

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 10: Child Support Order Establishment</b>	<b>Effective Date: 11/20/2020</b>
	<b>Section 3: Indiana Child Support Rules and Guidelines</b>	<b>Version: 1.1 Revision Date: 02/28/2022</b>

**BACKGROUND**

Federal law mandates that States must establish one set of child support guidelines for setting and modifying child support order amounts within the State.<sup>1</sup> In Indiana, the Indiana Child Support Rules and Guidelines provide the direction for calculating child support obligations to provide consistency in judgments between courts and jurisdictions.<sup>2</sup>

The Indiana Child Support Guidelines (Guidelines) are to be applied in every instance in which child support is established including, but not limited to, dissolutions of marriage, legal separations, paternity actions, juvenile proceedings, petitions to establish support, and Title IV-D proceedings.<sup>3</sup>

The Guidelines are based on the Income Shares Model, developed by The Institute for Court Management of the National Center for State Courts under the Child Support Guidelines Project.

**POLICY**

1. Indiana Child Support Rules

a. Adoption of the Child Support Rules and Guidelines

The Indiana Supreme Court adopts Guidelines, as drafted by the Judicial Administration Committee and adopted by the Board of the Judicial Conference of Indiana, including all subsequent amendments presented by the Domestic Relations Committee of the Judicial Conference of Indiana.<sup>4</sup>

b. Presumption

In any proceeding for the award of child support, there shall be a rebuttable presumption that the amount of the award which would result from the application of the Guidelines is the correct amount of child support to be awarded.<sup>5</sup>

<sup>1</sup> 45 C.F.R. § 302.56(a)

<sup>2</sup> IC 31-9-2-18

<sup>3</sup> Ind. Child Support Guideline 2

<sup>4</sup> Ind. Child Support Guideline 1

<sup>5</sup> Ind. Child Support Guideline 2; 45 C.F.R. § 302.56(f)

c. Deviation from the Guideline Amount

If the Court concludes from the evidence in a particular case that the amount of the award reached through the application of the Guidelines would be unjust and a different amount ordered, the Court shall enter a written finding articulating the factual circumstances supporting that conclusion.<sup>6</sup>

2. Indiana Child Support Guidelines

a. Guideline Objectives

- i. To establish as State policy an appropriate standard of support for children, subject to the ability of parents to financially contribute to that support;
- ii. To make awards more equitable by ensuring more consistent treatment of people in similar circumstances; and
- iii. To improve the efficiency of the court process by promoting settlements and giving the Courts and the parties guidelines in settling the level of awards.<sup>7</sup>

b. Income Shares Model

The Income Shares Model is predicated on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together.<sup>8</sup> The calculated amount establishes the level of child support for both the custodial party (CP) and non-custodial parent (NCP).<sup>9</sup> The Court is to consider the financial resources of both parents and standard of living the child would have enjoyed in an intact family.<sup>10</sup>

c. Guidelines Schedule

The Guidelines utilize a schedule for weekly support payments to determine the total amount of expected contribution based on the parties' combined weekly adjusted income.<sup>11</sup> The schedule also takes into account the number of children for establishing an "in gross" order. Each party's relative contribution will be further adjusted based on the payment of child care expenses, the number of overnights each parent exercises, medical support expenses, and existence of other children.

d. Basic Subsistence Needs

The Guidelines schedule reflects a low income adjustment at extremely low income levels for which a \$0.00 child support amount is calculated.<sup>12</sup> The obligor's income and living expenses should be considered to determine the maximum amount of child

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<sup>6</sup> Ind. Child Support Guideline 3; Ind. Child Support Guideline 3(f)(2); 45 C.F.R. § 302.56(g)

<sup>7</sup> Ind. Child Support Guideline 1

<sup>8</sup> IC-31-16-6-1(a); 45 C.F.R. § 302.56(c)(4)

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Ind. Child Support Guideline 2

<sup>12</sup> 45 C.F.R. § 302.56(c)(1)(ii)

support that can reasonably be ordered without denying the obligor the means for self-support at a minimum subsistence level. A numeric amount of child support shall be ordered; however, there are situations where a \$0.00 support order is appropriate.<sup>13</sup>

e. Income Determination

i. Weekly Gross Income

Weekly gross income is set as actual weekly gross income of the parent if employed to full capacity, potential income if unemployed or underemployed, and the value of “in-kind” benefits received by the parent.<sup>14</sup> Weekly gross income of each parent includes income from any source, and includes, but is not limited to income from:

- 1) Salaries;
- 2) Wages;
- 3) Commissions;
- 4) Bonuses;
- 5) Overtime;
- 6) Partnership distributions;
- 7) Dividends;
- 8) Severance pay;
- 9) Pensions;
- 10) Interest;
- 11) Trust income;
- 12) Annuities;
- 13) Structured settlements;
- 14) Capital gains;
- 15) Social Security benefits;
- 16) Worker’s compensation benefits;
- 17) Unemployment insurance benefits;
- 18) Disability insurance benefits;
- 19) Gifts;
- 20) Inheritance;
- 21) Prizes; and
- 22) Alimony or maintenance received.<sup>15</sup>

Exclusions from income include means-tested public assistance programs including, but not limited to:

- 1) Temporary Assistance for Needy Families (TANF);
- 2) Supplemental Security Income (SSI);
- 3) Supplemental Nutrition Assistance Program (SNAP); and
- 4) Survivor benefits received by or for the children residing in either parent’s home.<sup>16</sup>

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<sup>13</sup> Ind. Child Support Guideline 2

<sup>14</sup> Ind. Child Support Guideline 3(A)(1); 45 C.F.R. § 302.56(c)(1)(i); 45 C.F.R. § 303.4(b)(1)

<sup>15</sup> Ind. Child Support Guideline 3(A)(1)

<sup>16</sup> *Id.*

ii. Self-Employment

Weekly gross income from self-employment, operation of a business, rent, and royalties is defined as gross receipts minus ordinary and necessary expenses.<sup>17</sup> Expense reimbursements or in-kind payments received by the parent in the course of employment, self-employment, or operation of a business should be counted as income if they are significant and reduce personal living expenses.<sup>18</sup>

iii. Potential Income

If a Court finds a parent is voluntarily unemployed or underemployed without just cause, child support shall be calculated based on a determination of potential income.<sup>19</sup> A determination of potential income shall be made by determining:

- 1) Employment potential and probable earnings level based on the obligor's employment and earnings history;
- 2) Occupational qualifications;
- 3) Educational attainment;
- 4) Literacy;
- 5) Age;
- 6) Health;
- 7) Criminal record or other employment barriers;
- 8) Prevailing job opportunities; and
- 9) Earning levels in the community.<sup>20</sup>

If there is no employment and earnings history and no higher education or vocational training, the facts of the case may indicate that weekly gross income be set at least at the federal minimum wage level, provided the resulting child support amount is set in such a manner that the obligor is not denied a means of self-support at a subsistence level.<sup>21</sup>

iv. In-Kind Benefits

The inclusion of the value of in-kind benefits towards a parent's weekly gross income is fact sensitive.<sup>22</sup> It may be inappropriate to include as gross income occasional gifts received.<sup>23</sup> However, regular and continuing payments made by a third party to reduce the parent's living expenses such as housing, utilities, or groceries may be included as part of the parent's weekly gross income.<sup>24</sup>

Also the marriage of a parent to a spouse which does not necessitate that parent to maintain employment may give rise to a situation where either potential income

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<sup>17</sup> Ind. Child Support Guideline 3(A)(2)

<sup>18</sup> *Id.*

<sup>19</sup> Ind. Child Support Guideline 3(A)(3)

<sup>20</sup> Ind. Child Support Guideline 3(A)(3); 45 C.F.R. § 302.56(c)(1)(iii); 45 C.F.R. § 303.4(b)(2)

<sup>21</sup> Ind. Child Support Guideline 3(A)(3); 45 C.F.R. § 303.4(b)(3)

<sup>22</sup> Ind. Child Support Guideline 3A Commentary

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

or the value of in-kind benefits, or both, should be considered when determining the parent's weekly gross income.<sup>25</sup> If there were specific living expenses being paid by a parent which are now being regularly and continually paid by that parent's current spouse or a third party, the value of those assumed expenses may be considered to be in-kind benefits and included as part of the parent's weekly gross income.<sup>26</sup>

f. Child Support Obligation Worksheet

In all cases, a copy of the worksheet prepared pursuant to the Guidelines shall be completed and filed with the Court when the Court is asked to order support.<sup>27</sup> Worksheets shall be signed by both parties, not their counsel, under penalties for perjury.<sup>28</sup>

g. Reductions for Weekly Adjusted Income

After weekly gross income is determined, certain reductions are allowed in computing weekly adjusted incomes:

- i. Adjustment for subsequent-born or legally adopted child(ren);
- ii. Court orders for prior-born child(ren);
- iii. Legal duty of support for prior-born child(ren) when no court order exists; and
- iv. Alimony or maintenance.<sup>29</sup>

h. Adjustments to Parent's Child Support Obligation

i. Post-Secondary Education

If the parents have a minor child who is living away from the home while attending school, his or her child support obligation will reflect the adjustment calculated from the Post-Secondary Education Worksheet.<sup>30</sup>

ii. Weekly Cost of Work-Related Child Care Expenses

A parent who pays a weekly child care expense receives a credit towards his or her child support obligation.<sup>31</sup> These child care expenses must be incurred due to employment or job search of both parent(s).<sup>32</sup>

iii. Weekly Cost of Health Insurance Premiums for Child(ren)

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Ind. Child Support Guideline 3(B)(1); 45 C.F.R. §303.4(b)(4)

<sup>28</sup> *Id.*

<sup>29</sup> Ind. Child Support Guideline 3(C)

<sup>30</sup> Ind. Child Support Guideline 3(G)(1)

<sup>31</sup> Ind. Child Support Guideline 3(G)(2)

<sup>32</sup> Ind. Child Support Guideline 3(E)(1)

The parent who pays the weekly out of pocket health insurance premium costs for the child(ren)'s health insurance receives a credit towards his or her child support obligation.<sup>33</sup>

iv. Parenting Time Credit

The Court grants a credit toward the total amount of calculated child support for the "transferred" expenses incurred by the NCP.<sup>34</sup> The proper allocation of these expenses between the parents is based on the calculation from a Parenting Time Credit Worksheet.<sup>35</sup>

i. Effects of Social Security Benefits

1) Current Child Support Obligation

Social Security derivative benefits received for the benefit of a child based upon the disability of the CP are not a credit towards the child support obligation of the NCP.<sup>36</sup> However, Social Security benefits received by a CP, as a representative payee of the child, and based upon the earnings or disability of the NCP, shall be considered a credit towards the NCP's child support obligation.<sup>37</sup> Social Security Retirement benefits may, at the Court's discretion, be credited towards the NCP's current child support obligation.<sup>38</sup> The credit is not automatic as Social Security Retirement benefits are only one factor the Court considers when determining or modifying child support obligations.<sup>39</sup> Social Security derivative benefits shall be included in the weekly gross income of the NCP, and are also automatically applied as a credit to the NCP's current child support obligation.<sup>40</sup>

Any portion of the benefit that exceeds the child support obligation shall be considered a gratuity for the benefit of the child(ren), unless there is an arrearage.<sup>41</sup> The amount of Social Security derivative benefits received for the benefit of a child based upon NCP's disability which exceeds the child support obligation may be treated as an ongoing credit towards an existing arrearage.<sup>42</sup>

2) Arrearages

If a CP, as a representative payee of a child, receives a lump sum payment of retroactive Social Security Disability Insurance (SSDI) benefits based upon the NCP's disability, the lump sum payment amount shall be applied as a credit against

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<sup>33</sup> Ind. Child Support Guideline 3(G)(3)

<sup>34</sup> Ind. Child Support Guideline 3(G)(4)

<sup>35</sup> *Id.*

<sup>36</sup> Ind. Child Support Guideline 3(G)(5)(a)(1)

<sup>37</sup> Ind. Child Support Guideline 3(G)(5)(a)(2)

<sup>38</sup> Ind. Child Support Guideline 3(G)(5)(a)(2)(i)

<sup>39</sup> *Id.*

<sup>40</sup> Ind. Child Support Guideline 3(G)(5)(a)(2)(ii)

<sup>41</sup> Ind. Child Support Guideline 3G Commentary

<sup>42</sup> Ind. Child Support Guideline 3(G)(5)(b)(2)

the NCP's existing child support arrearage.<sup>43</sup> Any excess amount of the lump sum payment beyond the NCP's existing child support arrearage shall be treated as a gratuity to the children, and no credit towards the future child support obligation should be granted.<sup>44</sup> Also no credit shall be given for a lump sum disability payment paid directly to a child who is over the age of 18.<sup>45</sup>

j. Health Insurance

The Court shall order one (1) or both parents to provide health insurance when accessible to the child(ren) at a reasonable cost.<sup>46</sup> The health insurance may be public or private. Examples of public health insurance are Medicaid, Children's Health Insurance Program (CHIP), and Hoosier Healthwise. Examples of private health insurance include employer-provided insurance or purchased through the Marketplace created by the Affordable Care Act (ACA).<sup>47</sup>

When health insurance is not accessible to the child(ren) at a reasonable cost, parties are to pay cash medical support.<sup>48</sup> Cash medical support is an amount ordered for medical costs not covered by insurance.<sup>49</sup> The uninsured medical expense apportionment calculation on the Child Support Obligation Worksheet, otherwise known as the 6% rule, satisfies the federal requirement for a cash medical support order, when incorporated into the court order.<sup>50</sup> The uninsured health care expenses, in the absence of any insurance coverage, are paid first by the CP up to 6% of the annual basic child support obligation.<sup>51</sup> Uninsured health care expenses in excess of 6% of the annual basic child support obligation are proportioned between the parties according to each parent's percentage share of his or her income.<sup>52</sup>

k. Computation of Parent's Child Support Obligation

The Total Child Support Obligation is divided between the parents in proportion to their weekly adjusted income, and a monetary obligation is computed for each parent.<sup>53</sup> The NCP is ordered to pay his or her proportionate share of support as calculated, while the CP is presumed to be meeting their obligations by direct expenditures on behalf of a child.<sup>54</sup>

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<sup>43</sup> Ind. Child Support Guideline 3(G)(5)(b)(1)

<sup>44</sup> Ind. Child Support Guideline 3(G)(5)(b)(1)(i)

<sup>45</sup> Ind. Child Support Guideline 3(G)(5)(b)(1)(ii)

<sup>46</sup> Ind. Child Support Guideline 7; 45 C.F.R. § 302.56(c)(2); Chapter 15: Medical Support, Section 2: Establishing Medical Support Orders

<sup>47</sup> Ind. Child Support Guideline 7

<sup>48</sup> Ind. Child Support Guideline 7; 45 C.F.R. § 302.56(c)(2)

<sup>49</sup> Ind. Child Support Guideline 7

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Ind. Child Support Guideline 3(F)

<sup>54</sup> Ind. Child Support Guideline 3(F)(1)

If the Court determines that the Guideline amount is unjust, inappropriate, or denies the obligor a means of self-support at a subsistence level, a written finding shall be made setting forth the factual basis for deviation from the Guideline amount.<sup>55</sup>

I. Incarceration

A Court may not consider the incarceration of a parent as voluntary unemployment and only his or her actual income shall be considered for the establishment or modification of a child support obligation.<sup>56</sup>

## REFERENCES

- [IC 31-9-2-18](#): “Child support guidelines”
- [IC 31-16-6-1](#): Child support orders; relevant factors; income withholding; account at financial institution
- [IC 31-16-8-1](#): Modification or revocation of child support order or maintenance order
- [Ind. Child Support Rules and Guidelines](#)
- [45 C.F.R. § 302.56](#): Guidelines for setting child support orders
- [45 C.F.R. § 303.4](#): Establishment of support obligations

## PROCEDURE

N/A

## FORMS AND TOOLS

1. [Child Support Obligation Worksheet \(CSOW\)](#)
2. [Guideline Schedules for Weekly Support Payments](#)
3. [Parenting Time Credit Worksheet](#)
4. [Post-Secondary Education Worksheet \(PSEW\)](#)

## FREQUENTLY ASKED QUESTIONS

1. Q. How often are the Indiana Child Support Rules and Guidelines reviewed?  
A. The Domestic Relations Committee of the Indiana Judicial Conference revises the Indiana Child Support Rules and Guidelines every four (4) years.<sup>57</sup>

The Indiana Supreme Court’s Domestic Relations Committee (DRC) maintains a website with information on meetings including meeting minutes and agendas, the membership of the DRC, and details regarding the quadrennial child support guidelines review process. During the quadrennial review, the DRC publishes a press release about 18 months before the revised Guidelines are published.

<sup>55</sup> Ind. Child Support Guideline 3(F)(2)

<sup>56</sup> IC 31-16-8-1(d); Ind. Child Support Guideline 3; 45 C.F.R. § 302.56(c)(3)

<sup>57</sup> 45 C.F.R. § 302.56(e)

Proposed revisions to the Guidelines are posted on the website of the Indiana Judicial Branch. The DRC solicits written comments from the public about the proposed changes to the Guidelines during an open comment period. In addition, the Indiana Supreme Court holds a public hearing during which the public may share comments and/or concerns about proposed Guideline changes. The public hearing is broadcast live and a video recording of the public hearing is posted on the Indiana Judicial Branch’s website. The Guidelines are approved by order of the Indiana Supreme Court and the effective date of the revised Guidelines is provided on the online version of the Guidelines.

<b>RELATED INFORMATION</b>
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1. Chapter 12: Enforcement, Section 2.2: Social Security Benefits Withholding
2. Chapter 15: Medical Support

<b>REVISION HISTORY</b>
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<b>Version</b>	<b>Date</b>	<b>Description of Revision</b>
Version 1	09/04/2020	Final approved version
Version 1.1	11/20/2020	Moved to Chapter 10: Child Support Order Establishment and renumbered; Reviewed for accuracy
Version 1.1	02/28/2022	Added citation in Reference section; added citations in footnotes to comply with state plan page 2.1