

BASIC STEPS TO COMPUTE THE CHILD SUPPORT OBLIGATION

Introduction

Purpose of the presentation:

- * Differences between guidelines and income shares
- * Show how to calculate a child support order under income shares
- * Show how to include allocating health insurance, child care and extracurricular expenses into the model.

The basic difference between guidelines and income shares is this: guidelines were calculated solely based on the net income of the non-custodial parent, now the parent allocated less parenting time. Income shares is calculated from the combined net income of both parents based upon a schedule prepared by HFS, and the responsibility for payment of child support is allocated between the parents based upon their respective incomes.

There are other differences. For example, calculation of net income under income shares is somewhat different than under guidelines. We will discuss these differences.

We will calculate a basic child support order under income shares, will consider how parenting time may reduce an obligor's child support obligation in shared parenting and split parenting situations, and will consider how add on payments, health insurance, child care, and extracurricular and school expenses are calculated.

There are 5 basic steps to calculating a child support order under income shares. These steps will occur for every single calculation of child support. Depending on circumstances, there will be additional steps necessary to get a final number:

- * Determine both parent's net income
- * Add the net income of both parties together to determine combined net income
- * Using the income shares schedule, you will determine the basic child support obligation
- * Determine each parent's percentile share of combined net income
- * Calculate the specific child support obligation.

These are not equal steps. You will clearly spend most of your time working on the first step, most of the math is in the fifth step. But all steps are required to be taken to determine a child support order.

I. Determine each Parent's Monthly Net income

- A. Changes from prior statute

1. previously it was gross income less certain deductions:

fed tax, state tax, FICA, mandatory retirement contributions, union dues, dependent or individual medical insurance, life insurance maintained due to court order, prior obligations of support or maintenance, expenditures for repayment of a debt that represent reasonable and necessary expenses for the production of wealth, and Foster Care payments from DCFS for providing licensed foster care to a foster child.

2. New Statute has two different methods to calculate net.

Standardized tax amount: the total of federal and state income taxes for a single person claiming the standard tax deduction, one personal exemption, and the applicable number of dependency deductions for the minor child or children of the parties, and social security and Medicare tax calculated at the federal insurance contributions act rate. 750 ILCS 5/505 (a)(3)(C)

Individualized tax amount means an aggregate of fed tax, state income tax, social security or self-employment tax, possibly mandatory retirement contributions, and Medicare tax. 750 ILCS 5/505 (a)(3)(D).

3. What is missing from the new Statute:

union dues, student loans, and, under some circumstances, mandatory retirement contributions required by law or as a condition of employment are not deductible. 750 ILCS 5/505 (a)(3)(D) states that the individualized tax amount includes social security or self-employment tax if applicable (or, if none, mandatory retirement contributions required by law or as a condition of employment). So the Statute apparently only permits you to take a deduction if you are not deducting social security or self-employment tax. Some IRMF employment will deduct both social security and a pension. Under the new statute, these employments will not be able to deduct both.

medical expenditures necessary to preserve life or health, reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts used to be deductible. Now they are a basis to deviate from guidelines.

4. What happened to the other deductions?

Prior support orders are now Adjustments to gross income 750 ILCS 5/505 (a)(3)(E)

Multi-family adjustment with court order: a deduction from net income in the amount of child support actually paid by a parent pursuant to a court order.

SB 69 added an adjustment for child support payment made without a court order. It does provide that the payment is for a presumed, acknowledged or adjudicated child living in or outside of that parent's household. Step child scenario: under certain circumstances, a person may continue to support former step children. These types of payments would not be deducted.

There is also an adjustment for spousal maintenance paid in the current case. SB 69 added an adjustment for a former spouse paid pursuant to a court order which was somehow missed.

5. Business Income – throughout the guideline era there had been the occasional authority split about business expenses, this statute clarifies this

Business income is codified now as gross receipts minus ordinary and necessary expenses required to carry on trade or business. Reimbursement or in-kind payments are income and are included in the calculation if they are significant in amount and reduce personal expenses.

6. Minimum Orders

Increases from \$10 per month to \$40 per month. There is a rebuttable presumption that an obligor who makes less than 75 percent of poverty should pay the minimum.

However, it isn't a true minimum. There is a presumption of a zero-dollar child support order for parents with no gross income, who receive only means tested assistance, who cannot work due to disability, incarceration, or institutionalization. Also for parents at 75 per cent of poverty guidelines and multiple obligations, a maximum obligation of \$120 per month divided equally among all of his or her children.

7. Imputing Income

The new Statute provides for imputing income to a parent who is voluntarily unemployed or underemployed. It is calculated on the basis of a determination of potential income.

Factors for potential income: work history, occupational qualifications, prevailing job opportunities, ownership by a parent of a substantial non-income producing asset, and earnings level in the community.

Insufficient work history creates a rebuttable presumption that an obligor's potential income may be 75 percent of poverty guidelines and therefore, would be a support order of \$40 per month.

8. Obviously the court still can require the parents to contribute to uncovered medical expenses and to extracurricular expenses in addition to their support obligation.

Realistically, imputing minimum wage to a party doesn't move the meter that far. For most incomes in a case in which an attorney is retained, it would change an obligation by about 100 per month, it would have a greater effect on the lower income cases.

B. Gross to Net Income Conversion Table Using **Standardized Tax Amounts**

See Appendix A

The table was created by HFS and is intended to for a single person claiming the standard tax deduction, one personal exemption, and the applicable number of dependency deductions for the minor child or children of the parties, and social security and Medicare tax calculated at the federal insurance contributions rate.

On the table there is a separate table for the recipient parent that also references the number of children. The reason for this is that the recipient parent shall be deemed to be entitled to the dependency exemption unless the parties agree otherwise or a court rules otherwise.

Don't use the **standardized tax amount** if the exemption(s) are alternated, because the table will not be correct.

Don't use the **standardized tax amount** if either party will itemize their taxes, either party will filing jointly with another person, either party resides out of State, or the other side really wants to use the standardized tax amount.

C. **Individualized Tax Amount,**

1. Aggregate of federal income tax, State income tax, and social security or self-employment tax, and Medicare Tax
2. Parties may stipulate to a methodology and computation method to determine the parties' net income that is different than the standard set forth in the definition of "**individual tax amount**". The court may reject the parties' computation method for good cause.
3. The Court may determine a temporary child support order at a summary hearing under Section 501 of the IMDMA the parties may opt in to the **individualized tax amount** method and the court will determine the **individualized tax amount** based upon information contained in one or both parties' Supreme Court approved Financial Affidavit (Family and Divorce Cases) and relevant supporting documents.
4. The court may, in an evidentiary hearing either for temporary or permanent support, determine the parties' **individualized tax amount** on the basis of the record established in the evidentiary hearing.

II. **Add the Two Net Incomes Together to find Combined Adjusted Net Income**

This requires simple addition. Once the net income of both parties has been calculated in accordance with Part I these amounts are added together and the sum is the parties' **combined adjusted net income**.

Net Income P1 + Net Income P2 = Combined Adjusted Net Income

III. **Schedule of Basic Child Support Obligations**

See Exhibit B.

1. Income in excess of highest level of combined adjusted net income

The maximum on the Income Shares Schedule Based on Net Income is \$30,024.99 per month. For combined adjusted incomes above the maximum level set forth in the Income Shares Schedule Based Upon Net Income, a court may use its discretion to determine child support, except that the child support obligation shall not be less than the highest level of combined adjusted net income.
2. Decrease in guideline child support obligations for high incomes.

Assuming a parent makes the highest level of income set forth in the schedule, his or her obligation under Illinois Guidelines would have been \$6,000 for one child, \$8,400 for two children, \$9,600 for three, etc. which would represent 20 percent, 28 percent, and 32 percent respectively of his or her net income. Under income shares, his child support obligation would be \$2,241 for one child, \$3289 for two children, and \$3821 for three children (assuming no shared or split parenting and no income for

the recipient parent). This would correspond to 7.5 percent of net income, 10.96 percent of net income, and 12.7 percent of net income.

At \$6,000 combined adjusted, an obligor who is the sole wage earner would pay 20 percent, 26.4 percent, and 31.48 percent.

There are some amazing things you can see just by looking at the chart. At \$5,425 combined net income, the basic support obligation for one child is \$1001. To double this requires combined net income of \$18,025. The highest obligation on the table for one child is \$2,241 at over 30,000. The additional child support owed for the last 11,975 is only \$239.00

So, an obligor who is the sole source of income would be paying 18.45% of his net income at a monthly net of \$5,425. At \$30,000, the obligor would be paying 7.5 percent of his net.

From this, I suppose we can see that the legislature believed it was a major problem that high income people were paying too much for their children and middle-class people too little,

IV. **Calculate Each Parent's Percentage Share of the Combined Net Income**

- A. To Calculate Each Parent's Percentage Share of Combined Net Income, that parent's net income, as determined in Step I, should be divided by the combined net income of the parties. The quotient will represent the percentage of that parties' net income represents to the combined adjusted net income of the parties.

$$(\text{Net Income P1}) / (\text{Combined Net Income}) =$$

P1's percentage share of basic child support obligation.

Example: John has a monthly income net income of \$700 and Mary has a monthly net income of \$300.

700 divided by 1000 equals .70 or 70% of the combined net income.

300 divided by 1000 equals .30 or 30% of the combined net income.

B. **Shared Physical Care**

1. Under the new Statute, 146 overnights is the magic number of days the parent with the minority of allocated parenting time needs in order to have some reduction in their support obligation.

Since there are approximately 52 weeks each year, a parent would need to have about three overnights per week to have shared physical care. To calculate the parties' shared child support obligation, the basic child support obligation is multiplied by 1.5 before calculating each parties'

share of the expenses and the product is the parties' shared care child support obligation. Each parties' percentage of the combined adjusted net income is then applied to the shared care child support obligation

- C. Split Physical Care – each party has a majority of allocated parenting time for one or more of the parties' minor children. This requires separate worksheets to be prepared to calculate the obligation each parent owes to the other for the children with each parent.

V. Calculate Child Support Obligation

In the following examples, P1 is parent 1 and P2 is parent 2.

The Basic Child Support Obligation refers to the Schedule of Basic Child Support Obligations that is included as Exhibit B.

The other terms will be described.

A. General Calculation of Child Support Obligations

1. P1 net income is calculated using a standardized or individualized tax amount

P2 net income is calculated using a standardized or individualized tax amount
2. The net income of P1 and P2 is added together to create the **Combined Net Income**
3. The **Schedule of Basic Child Support Obligations** will be reviewed to determine the amount of the **Basic Child Support Obligation**.
4. Percentage of overnights is calculated for each party to determine whether this is a shared physical care case or not.
5. The parties respective **Percentage Share of Combined Net Income** will be determined.
6. The Basic Child Support Obligation is multiplied by P1 Percentage Share of Combined Net Income.

The Basic Child Support Obligation is multiplied by P2 Percentage Share of Combined Net Income.

the parent who does not have a majority of parenting time will multiply his adjusted net income by the **Percentage Share of the Basic Child Support Obligation** and the product of that calculation will be his individualized child support obligation. Although you calculate the parent with a majority of allocated parenting time's individualized child

support obligation, that parent does not pay the other parent. It is presumed that he or she spends it on the child's support.

Example 1:

P1 and P2 have 1 child who resides more than 300 overnights with P2

P1 has gross income of \$1,720 per month

P2 has gross income of \$1,300 per month.

A standardized tax amount for P1 is \$1,420.

A standardized tax amount for P2 is \$1,115

The combined net income is \$2,535.

Income shares schedule lists \$548 as the basic child support obligation

P1 is responsible for $1420 / 2535 = .56$ of combined net income

P2 is responsible for $1115 / 2535 = .44$ of combined income.

P1 does not have at least 146 so there is no shared physical care.

P1's obligation is $.56 \times 548 = \$306.88$ per month.

P1 will pay P2 \$306.88 per month

B. Shared Physical Care –

1. The **Basic Child Support Obligation** is multiplied by 1.5 to calculate the **Shared Care Child Support Obligation**.
2. The Court determines each parent's share of the **combined net income** in accordance with Part IV.
3. The parent's share of the **Shared Care Child Support Obligation** is then computed for each parent by multiplying the **Shared Care Child Support Obligation** with the **Percentage Share of Combined Net Income**.
4. The **Percentage of Overnights** is calculated for each party by dividing the total number of overnights a parent has with the child(ren) by the total number of overnights in a year (365 or 366).
5. That each parent's portion of the **Shared Care Child Support Obligation** is then multiplied with the **Percentage of Overnights** of the other parent.

6. The respective child support obligations are offset with the parent owing more child support paying the difference between the two amounts.

- (1) **(Basic Child Support Obligation) x 1.5 = Shared Care Child Support Obligation.**
- (2) **Net Income P1 divided by Combined Net Income = P1 Percentage Share of Combined Income**
Net Income P2 divided by Combined Net Income = P2 Percentage Share of Combined Income
- (3) **Shared Care Child Support Obligation times Percentage Share of Combined Net income for P1 = P1 share of Shared Care Child Support Obligation**
Shared Care Child Support Obligation times Percentage Share of Combined Net income for P2 = P2 share of Shared Care Child Support Obligation
- (4) **Percentage Share of Overnights for P1 = Overnights P1 divided by total overnights in a year**
Percentage Share of Overnights for P2 = Overnights P2 divided by total overnights in a year
- (5) **P1 share of Shared Care Child Support Obligation times Percentage Share of Overnights for P2 = Child Support Obligation for P1**
P2 share of Shared Care Child Support Obligation times Percentage Share of Overnights for P1 = Child Support Obligation for P2
- (6) The respective **Child Support Obligation** of P1 and P2 are offset and the parent who has the larger Child Support Obligation pays to the other parent the difference in the respective obligations.

Example 2:

P1 and P2 have one child.

P1 Father earns \$2000 net per month gross and P2 Mother earns \$2,000 net per month gross

A standardized net income for P1 is \$1,647 and \$2,006 for P2.

P1 has 150 overnights and P2 has 215

Combined net income = \$3653

Basic Child Support obligation on Income Shares Schedule is \$790 per month
Both parties have more than 146 overnights so it is a Shared Care Child Care
Obligation

P1 is responsible for .4509 of combined net income and P2 is for .5491

$790 \times .4509 = 356.21$ times 1.5 = \$534 for P1 Shared Child Support Obligation

$790 \times .5491 = 433.79$ times 1.5 = \$651 for P2 Shared Child Support Obligation

P1 has 150 divided by 365 = 41 % of the child's overnights

P2 has 215 divided by 365 = 59 % of the child's overnights

P1 Shared Care Child Support Obligation (\$534) times .59 = \$315

P2 Shared Care Child Support Obligation (\$651) times .41 = \$268

\$315 minus \$268 equals \$47

P1 will pay P2 \$47 per month.

In the absence of shared parenting, P1 would have paid \$356.21 per month.

C. Split Physical Care.

When each parent has primary care of at least one but not all the minor children, support is calculated with two worksheets. The amounts of support each parent is obligated to pay is offset against the other parent's obligation.

There may be potentially both split physical care and shared physical care on the same case, since they are not mutually exclusive.

example 3:

P1 and P2 have two children. Minor 1 lives with P1 and Minor 2 lives with P2.

P1 makes \$5,500 gross per month and P2 makes \$3,500 gross

An individualized tax amount for P1 yields a net income of \$4,437 per month.

An individualized tax amount for P2 yields a net income of \$2,928 per month.

Based upon the combined net income of \$7,365, the basic child support order for the parties is \$1188.

P1 is responsible for 60.24 percent of the parties' combined net income.

P2 is responsible for 39.76 percent of the parties' combined net income.

P2 would owe \$472 for support of Minor 1.

P1 would owe \$716 for support of Minor 2.

P1 has the larger obligation. He would pay the difference between \$716 and \$472

$716 - 472 = \$244$ per month P1 would pay to P2.

D. Family Law Software – See attached Ad.

VI. Add on Payments – Health Insurance, Child Care, Extracurricular Activities.

The basic child support obligation is designed to cover part or all the following expenses: housing, food, transportation, clothing, basic ordinary out-of-pocket medical expenses, and miscellaneous expenses. The following are additional payments the court may require either or both parties to be responsible for.

A. Health Insurance and Care –

"The court, in its own discretion, in addition to the basic child support obligation shall provide for the child or children current and future medical insurance by ordering either or both parents to initiate health insurance through currently effective health insurance coverage held by the parent or parents, purchase one or more or all health, dental, or vision insurance policies for the child or provide for the child's current and future medical needs through some other manner. " 750 ILCS 5/505 (a)(4).

The amount to allocate between the parties is not the entire cost of medical insurance. Rather, it is the cost attributable to the child or children covered by the order. 750 ILCS 5/505 (a)(4)(D). A parties' cost to provide their own health insurance is neither deductible from gross to determine net nor subject to allocation between the parties.

For purpose of calculation, the cost of premiums for health insurance are added to the basic child support obligation (as determined below in part III) as an adjustment and are allocated to the parties based upon each parent's percentage share of combined net income. 750 ILCS 5/505 (a)(4)(D).

For both Health Care and Child Care, I don't recommend calculating the order in the fashion. Two reasons. First, if you are adding these obligations to the basic child support obligation in the third step of calculating the child support obligation, you may be faced with a situation where you need to calculate the basic support obligation again without health insurance or child care. This may occur when you are calculating a shared parenting order, since the additional obligation for health care and Child Care are not part of the 1.5 multiplier. Also, these payments are all discretionary, and you will probably want to be able to immediately eliminate these payments in the event the court declines to award these payments.

A second reason is more practical. A child support order may be in effect for more than 18 years. Over those years, the parties likely will have changed circumstances and the order will need to be modified. It would become much more difficult to determine the circumstances upon which the order is based if you just have one number for support. If, however, you keep the child support obligation separate from health insurance and child care separate, and extracurricular expenses, the circumstances upon which the child support order is based is clear.

For Health insurance, the better way to calculate the obligation is by multiplying the cost of premiums by the percentage share of combined net income of the parent who is not paying health insurance premiums. So, if the obligor is providing the premiums for health insurance, the recipient parent's percentile shares of combined net income, multiplied against the total cost of the premiums will be the amount to subtract from the child support award. If the recipient is providing the premiums, the obligor's percentage share of the combined net income should be multiplied against the total cost of premiums and added to the child support obligation. If the parents are paying for a medical insurance policy for the child,

The reasonable cost of health insurance was codified by the Statute. If it exceeds 5 percent of the providing parent's gross income, it is not reasonable. See 750 ILCS 5/505 (a)(4)(G).

B. Child Care

"The court, in its own discretion, in addition to the basic child support obligation, may order either or both parents owing a duty of support to the child to contribute to the reasonable child care expenses of the child." 750 ILCS 5/505 (a) (3.7).

The statute defines child care expenses as actual expenses reasonably necessary to permit a parent to be employed, to attend educational or vocational training programs to improve employment opportunities, or to search for employment opportunities. 750 ILCS 5/505 (a) (3.7) (A).

To calculate these child care expenses, the total cost of child care should be added to the basic child support obligation. Again, not recommended.

If allowed, the value of the federal income tax credit shall be subtracted from the actual cost to determine the net child care costs. The net child support costs should be allocated between the parties based upon their percentage share of combined net income.

C. Extracurricular and school expenses

The court, in its own discretion, in addition to the basic child support obligation, may order either or both parents owing a duty of support to the child to contribute to the reasonable school and extracurricular activity expenses incurred which are intended to enhance the educational, athletic, social, or cultural development of the child.