sandra's monthly income, and twenty-nine percent of \$5,177, David's monthly income and subtract the difference. In this case, David would be required to pay Sandra \$1,037 each month. This approach embodies the legislative enactment, and provides the uniformity and predictability which was the legislative aim. Of course, the district court also has the option to adjust the amount of the award where special circumstances exist.  
*Id.* at 1368-1369 (internal citations omitted)

The requirements remained largely unchanged until 2017 when the legislature realized that the state had neglected to review child support guidelines as required by federal law for at least 22 years and that Nevada was in danger of losing federal funding. The Associate Chief Justice of the Nevada Supreme Court formed a commission to complete the long overdue review and to recommend revisions. The review resulted in a report that considered the Nevada's then current guidelines and compared the approaches used in other states. Parenting time was compared to the approaches used in Arizona, Idaho, California, Oregon, Utah, and Wisconsin. The report recommended that Nevada adopt a parenting time adjustment.

Develop and adopt an adjustment for shared parenting time.

Why? Many of the guidelines deviations were for shared parenting time. Most states provide a presumptive formula for shared parenting time. There are many policy

decisions associated with the adjustment for shared parenting time (e.g., the formula parameters and the criteria for applying the adjustment such as the number of overnights). A formula will reduce the number of deviations for shared parenting time and produce more consistent and predictable award amounts for cases with shared parenting time.

How? Review the appropriateness of codifying of *Wright v. Osburn* or the same formula used in *Wright v. Osburn* but with a 1.5 multiplier, which is what most states use.

Review other states' provisions. Run case examples of typical circumstances. Provide for deviation criteria for atypical circumstances (e.g., combination of split and shared custody).

*Review of the Nevada Child Support Guidelines (2016)*, p. 85

In 2017 the legislature made sweeping changes to the child support guidelines, turning the statutes into mere skeletons and creating new guidelines in the Nevada Administrative Code § 425.100 *et. seq.*

§425.110 allows parents to stipulate to a child support obligation that does not comply with the child support guidelines by supplying in writing the current gross monthly income of the parties, the obligation amount required by the guidelines, a notice that a review of the stipulated obligation will require recalculation according to the guidelines, a certification that the obligee is not currently receiving and has not applied for public assistance, and a certification that the stipulated obligation meets or exceeds the needs of the child. The stipulated obligation must also be approved and adopted as a court order to be effective.

In cases where the parties do not stipulate to a child support obligation § 425.115 establishes the cross credit approach originally laid out in *Wright* for joint physical custody arrangements. In split custody arrangements the guidelines require determining the obligation for each child and offsetting the obligations so that the party with the higher support obligation pays the difference to the other parent. The Division of Welfare and Supportive Services Support Enforcement Manual also applies the cross credit approach to shared and split custody arrangements in Sec. 505.

## South Carolina

South Carolina, in 63-17-470, states that the amount of child support derived from application of the Child Support Guidelines is correct but that a “different amount may be awarded upon a showing that application of the guidelines in a particular case would be unjust or inappropriate.” The statute lays out factors that the court “shall consider” in determining whether a deviation is appropriate. Parenting time is not specifically included in this list of factors. However the Child Support Guidelines in the South Carolina regulations provide for calculations in “unusual custody arrangements.” (S.C. Code of Regulations R. 114-4730)

63-17-470 further states:

When the court orders a child support award that varies significantly from the amount resulting from the application of the guidelines, the court shall make specific, written findings of those facts upon which it bases its conclusion supporting that award. Findings that rebut the guidelines must state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

The Child Support Guidelines first appeared in South Carolina Regulations in 1994 and are found at 114-4710 through 114-4750.

### 1994 Regulations

The original regulations determined that joint custody arrangements were not amenable to a formula and support obligations should be determined on a case by case basis. Split custody situations required determining a theoretical support amount for the children in each household and then offset it by having the parent owing the larger amount paying the difference to the other parent. In determining the theoretical amount the total number of children are included in the original calculation and the resulting amount is then prorated for the number of children in each household.

### 1999 Regulations

The 1999 regulations introduced a formula for calculating an adjustment in shared parenting arrangements and provided Worksheet C to aid in calculation. Shared physical custody is defined as 109 or more overnights or at least 30% of overnights. The calculation requires multiplying the BCSO by 1.5 to find a shared custody BCSO. The BCSO is then apportioned based on each parent’s income and by the amount of time spent with each parent. These amounts are then offset with the parent owing more paying the difference to the other parent. Adjustments are allowed based on each parent’s additional direct expenses. The final amount of child support is determined summing the BCSO and additional direct expenses and offset offset with the parent owing more paying the difference to the other parent. The split custody regulations were unchanged.

### 2006 Regulations

There are no changes to the calculation of support in shared or split custody arrangements. The regulations do add language encouraging shared custody to “ensure the maximum involvement by both parents in the life of the child.”

### 2014 Regulations (Current)

The basic calculations remain unchanged in shared and split custody arrangements. However, a graduated support obligation (GSO) is added for situations where a parent has more than 109 but less than 128 overnights. According to the regulation this graduated obligation is determined by calculating both the sole custody obligation on Worksheet A and the shared custody obligation on Worksheet C and then subtracting an amount determined by multiplying the difference of Worksheet A and Worksheet C by the difference between the overnights over 109 divided by the difference between 110 and 128 overnights or (I hope more simply):

$$\text{GSO} = \text{Worksheet A} - ((\text{Worksheet A} - \text{Worksheet C}) * ((\text{Overnights} - 109)/18))$$

The guidelines include an unnumbered worksheet (Final Support Calculation For Overnights Between 109 And 129) that further simplifies the calculation by offering a pre-calculated overnight factor yielding a formula:

$$\text{GSO} = \text{Worksheet A} - ((\text{Worksheet A} - \text{Worksheet C}) * \text{Overnight Factor})$$

If the result of the calculation is positive the GSO is considered the BSCO for the parent with visitation between 109 and 128 overnights. If the result is negative the GSO is considered the BCSO for the other parent.

There has been little discussion of the parenting time deviation by South Carolina courts. In *Burch v. Burch*, 395 S.C. 318 (2011), the Supreme Court ruled that visitation of 132 overnights is a shared custody situation and must be calculated using Worksheet C. The court also ruled that even though the calculation yielded a small amount as the father's support obligation the court had discretion to order a much higher support payment to "provide a living standard for the [the child] substantially equal to that of the person owing the duty to support," as provided in § 63-5-20(A).

# TO CATCH A TIME-SHARING DEVIATION

📅 Vol. 88, No. 10 December 2014 Pg 32 👤 Ronald H. Kauffman 📁 Family Law

On November 16, 2011, Floridians woke up to find that their most popular child support deviation and adjustment was gone. This article investigates the missing deviation and adjustment, examines the rare jewel of the child support guidelines — the catch-all exception — and how the case was finally cracked.

## Child Support

Calculating child support used to be entirely at the judge's discretion, based on a parent's ability to pay, and the child's needs.<sup>1</sup> Judicial discretion resulted in inconsistent awards, which contributed to delinquent payments.<sup>2</sup> To correct this, in 1984, Congress required all states to establish nonbinding child support guidelines, keeping some judicial discretion in case the guideline amounts proved unjust or inappropriate.<sup>3</sup>

Florida established F.S. §61.30, which follows the income shares model.<sup>4</sup> The guidelines are far from foolproof.<sup>5</sup> They are regressive, so poorer parents pay a larger share of income than wealthier parents. They impose a higher marginal rate on income earned by the poor, which penalizes earning extra money.<sup>6</sup> For high-income parents, the guidelines can award support far exceeding any child's needs.<sup>7</sup> Finally, Florida's guidelines have never been updated, so they are based on the cost of goods as they existed in the 1970s.<sup>8</sup>

Because of these problems, the guidelines expressly provide the amounts can be adjusted upward or downward. Section 61.30(1)(a) allows deviations by up to 5 percent after considering relevant factors.<sup>9</sup> Section 61.30(11)(a) authorizes deviations by more than 5 percent, pursuant to a list of 10 enumerated factors, and one equitable factor — the colloquial “catch-all” exception.<sup>10</sup> Finally, §61.30(11)(b) mandates use of a gross-up calculation of support for substantial time-sharing.<sup>11</sup>

## Time-sharing

Florida policy is to see that children have frequent and continuing contact with both parents after they divorce or separate and that parents share in childrearing.<sup>12</sup> The guidelines historically frustrated this policy and, in fact, discouraged time-sharing. For example, they previously did not allow a child support adjustment for substantial time-sharing unless a parent spent at least 40 percent of the overnights with his or her children.<sup>13</sup>

Two households are being maintained for a child after divorce or separation. Parents exercising substantial time-sharing incur their own child rearing expenses when they time-share, and are duplicating payment for items already included in their child support. Without adjustments for substantial time-sharing, parents can be paying twice for a child's expense, making time-sharing prohibitively expensive.<sup>14</sup> Accordingly, in 2008, F.S. Ch. 61 was amended to expand the meaning of substantial time-sharing to include more time-sharing arrangements.<sup>15</sup>

There is also an interrelationship between time-sharing and child support.<sup>16</sup> Parents who frequently time-share tend to pay child support and parents who do not frequently time-share tend not to.<sup>17</sup> In addition to greater compliance in paying support, parents who substantially time-share are also reducing the other parent's expenses.<sup>18</sup>

### The Missing Time-sharing Deviation

In *Dept. of Rev. ex rel. Sherman v. Daly*, 74 So. 3d 165 (Fla. 1st DCA 2011), the Department of Revenue appealed a child support order because it contained a deviation for a verbal time-sharing schedule.<sup>19</sup> Florida has an administrative procedure for child support in which an administrative law judge (ALJ) calculates the amount.<sup>20</sup> An ALJ uses the same guidelines as a circuit court judge.<sup>21</sup> *Daly* involved an administrative proceeding.<sup>22</sup>

In *Daly*, both parents testified they shared a roughly 60/40 time-sharing schedule. However, they never put their agreement into writing or had it approved by a court.<sup>23</sup> Notwithstanding the lack of a court-ordered parenting plan, the ALJ authorized a deviation based on the time-sharing schedule the parents testified to.<sup>24</sup> The First District Court of Appeal reversed, holding Florida law prohibited the deviation.

The *Daly* panel noted that the statute requires a parenting plan and rejected the ALJ's time-sharing deviation because the parents' schedule was not "*pursuant to a court authorized parenting plan.*"<sup>25</sup> The *Daly* court read §61.30 as requiring deviations only when a parent time-shares pursuant to a court-ordered parenting plan.<sup>26</sup> As no such court order existed in *Daly*, the deviation was not authorized.

*Daly* refused to apply the §61.30(11)(a)(11) catch-all exception. The catch-all exception authorizes a court to make "any *other* adjustment that is needed to achieve an equitable result."<sup>27</sup> The *Daly* panel narrowly interpreted the term "other" in the catch-all section to mean "some grounds not already stated in the statute."<sup>28</sup>

The *Daly* panel also feared that extending the catch-all provision to include time-sharing without a court-ordered parenting plan would conflict with §61.30(11)(a)(10); the permissive deviation factor for under 20 percent of time-sharing. *Daly* reasoned that the legislature authorized time-sharing deviations only when there was a court-ordered parenting plan. Allowing deviations without a court-ordered plan would directly conflict with §61.30(11)(a)(10).

There is a question about the scope of the catch-all exception.<sup>29</sup> *Daly* answers it by limiting its application to cases where a deviation factor is not "already stated in the statute." This narrow construction has the advantage of preventing the catch-all from becoming the exception that swallows the rule.<sup>30</sup> However, *Daly* marks a significant departure from the catch-all provision's construction in earlier child support cases. Some may be left to wonder where the catch-all's construction went in the cases of *Dept. of Rev. ex rel. Marshall v. Smith*, 716 So. 2d 333 (Fla. 2d DCA 1998), and *Speed v. Dept. of Rev. ex rel. Nelson*, 749 So. 2d 510 (Fla. 2d DCA 1999).<sup>31</sup>



### The *Speed* and *Smith* Cases

Before calculating any child support obligation, a court must first determine the parents' net income. Pursuant to §61.30(3), net income is determined by subtracting allowable deductions from gross income. Under §61.30(3)(f), one of the allowable deductions is “*court-ordered* support for other children which is actually paid.”<sup>32</sup>

Obviously, a deduction for supporting one's children should automatically be denied, unless the support is paid pursuant to court order. However, if the putative father is already married with children, the only way he could qualify for the court-ordered support deduction would be to dissolve his marriage first. This creates a policy conflict, as forcing parents to divorce violates Florida's public policy to preserve families.

In *Smith*, the father and mother had a child out of wedlock.<sup>33</sup> At the time of the child's birth, the father was already married and had two children from his marriage. In calculating the father's child support, the court deducted the support he would have paid had there been a support order for the children of his marriage. The mother appealed, complaining that the guidelines only allow the court-ordered support deduction if there is a court order to pay the support.

While the court recognized the father does not technically pay court-ordered support for his two other children, relying on the catch-all section, the *Smith* panel authorized the deduction anyway, holding: “to only allow him credit for such support if he divorces would be unjust and would also be contrary to the state's interest in preserving the family unit.”<sup>34</sup>

In *Speed*, the Department of Revenue filed a paternity action against a father who was then married to another woman.<sup>35</sup> In calculating the father's child support, the trial court failed to credit the father for the funds he was spending on his later-born children of his marriage to the other woman. In reversing, the *Speed* panel found that the father was supporting his other two children, and that limiting the deduction to court-ordered support would be both unjust and contrary to the state's legitimate interest in preserving the family.<sup>36</sup>

In *Hutslar v. Lappin*, 652 So. 2d 432 (Fla. 1st DCA 1995), the mother appealed a trial court's refusal to deduct her support of her three older children from a previous marriage.<sup>37</sup> In allowing the deduction, the same court that decided *Daly*, held the catch-all exception allows a court to deduct her support of her other children even without a court order.

In *Hutslar*, the First District Court of Appeal construed the catch-all section as vesting “*broad discretion* in the trial court to consider a custodial parent's obligation of support to other children, in the calculation of his or her income for purposes of determining that parent's support obligation for the minor child who is the subject of the support action.”<sup>38</sup>

It is difficult to reconcile the First District's narrow construction of the catch-all in *Daly*, with its broad application in *Hutslar*. If the legislature requires a court order to credit a parent for time-sharing, how is that different from when it requires a court order to credit a parent for paying support? The broad construction of the catch-all in *Hutslar* created the same statutory conflict within §61.30 that

concerned the *Daly* panel. Looking at the Florida policies involved, was the First District saying the policy underlying the court-ordered time-sharing deviation is significantly weaker than the policy attached to the court-ordered support deduction?

### Cracking the Case

After the 2011 *Daly* decision, a number of parents had their time-sharing deviations and adjustments taken because they lacked court-ordered parenting plans.<sup>39</sup> However, the *Sûreté* was on the case. First, there was *Dept. of Rev. o/b/o Taylor v. Aluscar*, 82 So. 3d 1165 (Fla. 1st DCA 2012), in which the chief judge of the First District expressed an interest in affirming the time-sharing deviation under the catch-all exception.<sup>40</sup> However, the chief judge was unable to persuade other judges.

During the 2013 regular legislative session, Senate<sup>41</sup> and House bills were introduced, which would have amended §61.30 to expressly recognize “a time-sharing arrangement exercised by agreement of the parties.”<sup>42</sup> However, after passing out of Senate and House committees, both bills died.

During the recent 2014 regular legislative session, H.B. 755<sup>43</sup> was passed and amended §61.30. The new bill revises the circumstances in which a court may deviate from the child support guidelines and adjust child support. The bill became effective on May 12, 2014. Since the bill’s child support-related amendments are remedial, they apply to all actions pending on May 2014 and thereafter.

As amended, §61.30 now expressly allows a court to deviate from the child support guidelines based on “[t]he particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties ....”<sup>44</sup> The amendments to §61.30 also mandate that the court adjust the child support amount based on a child’s substantial time-sharing with a parent as provided in either a parenting plan, court-ordered time-sharing schedule, or when there is a substantial time-sharing arrangement exercised by agreement of the parents.

The statutory language, “arrangement exercised by agreement of the parties,” was intended to be an informal agreement between the parents, either written or verbal, and express or implied.

Some additional tweaking may be appropriate. The amended statute will still provide that “the trier of fact shall order payment of child support which varies from the guideline amount...whenever any of the children are required by *court order* or *mediation agreement* to spend a substantial amount of time with either parent.”<sup>45</sup>

### Dénouement

Although largely academic after the passage of H.B. 755, it is fair to tally what the actual and anticipated losses from *Daly* were. For starters, *Daly* represented a dangerous step toward a two-tier child support system.<sup>46</sup> Suppose two parents — call them Cary and Grace — had worked out a 60/40 verbal time-sharing arrangement, and appear in court to calculate child support. All courts in Florida apply the same guidelines, so Cary should be on equal footing in any Florida court. However, the support obligations could be wildly different depending on which court Cary was in.

If judicial proceedings were filed, a circuit judge could consider Cary's actual time-sharing and gross-up child support.<sup>47</sup> Prospectively, a circuit judge could not deviate without a parenting plan. However, the court could adopt its own parenting plan, or approve a verbal arrangement, and turn it into a written order.

Administrative proceedings are different. ALJs lack statutory authority to establish parenting plans.<sup>48</sup> If the department files an administrative action against Cary, the ALJ cannot deviate from the guidelines for substantial time-sharing unless a court-approved plan already exists. The ALJ is calculating child support unjustly and undermining the state's interest in continuing post-separation time-sharing.<sup>49</sup>

That is bad, but it gets much worse. A circuit judge could not correct the administrative order unless Cary files a circuit court petition for modification or superseding order. Even then, the circuit judge is limited to modifying child support from the date of the filing of the petition forward. The administrative retroactive award and Cary's arrears would remain enforceable.<sup>50</sup> This was a pattern repeated throughout Florida for almost three years until the statute was amended.

We also lost consistency in child support cases when child support calculations varied depending on which courtroom you were standing in. Recall that the *raison d'être* of the guidelines was specifically to reduce the risk of inconsistent child support awards because they contributed to delinquent support payments. *Daly* stole some of that consistency.

There is also Florida's policy of encouraging frequent and continuing time-sharing after divorce. Parents substantially time-sharing could have been paying twice for child expenses if their time-sharing was not factored into the support calculation.

Without adjustments or deviations for significant time-sharing, some parents found themselves unable to afford seeing their children. This undermined Florida policy and exacerbated the single-parent home problem. H.B. 755 solved this immediate problem. However, it shouldn't have taken years of legislative effort to make that correction. If it takes a thief to catch a thief, courts should re-examine the application of the catch-all exception to resolve similar problems.

<sup>1</sup> See, e.g., *Peak v. Peak*, 411 So. 2d 325, 328 (Fla. 4th DCA 1982) (holding "child support rests primarily in the discretion of the trial judge...").

<sup>2</sup> See generally Laura W. Morgan, *Child Support Guidelines: Interpretation and Application* §1.01, Aspen L. & Bus. (Supp. 2000).

<sup>3</sup> See, e.g., 42 U.S.C. §667(b)(2) ("There shall be a rebuttable presumption. . . that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded. A written finding or specific finding. . . that the application of the guidelines would be unjust or inappropriate in a particular case. . . shall be sufficient to rebut the presumption in that case.").

<sup>4</sup> The income shares model requires parents to share in child expenses proportionate to their incomes. Support is calculated by reference to tables showing a basic support obligation for combined incomes. Tables are based on the estimated costs of raising a child, excluding health insurance, child care, and extraordinary medical expenses in an intact family.

<sup>5</sup> A few accusations are leveled in the guidelines. See Fla. H.R., Future of Florida's Families Comm., *Child Support Guidelines* (Feb. 2006), available at <http://www.myfloridahouse.gov/sections/Documents/loaddoc.aspx?PublicationType=Committees&Committeed=2260&Session=2006&DocumentType=Reports&FileName=Final%20Report%20-%20Child%20Support%20Guidelines.pdf>. (finding there is no clear explanation of the meaning of “rebuttable presumption”; Florida law may result in child support being terminated while a child is still in high school; and that there is no statutory guidance related to the guidelines review mandated by the federal government, among other findings).

<sup>6</sup> See Thomas S. McCaleb, et al., *Review and Update of Florida's Child Support Guidelines: Report to the Florida Legislature* 51 (Mar. 5, 2004), available at <http://www.dshs.wa.gov/pdf/esa/dcs/2004fsu.pdf>. (The marginal rate is the percentage increase in child support when income increases. Marginal rates decline from a high of about 95 percent for poor parents to a low of about 5 percent for the wealthiest. Suppose a parent earns an extra \$100 of net monthly income, then how much of that extra \$100 does a parent pay in child support? A parent with one child who earns \$650 in net monthly income would pay \$90 of that additional \$100 as child support, keeping only \$10 of it. However, a parent whose net monthly income is \$800 would pay \$23 in additional child support and retain \$77).

<sup>7</sup> *Finley v. Scott*, 707 So. 2d 1112, 1114 (Fla. 1998).

<sup>8</sup> Rana Holtz & Thomas J. Sasser, *Child Support Myths and Truths: Exploring the Assumptions Underlying Florida's Statutory Guidelines*, 73

Fla. B. J. 58 (Oct. 1999). An excellent article on Florida's child support guidelines observing that Florida's schedules were based on the 1972-73 Consumer Expenditures Survey, a nationwide sample of intact families. No divorced families were surveyed, and the estimates were based on two-parent households in which the wife was employed at least part-time.

<sup>9</sup> Fla. Stat. §61.30(1)(a) (2011) (enumerating factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent).

<sup>10</sup> Fla. Stat. §61.30(11)(a)(1)-(11) (2013).

<sup>11</sup> Fla. Stat. §61.30(11)(b)(1)-(8) (2013). In a gross-up calculation, support is calculated for each parent. The respective obligations are then multiplied by 1.5 to account for maintaining two homes for the child and weighted by the amount of time-sharing between parents. The difference between the two parents' obligations, with an adjustment for childcare and health insurance, is the amount paid by the parent with the higher obligation to the parent with the lower obligation; see also McCaleb, *Review and Update of Florida's Child Support Guidelines: Report to the Florida Legislature* at app. 3-2.

<sup>12</sup> See Fla. Stat. §61.13(2)(c)(1) (2013).

<sup>13</sup> See McCaleb, *Review and Update of Florida's Child Support Guidelines: Report to the Florida Legislature* at 55 (finding that the “failure to provide a credit for visitation of less than 40 percent is a disincentive for regular visitation with the noncustodial parent”); see also Fla. Stat. §61.30(11)(a)(10) (2007) (“The court *may* adjust the minimum child support award ...based upon the...particular shared parental arrangement, such as where the child spends a significant amount of time *but less than 40 percent* of the overnights, with the noncustodial parent ...”) (emphasis added). However, the statute did not contain a formula for actually calculating this deviation.

<sup>14</sup> See McCaleb, *Review and Update of Florida's Child Support Guidelines: Report to the Florida Legislature* at 55.

<sup>15</sup> See, e.g., Fla. Stat. §61.30(11)(b)(10) (2003) (providing that whenever a particular shared parental arrangement provides that each child spend a substantial amount of time with each parent, the court shall adjust any award of child support, “substantial amount of time” defined as the noncustodial parent exercises visitation at least 40 percent of the overnights of the year).

<sup>16</sup> There is a debate between advocacy groups, but research supports the argument that child support and access are interrelated. See, e.g., Jonathan R. Veurn, *Interrelation of Child Support, Visitation, and Hours of Work*, U.S. Dept. of Labor, Monthly Labor Review 47 (June 1992), available at <http://www.bls.gov/mlr/1992/06/art4full.pdf>. (finding that payments of child support are positively related to frequency of visitation, and this positive association persists even after controlling for a number of demographic factors used to predict payment and visitation).

<sup>17</sup> See U.S. Dept. Health and Human Serv., *Child Access and Visitation Programs: Participant Outcomes* 9 (Jan. 2006), available at [http://www.acf.hhs.gov/sites/default/files/ocse/dcl\\_07\\_15a.pdf](http://www.acf.hhs.gov/sites/default/files/ocse/dcl_07_15a.pdf). (citing U.S. Census Bureau statistics showing 77.1 percent of those with joint custody or visitation rights paid at least some child support, compared with 55.8 percent of their counterparts without visitation rights or joint custody).

<sup>18</sup> See, e.g., Fla. Stat. §61.30(11)(g) (1999) (authorizing a deviation based on “[t]he particular shared parental arrangement, such as where the children spend a substantial amount of their time with the secondary residential parent *thereby reducing the financial expenditures incurred by the primary residential parent...*”) (emphasis added).

<sup>19</sup> *Dept. of Rev. ex rel. Sherman v. Daly*, 74 So. 3d 165 (Fla. 1st DCA 2011).

<sup>20</sup> See generally Fla. Stat. §409.2563 (2013). The administrative process has been criticized for taking longer, producing less orders than expected, and costing more than judicial hearings; see generally Florida Legislature, Office of Program Policy Analysis & Government Accountability, *Department Process Changes Resulted in Fewer Administrative Child Support Orders Than Expected*, Report No. 08-48 (Aug. 2008), available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=08-48>.

<sup>21</sup> See Fla. Stat. §409.2563(5)(a) (2011).

<sup>22</sup> See *Daly*, 74 So. 3d at 166.

<sup>23</sup> *Id.* at 167.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* (emphasis original).

<sup>26</sup> *Id.*

<sup>27</sup> Fla. Stat. §61.30(11)(a)(11) (2011) (emphasis original) (“Any other adjustment that is needed to achieve an equitable result which may include, but not be limited to, a reasonable and necessary existing expense or debt. Such expense or debt may include, but is not limited to, a reasonable and necessary expense or debt that the parties jointly incurred during the marriage.”).

<sup>28</sup> *Daly*, 74 So. 3d at 168.

<sup>29</sup> See Morgan, *Child Support Guidelines: Interpretation and Application* §1.01 at 4-23, Aspen L. & Bus. (Supp. 2000).

<sup>30</sup> Although not discussed in *Daly*, catch-all exceptions are limited by the canon of ejusdem generis. *Daly* implies that if the catch-all were given its broadest meaning, the specifically enumerated time-sharing adjustments in the statute would become superfluous.

<sup>31</sup> See, e.g., *Ogando v. Munoz*, 962 So. 2d 957, 958 (Fla. 3d DCA 2007) (finding Fla. Stat. §61.30(11)(a)(11) allows a court to “adjust the minimum child support award, or either or both parents’ share of the minimum child support award...to achieve an equitable result”); see *Flanagan v. Flanagan*, 673 So. 2d 894, 895-96 (Fla. 2d DCA 1996).

<sup>32</sup> Fla. Stat. §61.30(3)(f) (emphasis added) (Net income is obtained by subtracting allowable deductions from gross income. Allowable deductions shall include “(f) [c]ourt-ordered support for other children which is actually paid.”).

<sup>33</sup> *Dept. of Rev. ex rel. Marshall v. Smith*, 716 So. 2d 333 (Fla. 2d DCA 1998).

<sup>34</sup> *Id.* at 335.

<sup>35</sup> *Speed v. Dept. of Rev. ex rel. Nelson*, 749 So. 2d 510 (Fla. 2d DCA 1999).

<sup>36</sup> *Id.* at 511.

<sup>37</sup> *Hutslar v. Lappin*, 652 So. 2d 432 (Fla. 1st DCA 1995) .

<sup>38</sup> *Id.* at 434 (emphasis added).

<sup>39</sup> See, e.g., *Dept. of Rev. v. Hibbert*, 81 So. 3d 643 (Fla. 1st DCA 2012); *Dept. of Rev. v. Koehler*, 77 So. 3d 253 (Fla. 1st DCA 2012); *Dept. of Rev. v. Ingram*, 81 So. 3d 643 (Fla. 1st DCA 2012); *Dept. of Rev. v. Mayweather*, 84 So. 3d 454 (Fla. 1st DCA 2012); *Dept. of Rev. v. Hunt*, 83 So. 3d 1014 (Fla. 1st DCA 2012); *Dept. of Rev. v. Veach*, 83 So. 3d 1015 (Fla. 1st DCA 2012).

<sup>40</sup> See *Dept. of Rev. o/b/o Taylor v. Aluscar*, 82 So. 3d 1165 (Fla. 1st DCA 2012) (stating “If we were writing on a clean slate I would vote to affirm, and to approve the ALJ’s interpretation of section 61.30(11)(a)11, Florida Statutes (2011), in the present case.”) (Benton, C.J., concurring).

<sup>41</sup> Fla. S.B 1210, 2013 Legis. Reg. Sess. 1 (Feb. 26, 2013).

<sup>42</sup> Fla. H.B 905, 2013 Legis. Reg. Sess. 1 (Feb. 19, 2013); see Fla. H.R. Jud., CS/CS/HB 905 (2013) Staff Analysis (Apr. 11, 2013), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0905e.APC.DOCX&DocumentType=Analysis&BillNumber=0905&Session=2013>.

<sup>43</sup> The Senate companion bill was Fla. S.B 104, 2014 Legis. Reg. Sess. 1 (Jan. 30, 2014). S.B. 104 was laid on table on April 24, 2014, when H.B. 755 passed. Fla. S., CS/SB 104: Family Law, available at <http://www.flsenate.gov/Session/Bill/2014/0104>. For the sake of clarity, only H.B. 755 will be discussed.

<sup>44</sup> Fla. Stat. §61.30(11)(b) (2014) (effective July 1, 2014).

<sup>45</sup> Fla. Stat. §61.30(1)(a) (2014).

<sup>46</sup> See Fla. H.R., Jud. Oversight, H.B. 1689 (2002) Final Analysis (July 29, 2002), available at <http://www.japc.state.fl.us/publications/SummariesAnalyses/2002/HB16891stENG.pdf>.

<sup>47</sup> See Fla. Fam. L. R. P. 12.491(b) (limiting a support enforcement hearing officer’s duties).

<sup>48</sup> See Fla. Stat. §409.2563(2)(b) (2013).

<sup>49</sup> See Fla. Stat. §409.2563(2) (2013) (authorizing ALJs to make findings of fact necessary for a proper determination of a parent’s support obligation).

<sup>50</sup> See Fla. Stat. §409.2563(10)(c) (2013) (generally providing that a circuit court may enter an order prospectively changing the support obligations established in an administrative support order, but any unpaid support owed under the superseded administrative support order may not be retroactively modified by the circuit court, except as provided by §61.14(1)(a)).

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