

A Guide to the Child Support Guidelines Proposed Amendments
March 2009

Guideline 1 – Preface

- p. 3 Custodial parent can be required to pay support to noncustodial parent. See **Grant v. Hagar**, 868 N.E.2d 801 (Ind. 2007).

Commentary

- p. 5 Information added about economic data used in the child support guidelines.

Guideline 2 – Use of the Guidelines

- p. 7 This first sentence indicates the guideline schedules provide all child support amounts under the guidelines.

The \$25.00 - \$50.00 minimum child support order language was removed and the guideline indicates the need for careful scrutiny when amounts are ordered at extremely low income levels. A consideration of a \$12.00 minimum support order is included. In addition, the guideline indicates a child support order should always be entered, even if it is \$0.00. Guideline 2

- p. 7 This language indicating the calculated amounts of child support was removed, since child support guideline schedule provides for child support at all income levels. Guideline 2

- p. 7 Minor wording changes about the use of the child support guidelines in other types of cases. Guideline 2

Commentary

- p. 7 Minimum support. Minimal income child support orders discussed – commentary language expanded for a parent with a high parenting time credit, mental illness, disabled child, an incarcerated parent, or natural disaster. A court should not automatically use minimum wage. Guideline 2, Commentary

- p.7 If paternity was established and the parents live together with the child, a \$0.00 may be entered as a deviation. Guideline 2, Commentary

- pgs. 7-8 This new paragraph explains the economic basis of the minimum child support order at \$12.00 per week for one child at the combined weekly income of \$100.00. Guideline 2, Commentary

p. 8 Income in Excess of the Guideline Schedule. There is no longer any amount of child support in excess of the guideline schedule, therefore this language has been removed. The child support guideline schedule provides for child support at all income levels. It also provides support levels for up to 8 children. Guideline 2, Commentary

pgs. 8-9 Certain statutory citations were removed. Guideline 2, Commentary

Guideline 3 – Determination of Child Support Amount

p. 9 Definition of Weekly Gross Income. Added a specific reference to Social Security disability benefits paid for the benefit of the child to the definition of Weekly Gross Income. This would be included in the disabled parent's income along with a credit. Guideline 3, A. 1.

p. 9 Clarified social security survivor benefit income of the child should not be attributed to a parent.

p. 9 Unemployed, Underemployed and Potential Income. Added language indicating a court must find a parent voluntarily unemployed or underemployed; guidance added for when use of minimum wage. Guideline 3, A. 3.

p. 9 Natural and Adopted Children Living in the Household. Revises language to permit an adjustment to income by the parent, if the parent is actually meeting or paying the support obligation for natural or legally adopted children subsequent to the existing support order, even if those children are not in the household. Guideline 3, A. 4.

Commentary

p. 10 Determination of Weekly Gross Income. Survivor benefits paid to or for the benefit of their children are not included in gross income. In addition, the court should carefully consider the when a custodial parent is receiving social security survivor benefits because of the death of the prior born child's parent. Guideline 3; Commentary 2.

pgs. 11-12 Potential Income. New language added concerning attribution of potential income which builds an excessive arrearage; more examples added to illustrate attribution of potential income. Additional language indicates discretion must be exercised on a case by case basis when attributing potential income. New examples added for significant health issue and incarcerated parent. **Lambert v. Lambert**, 861 N.E.2d 1176 (Ind. 2007) and similar issues addressed. Guideline 3; Commentary 2. c. (2) (5), & (6)

p. 13 Adjustment of Weekly Gross Income for Subsequent Children. Steps 1 and 2 have been modified to remove the requirement the child be living in the household and require the parent has a legal duty of child support and is actually paying the child support. Guideline 3; Commentary 3.

Guideline 3 C., 1-3 Computation of Weekly Adjusted Income (Line 1E of Worksheet).

pgs. 14-15 The Basic Child Support Worksheet was modified to place the subsequent children multipliers on their own line. The Guidelines and Commentary were revised accordingly.

Commentary

pgs. 16-17 Use of Guideline Schedules. The language explaining the formula was removed from the commentary since all combined weekly adjusted income levels are covered in the guideline schedules. Guideline 3 D.; Commentary 2.

Guideline 3. E., 2-4 Additions to the Basic Child Support Obligation.

p. 18 Cost of Health Insurance Coverage For Children and Extraordinary Health Care Expense was moved to new Guideline 7; Extraordinary Educational Expense was moved to new Guideline 8.

Commentary

pgs. 18-19 Cost of Health Insurance For Child(ren) (Worksheet Line 4B). The commentary for Cost of Health Insurance premium for children which was moved to the new Guideline 7 was unchanged. Guideline 3. E.; 2.

Guideline 3 F., 1. Computation of Parent’s Child Support Obligation (Worksheet Line 6).

p. 19 This change recognizes that application of the parenting time credit may result in child support being paid from a custodial to a noncustodial parent when there is a disparity in incomes. See **Grant v. Hagar**, 868 N.E.2d 801 (Ind. 2007).

Guideline 3 G., 4. Adjustments to Parent’s Child Support Obligation (Worksheet Line 7).

p. 20 Grant of credit for amount calculated under the parenting time credit for the noncustodial parent.

Guideline 3 G., 5. Effect of Social Security Benefits Received By Child.

pgs. 21-22 This new section was added to give guidance to both custodial and noncustodial parents on the distribution of disability and retirement social security benefits to a child. Language on treatment of the benefits for Title IV-D purposes is also included. In addition, this section addresses the distribution of a credit for the lump payment of retroactive social security disability benefits. **Brown v. Brown**, 849 N.E.2d 610 (Ind. 2006) addressed. Guideline 3. G. 5.

Commentary

- p. 22 A court should order certain social security disability benefits be credited for ISETS purposes.

Guideline 3 H., Treatment of Health Care Obligation.

- p. 22 Guideline 3. H. is now found in Guideline 7 along with its commentary.

Guideline 4 – Modification

Commentary

- p. 24 Retroactive modification. New language was added to the guidelines about retroactive modification of support. Guideline 4, Commentary
- p. 24 Emancipation: Support Orders for Two or More Children. The existing Emancipation commentary from Guideline 6 was moved and incorporated into this portion of the guidelines. No changes were made when moving this language. Guideline 4, Commentary

New Guideline 6 – Parenting Time Credit

Commentary

- p. 25 The parenting time credit and its extensive commentary with worksheet has become the new Guideline 6. The commentary was reorganized to make it more user-friendly. Other portions of the former Guideline 6 were made into its own guideline or moved to other commentary. Language prohibiting modification based on parenting time credit on p. 26 was removed. Guideline 6, Commentary
- p. 26 Commentary explaining controlled expenses was added.
- p. 29 Commentary for “Other Child Rearing Expenses.” was moved. It was renamed “Other Extraordinary Expenses” and moved to the end of the new Guideline 8 – Extraordinary Expenses. Guideline 6, Commentary
- p. 30 Child Support When Parenting Time is Equally Shared. This paragraph was revised and new language was added to explain the apportionment of controlled expenses when parenting time is equally shared. It includes factors to be considered when assigning the controlled expenses to one parent or the other. Guideline 6, Commentary
- p. 30 Tax Exemptions. This language was moved in its entirety to the new Guideline 9 – Additional Commentary, and amended. Guideline 6, Commentary

- p. 30 Cost of Transportation for Parenting Time. This paragraph was expanded. It explains transportation costs are included in transferred expenses, and may be a reason for a deviation when these costs are significant. Guideline 6, Commentary

New Guideline 7 – Health Care / Medical Support

pgs. 31-34 The new Guideline 7 is based on federal law which requires health care insurance for the child when it is accessible at a reasonable cost. This new guideline incorporates almost all portions of health care expense discussion from Guideline 3.E. and 3.H. into one easy to use place for reference purposes. The treatment of the 6% uninsured health care expense component of basic child support obligation remains in this guideline.

Three new paragraphs based on a new federal medical child support requirements are included here. See Child Support Enforcement Program; Medical Support, 73 Fed. Reg. 140, 42416-42442 (July 21, 2008). These rules require child support guidelines address parental provision of health care needs through health insurance and/or cash medical support. Cash medical support is reasonable if it does not exceed 5% of the weekly gross income of the parent obligated to provide the child support. It must be calculated in every case. A new worksheet is provided for a determination under this new guideline.

The commentary to this guideline includes (1) information on the new requirement of health care insurance, (2) when courts may consider ordering either or both parents to provide health insurance for the child or children, (3) unchanged commentary about the 6% rule except for a new sentence about documentation and prorating these costs, and (4) new commentary on allocation of birth expenses. Guideline 7, and Commentary

New Guideline 8 – Extraordinary Expenses

pgs. 33-36 This contains the unchanged language from the former Guideline 6 about extraordinary educational expenses.

The last paragraph of this commentary, “Other Extraordinary Expenses,” contains a revised paragraph which was originally in Guideline 6. This paragraph contains factors to be used in assigning these extraordinary expenses in the absence of any agreement of the parties. Guideline 8, Commentary

New Guideline 9 – Additional Commentary

pgs. 36-37 The language on accountability of the custodial parent for child support and tax exemptions was placed in this new Guideline 9 from the previous Guideline 6. A sentence directing the court not to order an accounting in certain low support orders was removed. Guideline 9, Commentary

p. 37 The tax exemption language was revised to require the noncustodial parent show the tax consequences of any exemption release and how the release would benefit the child(ren). A new factor to use in determining the release of the tax exemptions was added. Guideline 9, Commentary

p. 37 New language was added about rounding child support order awards to an even dollar amount. Guideline 9, Commentary

Additional Documents:

Amended Child Support Obligation Worksheet

Parenting Time Credit Worksheet

Post-Secondary Education Worksheet

New Health Insurance Premium Worksheet

Amended Guideline Schedules for Weekly Support Payments