



# Report and Recommendations

Family Court Improvement Committee and Subcommittee for a Review of the  
Child Support Guidelines – March 2021

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## Report and Recommendations



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# Report and Recommendations

Family Court Improvement Committee and Subcommittee for a Review of the Child Support Guidelines – March 2021

## *EXECUTIVE SUMMARY*

### Creation and Charge of Subcommittee

On January 8, 2020, Chief Justice Robert Brutinel issued Administrative Order 2020-10 establishing the Child Support Guidelines Review Subcommittee (Subcommittee) of the Family Court Improvement Committee. The administrative order directed the Subcommittee to:

- Review and make recommendations regarding issues referred for further studies by the 2017 Committee for an Interim Review of the Child Support Guidelines (Interim Review);
- Make recommendations regarding other improvements to the Guidelines;
- Consider economic and labor market data; the impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that impact compliance with Child Support Orders;
- Analyze case data on the application of and deviations from the Child Support Guidelines, as well as the rates of default and imputed Child Support Orders and orders determined using the low-income adjustment; and



Chief Justice Robert Brutinel



Hon. Paul J. McMurdie,  
Family Court Improvement  
Committee Chair



Hon. David B. Gass,  
Child Support Guidelines  
Review Subcommittee Chair



- Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives.

Additionally, the administrative order directed the Subcommittee to file a final report and make recommendations to the Arizona Judicial Council (AJC) in December 2020. Due to COVID-19 and its impact on gathering the case file review data, a request to extend the deadline for this report was submitted to Chief Justice Brutinel.

Administrative Order 2020-181 issued on November 25, 2020, extended the Subcommittee and the report deadline until April 30, 2021. Additionally, this administrative order extended the term of service for the appointed members through July 31, 2021. The extended term allowed the Subcommittee to address any issues raised by the AJC and additional tasks including the development of forms and child support calculator updates.

## Background

The Subcommittee met numerous times via video conferencing before distributing the draft proposed Guidelines and a draft version of this report for comment.

Public input was sought using an online comment page that was established prior to the first Subcommittee meeting. A total of nine written comments were received and considered by the Subcommittee. Further, a virtual public hearing was held on January 15, 2021. Eight interested persons spoke to the Subcommittee at the hearing. (See Appendix B: Public Comments.)

Additionally, a representative of Community Legal Services (CLS), submitted written comments and questions which were responded to in the March 1, 2021, Subcommittee meeting. (See Appendix C: CLS Comments and Questions and Subcommittee Responses.)

Input was also gathered from six AJC standing committees. Five of the six unanimously recommended the Guidelines for adoption. The sixth committee, the Committee on the Impact of Domestic Violence and the Courts (CIDVC) voted approving the restyling and clarification of the Guidelines, noting that the changes would assist self-represented litigants in calculating child support.

Because the proposed amendments affect the Guidelines in their entirety, the Subcommittee offers only a clean version with a correlation table. The Subcommittee determined that a “redline” version would be more confusing than helpful.

## Summary of Committee Recommendations

A summary of the Subcommittee’s final recommendations is outlined below. The summary is organized by the proposed Arizona Child Support Guidelines’ Table of Contents. More detailed recommendations are set forth in the body of this report.

### *Proposed Amendments Made Throughout the Guidelines*

- Reorganize the Guidelines to flow along with the Child Support Worksheet
- Restyle the Guidelines for ease of use and understanding
- Update terminology to conform with Arizona Revised Statutes Title 25 use of legal decision-making and parenting time

### *Determining Income*

- Segregate and organize information about Child Support Income into user-friendly sections
- Replace “gross income” with “Child Support Income”

### *Determining the Parents’ Incomes for Purposes of Calculating Child Support*

- Clarify that income is from any source before any deductions or withholdings
- Add language regarding military pay and benefits
- Highlight the discussion about overtime by providing that information in its own subsection
- Add language regarding unemployment, underemployment, and full-time earnings

### *Adjustments to Child Support Income for Spousal Maintenance and Support of Children of Other Relationships*

- Provide the court discretion to consider the lack of tax deductibility of the spousal maintenance payment under applicable federal and state income tax regulations and provide an example
- Take no action to adjust Child Support Income for Health Savings Accounts and Flexible Spending Accounts (HSA/FSA), but provide the court the discretion to consider
- Adopt the Title IV-D process devised by the Office of the Attorney General in cases with a low-income payor and multiple child support obligations

### *Determining the Basic Child Support Obligation*

- Set as the presumptive Child Support Obligation, the amount set forth in the Schedule of Basic Support Obligation for Combined Adjusted Child Support Incomes of \$30,000 per month for parents with Combined Adjusted Child Support Incomes of more than \$30,000 per month

- Provide a process for requesting a deviation from the presumptive amount for Combined Adjusted Child Support Incomes of more than \$30,000 per month

#### *Determining the Combined Child Support Obligation*

- Eliminate the adjustment for child and dependent care tax credit from the Child Support Worksheet but provide the court discretion to consider evidence regarding this tax benefit

#### *Medical Insurance*

- Allow the use of a family health insurance policy available to a parent's new spouse or domestic partner for a child, crediting the prorated cost and assigning the responsibility for providing health insurance to that parent
- Add examples regarding the calculation of the cost of child-related medical insurance

#### *Childcare Expenses*

- Identify what expenses are included in childcare costs

#### *Extraordinary Child Expenses*

- Restyle extraordinary child costs for clarity

#### *Adjustments for Costs Associated with Parenting Time*

- Amend Parenting Time Table A to provide for essentially equal parenting time when both parents incur expenses and costs associated with parenting time
- Amend former Sections 11 and 12 (now Section V) commensurate with the proposed amendments in Parenting Time Table A
- Eliminate Parenting Time Table B and rename Parenting Time Table A without the "A" designation
- Define essentially equal parenting time as when both parents have 164 days of parenting time or more

#### *Deviations*

- Provide additional guidance regarding when deviation from the Guidelines should be considered

#### *Non-Covered Medical Expenses*

- Clarify that unreimbursed and uninsured expenses are included in medical expenses

### *Tax Benefits Associated with Minor Children*

- Eliminate the allocation of exemptions in light of the tax changes of the Tax Cuts and Jobs Act (TCJA) and define how the tax benefits associated with children are to be shared

### *Condition for Entitlement to Tax Benefit*

- Establish a process for a parent to claim the tax benefit if the Child Support Obligation for that tax year is not fully paid by January 15

### *State Involvement in Child Support Cases*

- Add a new section that discusses the Title IV-D Program and Child Support Assigned to the State

### *Schedule of Basic Support Obligation*

- Extend the Schedule of Basic Support Obligation to Combined Adjusted Child Support Incomes up to \$30,000 per month

## *ECONOMIC REVIEW*

To meet its obligation to conduct the federally mandated economic and case file reviews, the Administrative Office of the Courts contracted with the Center for Policy Research (CPR). Dr. Jane Venohr, CPR Economist, attended several meetings to discuss the review process, and provide data and expert insight that assisted the Subcommittee in defining the underlying factors needed for the Schedule of Basic Support Obligation (Schedule) calculations.

In all, there are seven factors. The Subcommittee elected to maintain the historic assumptions for the following five factors:

- Adjust to current price levels;
- Exclude childcare, child's health insurance premium, and extraordinary out-of-pocket medical expenses and include ordinary out-of-pocket medical expenses of \$250 per year per child in the child-related expenditures;
- Consider expenditures to net income ratio, which is the first step to converting measurements of child-related expenditures to a Child Support Income basis;



- Consider federal and state income taxes and FICA, which is the second step to converting measurements of child-related expenditures to a Child Support Income basis; and

This historic assumption takes the combined Adjusted Gross Income and uses the federal withholding formula applying to a single taxpayer. State income tax is applied to the federal taxable income based on a percentage of the employee's selected tax rate.

The passage of Proposition 208 creates a 3.5% increase in state taxes for persons with income over \$250,000 per year or couples with incomes over \$500,000 per year. Due to the newness of the tax, its uncertainty due to various challenges at the time, and the limited impact, the Subcommittee opted to acknowledge and document the impact of the tax, but not to adjust the Schedule.

- Whether and how to convert the measurements of child-related expenditures, based on national data, to account for differences between U.S. average price levels and Arizona's average price levels.

Historically, Arizona has not made an adjustment for cost of living. Arizona's price parity is only 3.5% less than the national average. The cost of living varies by region within the State, and calculation would be complex and cumbersome.

The assumptions for the two remaining factors were updated during this review. The reasoning is as follows:

- Economic study to use as the basis of the Schedule; and

The current Schedule is based upon the Betson Rothbarth 3 (BR3) economic study. The BR3 study, conducted in 2006, utilized data from the 1998–2004 Consumer Expenditure Survey (CES). Seeking updated economic data, Arizona included the development of Betson Rothbarth 5 (BR5) economic study in its contract with CPR. The BR5 economic study utilizes data from the 2014–2019 CES.

BR5 provides the most current measurements of child-related expenditures. Its economic methodology is consistent with the economic methodology underlying the current Schedule. The Betson Rothbarth measurements are a valid and robust method and have been used by several states (including Arizona) for over two decades.

The Subcommittee elected to use the BR5 economic study to update Arizona's Schedule of Basic Support Obligation.

- Extending the Schedule to higher incomes.



The current Schedule includes Combined Adjusted Child Support Incomes of up to \$20,000 per month. The BR5 measurements support the extension of the Schedule to Combined Adjusted Child Support Incomes up to \$34,000 per month. Alternate studies do not extend to that dollar amount and could not be used for comparison. However, comparisons among BR5 and alternate studies that include Combined Adjusted Child Support Incomes up to \$28,750 per month were provided and proved to be consistent with BR5.

The Subcommittee felt a round number would make more sense to the general public; the Subcommittee extended the Schedule to include Combined Adjusted Child Support Incomes of \$30,000 per month.

### *ISSUES DEFERRED TO THIS REVIEW FROM THE INTERIM REVIEW*

Three issues were discussed during the 2017 Interim Review that were determined to be outside the scope of that review, and thus referred for additional study and consideration.

#### Federal Tax Exemption for Dependent Children

Section 27 (now Section XI) of the Guidelines allocated federal and state tax dependency exemptions between parents, as they agreed, or in a manner that allowed each parent to claim allowable federal dependency exemptions in proportion to the Combined Child Support Incomes of both parents. In 2017, the mandatory provision of the Affordable Care Act (ACA) penalized the parent who claimed that exemption, but who was not the parent ordered to provide the child's health insurance.

The federal government has since temporarily repealed this mandatory aspect of the ACA making this issue moot.

**Recommendation:** If the mandatory aspect of the ACA is resurrected, a future review should address the issue.

## Determination of the Child Support Income of The Parents

Section 5 (now Section II) was referenced in a Court of Appeals opinion<sup>1</sup> that posed the question “may a court attribute income beyond that of regular full-time employment without a showing that the income was historically earned from a regular schedule and is anticipated to continue into the future?”<sup>2</sup>

In its recommended amendments to Section II.A.1.d, the Subcommittee, grants the court discretion to consider whether non-continuing or non-recurring income is deemed income for child support purposes. Further, Section II.A.3 states:

### “3. When is overtime included in Child Support Income?

- a. The court generally does not include more income than earned through full-time employment.
  - i. Each parent should have the choice of working additional hours through overtime or at a second job without increasing the child support obligation.
  - ii. A parent who historically worked overtime when the family was intact may choose to reduce or not to work overtime hours to ensure the parent has meaningful interaction with the child during that parent’s parenting time.
- b. The court may consider income actually earned if it is greater than would have been earned by full-time employment if that income was historically earned and is anticipated to continue into the future. The court generally does not attribute additional income to a parent if it would require an extraordinary work regimen. Determination of what constitutes an extraordinary work regimen depends upon all relevant circumstances, including the choice of jobs available within a particular occupation, working hours, and working conditions. It also may depend upon the parent’s relevant medical or personal circumstances.”

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<sup>1</sup> *Lundy v. Lundy*, 242 Ariz. 198, 200, ¶ 8 n. 1 (App. 2017).

<sup>2</sup> In *Lundy*, the Arizona Court of Appeals, Division 1, noted an apparent conflict in Section 5(A) of the guidelines and went on to say, “We read the second sentence to prohibit inclusion of income from traditional overtime or second jobs, and we read the third sentence to permit realistic calculation of income in cases involving a parent whose income does not arise from such discrete sources.” *See Lundy*, 242 Ariz. at 200, ¶ 8 n. 1.

## Insufficient Funds for Multiple Orders

As in the previous review, the issue of allocating insufficient funds for multiple orders was a topic of great concern. The members discussed cases involving a parent paying child support (payor) who: has multiple court orders for child support; and is the parent of children who live in the household as well as the child for whom a Child Support Order is being sought or modified. A payor's inability to support all the payor's children usually results in unpaid support for most, if not all, of the orders.

### **Recommendations:**

- Eliminate the distinction between children who are the subject of the child support case and those who are not;
- Allow greater discretion to adjust for another Child Support Order;
- Adopt the Title IV-D process devised by the Office of the Attorney General in cases with a low-income payor, which allows the court to prorate the limited funds available to provide support among the payor's children. This process prevents the foreclosure of support for any child due to the application of the Self-Support Reserve test, and
- Clarify the adjustment for other children in the household under an equal-custody arrangement.

## *RECOMMENDATIONS BASED ON CHANGES TO STATE AND FEDERAL LAW*

### 45 C.F.R. § 302.56(c)

Recently the minimum requirement in 45 C.F.R. § 302.56(c) to base the Child Support Order on the noncustodial parent's earnings and income was amended to include "other evidence of ability to pay."

Arizona's Guidelines require the court to make findings on the record as to Child Support Income and order the parties to exchange financial information such as tax returns, financial affidavits, and earnings statements every twenty-four months.

**Recommendation:** Because Arizona's Guidelines conform with the amended requirement, take no action regarding evidence of ability to pay.

## Tax Cuts and Jobs Act (TCJA)

The TCJA made two changes to the federal tax code that impact the guidelines.

First, amounts paid toward spousal maintenance orders effective after December 31, 2018, are no longer deductible—and are excluded from the recipient’s taxable income. As a result, the parent paying spousal maintenance has less spendable (after-tax) income available for child support and the parent receiving spousal maintenance has more spendable income available for child support. This result may warrant an adjustment to income.

**Recommendation:** Upon a parent’s request for a hearing, allow a parent to present evidence regarding the lack of tax deductibility of spousal maintenance for court consideration regarding an adjustment to the parent’s Child Support Income.

Second, parents historically have been entitled to claim children as personal exemptions on income tax returns, but the deduction for personal exemptions was suspended for tax years 2018 through 2025 by the TCJA. For these years, taxpayers cannot claim a deduction for exemptions, but they may be eligible to claim the Child Tax Credit and the Additional Child Tax Credit.

- Recommendations:**
- Use more inclusive “tax benefit” terminology to address not only the policy change from exemption to credit, but any post-2025 policy reversion;
  - Clearly articulate allocation of the tax benefits and the conditions of entitlement; and
  - Adopt a process for claiming the tax benefit when the conditions of entitlement have not been met.

## *RECOMMENDATIONS BASED ON CHANGES TO CASE LAW*

After reviewing published opinions and memorandum decisions filed between November 2016 and May 2020, the Subcommittee found that other than the clarifications described above regarding *Lundy*, no additional proposed amendments were needed to address case law.

## *OTHER RECOMMENDATIONS*

### Restyling

The Interim Review recommended a restyled and reorganized version of the Guidelines that flowed with the Child Support Worksheet. That work has been revitalized in this review with the goal of making the Guidelines more easily understood by all.

Some of the more prominent features of the reorganization and restyling include:

- Adding an Executive Summary;
- Reorganizing and renumbering the Guidelines to flow with the Child Support Worksheet;

- Including Arizona Revised Statutes Title 25 terminology regarding “legal decision-making” and “parenting time,” except when referencing third-party caregivers; and
- Using simplified terminology such as “Child Support Income” instead of “gross income.”

**Recommendation:** Adopt the restyled and reorganized Guidelines.

## Adoption Subsidies or a Child’s Supplemental Security Income (SSI) Benefits

The Office of the Attorney General frequently receives questions from parties about whether adoption subsidies or a child’s SSI benefits should be counted as income to the parent who receives it as a representative payee. The Subcommittee developed the following language to provide the information in the Guidelines Section II.A.2.a.iii:

“Sums a parent earns or receives by or for the benefit of a minor child, including adoption subsidies, Supplemental Security Income (SSI), and subsidies arising from the disability of a child are not Child Support Income but may impact a parent’s child support obligation as explained in Section X.B.”

Guidelines Section X.B.3 states:

“Other than court-ordered child support payments, if a parent earns income or receives money by or for the benefit of a minor child, including adoption subsidies, Supplemental Security Income (SSI), and subsidies arising from the disability of a child, that amount is not credited to reduce either parent’s child support obligation.”

**Recommendation:** Clarify that income earned or money received by or for the benefit of a child will not be credited to reduce the child support obligation.

## Child and Dependent Care Adjustment

While considering the need to adjust Child Support Incomes for Health Savings and Flexible Spending Accounts (HSA and FSA), the Subcommittee also considered the current adjustment to the Basic Child Support Obligation for the child and dependent care tax credit. The Subcommittee found that the child and dependent care tax credit:

- Does not apply in low-income situations;

- Is incorrectly applied if FSA or pre-tax dollars are used to pay for childcare;
- Can fall into a gray area for the parent who is not the primary residential parent; and
- Can change based on income year-to-year for parents with essentially equal parenting time.

Additionally, the Subcommittee agreed that the complexity of the calculation was not justifiable for the *de minimis* adjustment amount.

The removal of this calculation from the Child Support Worksheet, does not prohibit a parent paying for childcare who may be eligible for this tax benefit from seeking this adjustment.

**Recommendation:** Remove the adjustment for child and dependent care tax credit from the Child Support Worksheet but provide the court discretion to consider evidence regarding this tax benefit (Section XI.B.1.c).

## Parenting Time Adjustment Tables A and B

Historically, the Guidelines have contained two parenting time adjustment tables (Table A and Table B) and two means of calculating the parenting time adjustment.

Table A provides a stepped approach to address the transient child expenses and costs associated with parenting time. Arizona’s approach was originally designed around the most commonly ordered parenting time plans of that time (e.g., every other weekend and a Wednesday overnight) and has seen little, if any, change since 2001.

The 2018 Guidelines define essentially equal parenting time as 143 days or more and provide adjustments ranging from 30.7% to 48%. In the case file review, the CPR consultant found that 25% of the Child Support Worksheets indicated essentially equal parenting time. The comparable percentages in 2013 and 2007 were 21% and 15%, respectively, indicating a change in societal parenting norms.

Table B uses a stepped approach to address the situation in which the parents have essentially equal parenting time and one parent pays all expenses and costs associated with the child. Those costs do not transfer with the child to the other parent’s home. Table B, anecdotally, is rarely used. The case file review provided evidence that only two of the 712 cases reviewed indicated the use of Table B.

**Recommendation:** Amend Table A to:

- Increase the number of parenting time days required to receive a parenting time adjustment from 3 days to 20 days;
- Round the percentages to the nearest one-half percent;
- Define essentially equal parenting time as when both parents have 164 days or more, then extend the Parenting Time Table to include a 50% adjustment for that range of parenting time days; and

- Eliminate Table B and address these rare cases by deviation in Section IX.

Current:

Parenting Time Table A

Number of Parenting Time Days		Percentage
0	3	0.0%
4	20	1.2%
21	38	3.1%
39	57	5.0%
58	72	8.5%
73	87	10.5%
88	115	16.1%
116	129	19.5%
130	142	25.3%
143	152	30.7%
153	162	36.2%
163	172	42.2%
173	182	48.6%

Proposed:

Parenting Time Table

Number of Parenting Time Days		Percentage
0	19	0.0%
20	34	2.5%
35	49	5.0%
50	69	7.5%
70	84	10.0%
85	99	15.0%
100	114	17.5%
115	129	20.0%
130	142	25.0%
143	152	32.5%
153	163	40.0%
164	or more	50.0%

## Health Insurance

One of the ACA's three primary goals was to make affordable health insurance available to more people.

Though a new spouse's income cannot be used when determining a child support obligation, the Subcommittee views health care coverage as community property in this situation. As a result, an adjustment under Section III.B.3.d for the cost to the stepparent is appropriate and expands on the ACA goal to include more affordable options for insuring children.

**Recommendation:** Allow a parent to fulfill the Guidelines' requirement regarding health insurance through family coverage provided by a parent's new spouse or domestic partner for a child.

## Schedule of Basic Support Obligation

### *Combined Adjusted Child Support Incomes Extension*

The case file review conducted in 2013 revealed that 1% of the orders were based upon a combined adjusted gross income of greater than \$20,000 per month. The current review indicates the percentage of



orders based upon that income has risen to 3%. Additionally, among those orders, 2% were based upon a Combined Adjusted Child Support Income between \$20,000 and \$30,000 per month.

Extending the Schedule to higher incomes would:

- Improve the predicted amounts among high-income parents considering the establishment or modification of a Child Support Order;
- Produce more consistent support awards at higher incomes; and
- Lead to fewer deviations.

**Recommendation:** Extend the Schedule of Basic Support Obligation to Combined Adjusted Child Support Incomes up to \$30,000 per month.

### *Schedule Extension and the Presumptive Amount*

When the Combined Adjusted Child Support Income is greater than \$20,000 per month, the current Guidelines set that amount as the presumptive Basic Child Support Obligation.

**Recommendation:** Set the Basic Child Support Obligation for Combined Adjusted Child Support Incomes for \$30,000 per month as the presumptive amount for Combined Adjusted Child Support Incomes of more than \$30,000 per month.

### *Schedule Extension and Deviation from the Presumptive Amount*

The current Guidelines impose a burden of proof on the parent who seeks an award greater than the presumptive for Combined Adjusted Child Support Income in excess of \$20,000 per month. The CPR consultant pointed out that Arizona’s Guidelines are unique in this regard. The Subcommittee recognized that discussing burden of proof in the Guidelines was inappropriate and devised language that discusses a court’s determination regarding the “evidence” and further clarifies the presumptive level.

**Recommendation:** Amend Section III.A.1.c to read as follows:

“c. If the Combined Adjusted Child Support Income of the parties is greater than \$30,000 per month:

- i. If no party requests consideration of a higher amount, the amount for Combined Adjusted Child Support Income of \$30,000 is the Basic Child Support Obligation; or
- ii. Upon a party’s request, the court determines whether the evidence shows that an amount higher than the Basic Child Support Obligation for the Combined Adjusted Child Support Income of \$30,000 per month is in the child’s best interests. The court takes into account the child’s needs in excess of the presumptive amount, any significant disparity in the respective percentages of Child Support Income for each party, and any other factors which, on a case-by-case basis, demonstrate that the increased amount is appropriate.”

## Other Topics Discussed

### *HSAs and FSAs*

Having considered the insight of tax specialists and research conducted by the CPR consultant, the Subcommittee recommends that no action be taken to add HSAs and FSAs into the calculation of child support for every case.

The guidance indicated that if a parent made the maximum contribution to either type of account, the tax impact would likely be relatively small. A parent earning an annual income between \$25,000 and \$100,000, who contributed \$2,500 over the year to either an HSA or an FSA, could see a tax savings between \$21 and \$36 monthly. Moreover, the calculation to determine the tax savings amount is complex, requiring information from an IRS Form 8889 (HSA) or the 1040 Tax Return (FSA).

If the contribution, tax savings, and ability to pay medical expenses using pre-tax dollars is at issue in a case, a court may, in its discretion, consider a deviation.

### *FORMATION OF A STANDING SUBCOMMITTEE*

Several topics were discussed by this Subcommittee without resolution due to the need for more extensive research and consideration than can be accomplished within the timelines of a quadrennial review, generally two years. Other issues such as changes to tax law and federal regulations may require consideration between reviews. Additionally, time and guidance are needed after the Guidelines are adopted to update forms, instructions, and automated child support calculators; and provide judicial, and legal professional training.

**Recommendation:** To establish a standing subcommittee within the Family Court Improvement Committee to:

- Provide continuity between quadrennial reviews;
- Address topics that arise between reviews; and
- Conduct ongoing research into topics requiring more thorough consideration.

### *ITEMS REFERRED TO A STANDING SUBCOMMITTEE*

#### 45 C.F.R. § 302.56

At the time of this report, an amendment to 45 C.F.R. § 302.56 was pending. The amendment would add optional exceptions to the prohibition against treating incarceration as voluntary unemployment under child support guidelines. The proposed exceptions, under § 302.56(c)(3)(i) and (ii), would be for

incarceration: (1) because of intentional nonpayment of child support resulting from a criminal case or civil contempt action in accordance with guidelines established by the state under §303.6(c)(4); and/or (2) for any offense for which the individual's dependent child or the child support recipient was a victim. Should this amendment be adopted, consideration should be given to whether these exceptions should be included in the Guidelines.

## A.R.S. §25-510(E)

Currently, state law requires that simple interest that accrues on support arrearages be charged at a rate of 10% per annum. There is no federal requirement for charging interest on arrearages. Some states have lowered or eliminated interest on arrearages. In collaboration with the Department of Economic Security, Division of Child Support Services, research should be conducted to: determine the need for this interest; compare Arizona's rate with that of other states; and make recommendations for possible legislative amendment.

## Parenting Time Adjustment:

### *Adjustment for Children Over the Age of 12;*

Research the impact of the essentially equal parenting time adjustment and its impact on the adjustment for children over the age of 12. Should this adjustment be added to the Basic Child Support Obligation before or after applying the parenting time adjustment?

### *Duplicative Expenses; and*

When Arizona adopted the policy of adjusting the child support obligation based upon parenting time, the focus was on transient expenses and costs associated with the child (such as food, entertainment, personal care items, and reading material) and not on the fixed expenses. In doing so, it was understood that duplicated expenses (such as maintaining two households) were not included. Because Arizona's Guidelines are based upon an income-shares model, which relies upon data from intact families, the underlying model fails to account for duplicative expenses.

Should duplicative expenses be addressed in the Guidelines? If so, how? Past suggestions include grossing up the Basic Support Obligation by a certain percentage (such as 120%), which would address the reality that the cost for the child is higher than the figure the chart gives us based on data for intact families.

### *Calculation of Parenting Time Days.*

There are 168 hours in a week. Should the Guidelines account for all of those hours, including those hours the child spends in school or childcare, when calculating parenting time? Example: If a parent

has the child from after school on Wednesday until drop of at school on Thursday, the current Guidelines would credit that parent with one full day of parenting time since the parent has more than 12 hours and an overnight. Under the proposed Guidelines, that parent would still have one full day of parenting time. By accounting for all hours, these Guidelines more accurately credit for time even if the ultimate result is unchanged.

### *Reassess Parenting Time Table B*

As was noted earlier in this report, Parenting Time Table B was eliminated from the Guidelines during this review. If the next case file review reveals this action effected an increase in the number of deviations from the Guidelines, should Table B be reinstated in some fashion?

### Tax-Related Issues:

#### *Tax Allocation and Application of the Self Support Reserve Test; and*

When a parent does not contribute his or her proportionate share of the total child support amount because of the application of the self-support reserve test, should that parent receive allocation of the child related tax benefits? These tax benefits serve to further reduce that parent's proportionate share of the total child support amount. Additionally, would the allocation of the child related tax benefits to the other parent mitigate the adverse financial impact of the reduced, current child support obligation that is ordered?

#### *Allocation of Additional Child Tax Credit where only one parent qualifies.*

If only one parent would derive a tax benefit from the additional child tax credit, should the tax benefits be allocated to that parent for that tax year? How should this be accomplished?

#### *ACA Tax Penalty*

The ACA currently does not impose a mandatory insurance requirement and contains no related tax penalty for a parent who can claim a child tax credit but who is not the parent who provides health insurance. With any change of leadership in our nation's capital, the mandatory aspect could be resurrected. If that were to occur, the next quadrennial review committee will need to address the issue.

#### *Consider whether to "Cap" child-rearing expenditures at 100% of after-tax income; and*

As part of the conversion of child-rearing expenditures to net income ratio, explore whether to: (1) "cap" expenditures at 100% or (2) eliminate the assumption that all families spend 100% of their after-tax income. (See Dr. Venohr's Review of the Arizona Child Support Guidelines: Updating the Child Support Schedule, pages 12, 39, 42, and 43.)

*Consider whether to use federal, state, and FICA withholding for married taxpayers with children; and*

As part of the second step of converting the Betson Rothbarth 5 (BR5) measurements to gross income, instead of using the federal, state, and FICA withholding formula applied to a single taxpayer, consider whether to use the federal, state, and FICA withholding formula applied to married taxpayers with children. (See Dr. Venohr’s Review of the Arizona Child Support Guidelines: Updating the Child Support Schedule, pages 12, and 43.)

*Consider the impact the Proposition 208 from the 2020 general election.*

Proposition 208 created a 3.5% increase in state taxes for persons with income over \$250,000 per year or couples with incomes over \$500,000 per year. Should this new state tax be included in any updated Schedule?

## Self-Support Reserve Test

Maintain the new section in the Economic Review and Case File Review Report that considers Arizona’s Self-Support Reserve test as well as those devised by other states.

## Minimally Adequate Support Test

Consistent with 45 C.F.R. § 302.56(c)(1)(ii), the Guidelines contain a Self-Support Reserve test (SSR) for the parent ordered to pay child support. The SSR addresses that parent’s basic subsistence needs. The federal regulation offers states discretion to consider the basic subsistence needs of the parent receiving child support as well. Should a test like the SSR be developed for the recipient parent whose income is below a certain threshold? For example, if the recipient parent’s income is below 170% of the federal poverty level, and the income of the paying parent is 340% or more above the federal poverty level, a minimally adequate support amount sufficient to bring the income of the lesser earning parent above 170% of the federal poverty level would be added to the child support calculation.

## Review Third -Party Caregiver Worksheet

With every review, the Child Support Worksheet is taken into consideration. Generally, this review focuses on the function of the Worksheet for dissolution, separation, and paternity cases. Additional focus should be placed on Section XII.C of the Guidelines and the Third-Party Caregiver Worksheet in future reviews.

## Appendix A: Child Support Guidelines Review Subcommittee Membership

Honorable David B. Gass, Chair  
Arizona Court of Appeals, Division I

### Members

Ms. Carol Park Aden  
Community Legal Services, Inc.

Ms. Mary K. Boyte Henderson J.D.  
Mary Katherine Boyte, PC

Honorable John J. Assini  
Superior Court in Pima County

Ms. Jennifer A. Mihalovich  
Stewart Law Group

Ms. Laura C. Belleau  
Karp & Weiss, P.C.

Ms. Janet W. Sell  
Office of the Arizona Attorney General

Honorable Bruce R. Cohen  
Presiding Family Court Judge  
Superior Court in Maricopa County

Mr. Vance D. Simms  
Public Member, Custodial Parent

Ms. Kellie E. DiCarlo  
Arizona Legal Document Services, LLC

Honorable Jeff Fine (replaced Honorable  
Amanda Stanford on 7/15/2020)  
Superior Court in Maricopa County

Honorable Joseph Goldstein  
Superior Court in Yavapai County

Ms. Rosa Torrez  
Department of Economic Security

Ms. Tiffany Harvey (replaced Cherie Wasiel on  
7/15/2020)  
Public Member, Non-Custodial Parent

Mr. Steve Wolfson J.D.  
Dickinson Wright PLLC

### *Ex Officio* Members

Don Bays  
Horne+Horne

Chris Gorman  
Gorman Consulting Group, LLC

## *Appendix B: Public Comments*

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**Sent:** Monday, August 24, 2020 2:21 PM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Tell us about yourself

---

**Do you reside in Arizona?** Yes

**If yes, in what county?** Maricopa

## Child support & parenting time

---

**What is your current parenting time arrangement?** Mostly with Mother

**Do you pay or receive child support?** Ex was not made to pay anything

## Comments

---

**Please provide your input about the child support guidelines.**

I am wondering why there is no standard for minimum orders and why the judges don't ask for financial information when it is not provided. My ex was unemployed but receiving disability and was told he didn't have to pay anything because he wasn't working. I don't think it's fair that I should have to keep paying to refile for an adjustment because the judge said he doesn't have to pay something. The packet we used said he was supposed to submit his financial info, but he didn't and the judge didn't ask for it before he made his decision.



---

**Sent:** Sunday, March 29, 2020 5:57 PM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Tell us about yourself

---

**Do you reside in Arizona?** Yes  
**If yes, in what county?** Maricopa

## Child support & parenting time

---

**What is your current parenting time arrangement?** Mostly with Father  
**Do you pay or receive child support?** I pay child support

## Comments

---

Section 25-320: Part F says until 18 or 19 if still in High School. I believe this should add that if the child decides to live at home while going to college then child support shall continue for at least the 1st 2 years of college.

One part says Over time shall not be considered. Court should make it mandatory to provide all proof of income to review if overtime is a constant income. Judges have never done this with my ex husband who has always had overtime.

Says that minimum wage shall be applied automatically (what would have been earned by full time employment. Courts should consider the facts as to why a parent may not be earning a full time income. If a parent is receiving TANF, SNAP, or Cash assistance than minimum wage shall not be applied. Also along the same lines consider if the parent is going to school to improve their abilities to earning a full time wage. If a parent can show major hardship through no fault of their own (ie not just refusing to go to work) than the court shall suspend child support until said parent is able to get a job. If said parent is only able to acquire a part time job for the time being then child support shall be deviated to reflect the parents part time earnings within reason so that the payor is still able to live within reasonable means or wait until the parent can either find a second part time job to fulfill the child support obligation or is able to obtain full time employment to fulfill the full child support obligation.

Another alternative would be that when figuring out child support obligations and after reviewing parents income and reason one parent might not be working, if the parent to pay child support is not working for an acceptable reason than suspend child support or if only able to acquire part time work then split the child support in half to offset lack of income. If parent is receiving SNAP, or TANF then a deduction shall be made accordingly. Courts shall offer the payor if unemployed, having a hard time locating employment, or earning less than full time minimum wage, options to gain skills for work or a list of agencies who may be able to help them find proper employment, such as Arizona at Work. Instead of every 48 months exchanging income information between parents, it should be every 12 months and it should also be filed with the court for review, make it accessible to upload online to the court website to make it convenient. This income should be filed with a current child support worksheet. If child support shall go up or down by 15% a notice shall be sent out and it shall be applied automatically, without the need for another hearing. Once the new order is received by mail then a new wage assignment shall be given to their employer to reflect the change. For tax purposes parents shall split the children each year. In the event of an odd number of children or just one child, then the tax exemption can be traded off each year with the extra child.

Example of tax exemptions:

2007 2008 2009

Child one Payor Payor Payor

Child two Payee Payee Payer

Child three Payor Payee Payor

Judges need to be aware of guidelines and must abide by them. More times then none the judges don't listen or pay any attention to the guidelines.

**Sent:** Wednesday, January 27, 2021 4:00 PM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Add your details / (Ingrese sus datos)

---

Name / (Nombre)  
Email / (Correo electrónico)

## Provide additional information / (Ingrese información adicional)

---

County where I live / (Condado en el que vivo) Maricopa  
I am a(n): / (Soy:) Parent / (Progenitor)  
Children's Parenting Time. / (El régimen de visitas con los menores.) With both parents almost equally / (Con ambos progenitores casi por partes iguales.)  
Child Support payment. / (Situación de pagos de pensión alimenticia de menores.) I pay child support / (Yo pago la pensión alimenticia de menores.)

## Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

---

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

I am using this opportunity to tell you how messed up your system has been for years. I am a guy that pays my child support and as of a year ago I could I have it modified to be 1/3 of what it is but I chose not to. I haven't even worked in that years. Either. But it seems that your agency DES and the lower tiered ones anyone from unemployment to child-support have a tendency to screw the person that's making the payments, Me! So you get my child support through Garnishment of easy your way then you hold it then you give it back to me if it's to be refunded months later but then you give me back too much and then you garnish my unemployment again and then you hold it and then it goes to ridiculous lines of my account which include the terms interest interest interest. How friggin hard is it to do this thing or have a program that.? If you were working on my company I would've fired everyone of you guys 1 million times over with because you don't have it. I'm always wondering where my moneys at because the states got to take it from me and now my sons enough to understand that you guys suck! Praise the governor and his assistance for helping me through the last year or I would've lost my house and been out on the street. Get your shit together and if you need me to talk to a counselor a group of people you need to analyze things and get feedback from you I'm available because this is absolutely ridiculous. My home state of Arizona state our families been in for 90 years. And it sucks! Where is my money ? Have a great whatever

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**Sent:** Monday, January 25, 2021 2:40 PM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Add your details / (Ingrese sus datos)

---

Name / (Nombre)

Email / (Correo electrónico)

## Provide additional information / (Ingrese información adicional)

---

County where I live / (Condado en el que vivo)

Maricopa

I am a(n): / (Soy:)

Parent / (Progenitor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

Third-party caregiver / (Tercero a cargo del cuidado de los menores)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

N/A / (No corresponde)

## Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

---

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

Hello...I wanted to register to oversee a hearing in family court. I paid to have a mediation hearing with my mother who now has rights to my son JayJay. About 5 months ago I made the decision to call DCS because my mom was being violent with me in front of JayJay. They said if he isn't in any danger reach to family court when when I have the necessary things to provide for the baby. Since then I got housing and employment. I wrote to the court and had a court date for In January 1-20-21.It is now rescheduled for

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**Sent:** Monday, January 25, 2021 10:59 AM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Add your details / (Ingrese sus datos)

---

Name / (Nombre)

Email / (Correo electrónico)

## Provide additional information / (Ingrese información adicional)

---

County where I live / (Condado en el que vivo) Apache

I am a(n): / (Soy:) Advocate / (Defensor)

Children's Parenting Time. / (El régimen de visitas con los menores.) Mostly with me / (Pasan la mayoría del tiempo conmigo.)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.) I receive child support / (Yo recibo la pensión alimenticia de menores.)

## Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

---

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

I don't feel that all scenarios could be possibly included but I can say that there is one scenario that is pretty straight forward and that is that in a home of domestic violence and abuse there is no standard. Standard does not apply in such scenarios. The abuse continues and there is no co parenting in these cases. There is a custodial parent and non custodial and non custodial is just that.

If a non custodial parent has no parenting time by choice and has nothing more to do with a child other than pay support and that is only by force that non custodial parent needs to make up the difference for not being there emotionally or otherwise because the amount of child support is not equivalent to if the non custodial parent took responsibility such as providing food while they have the child, providing clothing, entertainment, and education and the list continues. Yet a custodial parent is what I feel penalized. A custodial parent when figuring out child support is shown to make minimum wage (yet they don't) yet the non custodial parenting time isn't 0 which is the actual truth. Non custodial parents are given a credit for parenting time in which they don't even have or even partake in. So a custodial parent is not only responsible for all the emotional, physical, educational, medical, but also the largest financially responsible for the child not the non custodial parent by choice.

Again education is key in all of this because I'm certain judges see a lot and heard a lot but fact is fact and law is law and they aren't utilizing these laws to make their decisions! They are making very biased decisions for whatever personal reasons which is not in the best interest of the child. I have put in a lot of hours and work into my case I have been fighting for 2 years now and have done a lot of research and the laws are there but no enforcement or training whatsoever or a lack of any kind of empathy or compassion for these children and the abuse and poverty they

endure and not just by the parents but by the very system or individuals that are set into place to protect them. Enforcement and education are very important and it's lacking in every aspect. I would love to hear what laws from a professional's point of view they feel need changed in order to make this an easier process on everyone involved. I would be more than happy to go fight for these laws to help these children accomplish a better life than poverty. If they knew poverty before the abuse they know it now. Poverty is a huge reason for all the wrong in the world. If a custodial parent makes \$10,000 a month it should be up to them to lower their standards of living not up to the non custodial parent to struggle how their next electric bill will be paid or how their rent will be covered. The mentality of my ex husband was that I receive help from the government and he doesn't receive benefits of such and no one helps him so he is entitled to all his money. This is just one of the examples of abuse that continues and these children are the ones who ultimately suffer. Thank you for your time and I look forward to a better future for the children of our future.

---

**Sent:** Friday, January 15, 2021 10:06 AM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Add your details / (Ingrese sus datos)

---

Name / (Nombre)

Email / (Correo electrónico)

## Provide additional information / (Ingrese información adicional)

---

County where I live / (Condado en el que vivo)

Pima

I am a(n): / (Soy:)

Attorney / (Abogado)

Children's Parenting Time. / (El régimen de visitas con los menores.)

N/A / (No corresponde)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

N/A / (No corresponde)

## Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

---

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

Thank you to everyone who participated in making these important and long overdue updates. Your work is truly appreciated. My practice involves the private mediation of family law matters, including parenting plans and child and spousal supports. Many of my clients are self-represented. I am concerned about how the spousal maintenance is being handled. It is unrealistic to expect the concept of "effect tax rate" to be something that non-experts are familiar with. I am not an expert myself, but I have been an attorney for 30 years and I don't even know what mine is. It is not accurate to assume self-represented people don't usually have spousal support as a part of their dissolutions. In fact, Form 6 was designed specifically to assist self-represented people obtain spousal maintenance. While imperfect, perhaps a better idea would be to figure out the most common effective tax rate for the community and simply apply it to all spousal maintenance payments when utilized as a part of the child support calculation? In the alternative, perhaps spousal maintenance now being ordered and/or agreed upon has already been reduced to take into consideration that it is no longer subject to the old tax rules? If that is the case, then there is no reason to apply any reduction to the spousal maintenance portion of the child support calculation, because it was already reduced to being with. I know there are competing ways of handling this, but their both much easier to access for the majority of litigants than the language being suggested.

Sorry I can be on the zoom call and thanks again

**Sent:** Monday, January 11, 2021 11:03 AM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Add your details / (Ingrese sus datos)

---

Name / (Nombre)

Email / (Correo electrónico)

## Provide additional information / (Ingrese información adicional)

---

County where I live / (Condado en el que vivo)

Pima

I am a(n): / (Soy:)

Attorney / (Abogado)

Children's Parenting Time. / (El régimen de visitas con los menores.)

N/A / (No corresponde)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

N/A / (No corresponde)

## Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

---

Please attach your comment if it is already written in a document.

The difference between 164 days and equal time is huge! This could mean a swing of 36 full parenting days. That is over 100 meals for a child! That is over 864 more hours of parenting time; time that you need to pay for entertainment, be responsible for remote learning, even keep your home heated or air conditioned.

Please provide your input. / (Por favor, escriba sus comentarios.)

The Guidelines are already horrible for equal time. The guidelines barely register when one parent makes \$80,000 a year and the other makes \$50,000 a year. If you add 100 more days of parenting time to the financially disadvantaged parent without any financial contribution, you are rewarding the financially advantaged parent at the expense of the children.

More cases than you would ever dream are littered with domestic violence and coercive control. "Equal" parenting time is often conceded to an abusive parent for the sole purpose of avoiding child support. The equal parenting time guidelines do not recognize the clear inequities in parenting responsibilities versus parenting time. Differences of \$20,000 a year make all the difference in the world for quality of life, and the guidelines should reflect this after every level.

164 days is NOT equal time. That is 182 days. Math.

---

**Sent:** Tuesday, January 5, 2021 9:49 AM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Add your details / (Ingrese sus datos)

---

Name / (Nombre)

Email / (Correo electrónico)

## Provide additional information / (Ingrese información adicional)

---

County where I live / (Condado en el que vivo)

Maricopa

I am a(n): / (Soy:)

Parent / (Progenitor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

Mostly with the other parent / (Pasan la mayoría del tiempo con el otro progenitor.)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

I pay child support / (Yo pago la pensión alimenticia de menores.)

## Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

---

Please attach your comment if it is already written in a document.

I am proving my public comment to shed light on the consequences of setting orders beyond a parent's ability to pay, and humbly request that this committee review guidelines on this matter.

Please provide your input. / (Por favor, escriba sus comentarios.)

Specifically, in cases such as mine where earnings have been reduced for a reasonable cause, such as taking care of a child with unusual emotional needs, that require a parent's presence in the home, which makes it difficult to gain and keep meaningful employment.

Child support guidelines are designed to establish a standard of support for children consistent with the reasonable needs of children AND the ability of parents to pay.

In my particular situation, I clearly did not have the ability to pay, which is evidenced by the assistance received by TANF.

As explained by the Administration for Children and Families, Health and Human Services, "Orders set beyond your parents ability to pay can lead to unintended consequences". These consequences have lead to unfair incarceration, unmanageable debt, and much more punishment.

Our disabled child is protected by the American with Disabilities Act to protect his rights. Where is my protection as his caregiver?

Thank you.



---

**Sent:** Monday, January 4, 2021 5:48 PM  
**To:** CSGRS-Public Comments  
**Subject:** CSG Comments

## Add your details / (Ingrese sus datos)

---

Name / (Nombre)

Email / (Correo electrónico)

## Provide additional information / (Ingrese información adicional)

---

County where I live / (Condado en el que vivo)

Yuma

I am a(n): / (Soy:)

Parent / (Progenitor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

Mostly with me / (Pasan la mayoría del tiempo conmigo.)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

I receive child support / (Yo recibo la pensión alimenticia de menores.)

## Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

---

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

I've read over the child support guidelines and I didn't come across anything having to do with a parent who never pays child support. Or doesn't provide reasonable support to a child consistently. In the best interest of the kids, they need consistency of support because children don't stop needing food, shelter, clothes, hygiene products, etc. In my case the non custodial parent has only made less 1/3 of the payments in the last 3 yrs. I've tried to reach out plenty of times to my Case worker, But nothing has made a change. Maybe if there were harsher penalties for non payment then there wouldn't be so much "deadbeat" dads. Like if you miss so many payments you have a certain consequences, like example If there isn't payments made the parent has to spend weekends in jail or they're automatically get their license revoked. But in order for anything to happen it's a process to take the parent to court. Kids need the support now not months later to "prove contempt".

Time	County	Role	Parenting Time	Child Support
10:25	Pima	Family Member	N/A	N/A
Comment	C.L. is a first responder as is her husband. Each has children from previous marriages. C.L.'s experience with parenting time, child support, and co-parenting with her former spouse has been strikingly different from her husband's experience. She asked the subcommittee review the impact of the Guidelines on first responders: the hours worked in excess of 160 hours per month without overtime pay; and balancing meaningful parenting time with its impact on the ability to contribute to the success of the family by working a second job to pay.			
Response	The subcommittee reviewed the Fair Labor Standards Act. Members discussed C.L.'s comment and a number of other occupations that have work schedules outside the realm of the traditional 40-hour work week. With "to specify is to eliminate those occupations or circumstances not listed" in mind, the subcommittee agreed that the Guidelines language should remain broad; however, the members recommended that consideration of this issue be enhanced in judicial training.			
10:30			Mostly with Mother	Receive
Comment	J.D. asked that more specific language be added to the Guidelines regarding the inclusion of health care and mental health care as special needs of a child. She suggested that additional judicial training be offered regarding domestic violence and order enforcement. She also suggested that in cases where domestic violence involving a child has occurred that the child be provided an attorney.			
Response	While the subcommittee took every comment under advisement, this discussion was not included in the agenda for January 25, 2021.			
10:35	Yuma			Receive
Comment	S. scheduled time to comment but did not appear.			
Response	Staff reached out to S. by email and telephone to offer time to comment at the January 25, 2021 meeting. No response was received.			
10:45	Maricopa		Mostly with Other Parent	N/A
Comment	P.V. is a parent with special needs, who has never been able to work. She asked the subcommittee to consider the impact of the Guidelines when attributing income to a special needs parent.			
Response	During the public hearing, a member read proposed Guidelines Section II.A.5.b to P.V. She was gratified to hear that her issue was contained the in the draft proposed Guidelines.			
10:50				
Comment	D.A. made several suggestions during his comment to the subcommittee. <ol style="list-style-type: none"> <li>1. If a court can contact parties about their case, can the court also provide a general notification announcing a Guidelines review?</li> <li>2. Some of the increases being made in the Schedule are 8-12% higher than the rate of inflation. These increases are most notable at the higher combined adjusted child support incomes without obvious justification. He views these increases as social change and not economic reality and asks that the Schedule be reviewed.</li> <li>3. Require judicial officers to remind the parties that they each have a right to request and receive a full and complete copy of the other parent's financial records every 24 months. Reliance on the language being in the Guidelines does not provide sufficient information for laypersons.</li> <li>4. The Proposition 208 tax increase should be included in the calculations.</li> </ol>			

Response	While the subcommittee took every comment under advisement, this discussion was not included in the agenda for January 25, 2021.			
10:55	Out-of-State	Family Member		N/A
Comment	J.K. discussed his frustrations with Arizona's paternity laws, specifically the voluntary acknowledgement of paternity.			
Response	Because J.K.'s comments were outside the scope of this review and more focused on paternity laws, subcommittee staff referred J.K. to the Arizona Legislature website, and Arizona House of Representatives and Senate Health and Human Services committee chairpersons.			
11:00	Out-of-State	Advocate	N/A	N/A
Comment	B.U. is a Senior Child Support Researcher for the National Parents Organization. He asked that the subcommittee consider the Guideline's self-support reserve test and the adequacy of the resulting amount.			
Response	The subcommittee reached out to CPR requesting data and its addition to its final economic and case file review report. Arizona's self-support reserve test is 80% of the state's minimum wage. Currently, Arizona's minimum wage is \$12.15 per hour. ( $\$12.15 \text{ per hour} \times 2080 \text{ hours per year} \div 12 \text{ months} \times .80 = \$1,684.80 \text{ or } \$1,685 \text{ rounded}$ ), making it one of the highest in the country. Most states rely on the federal poverty levels, currently \$1,063 per month for one person. A few states increase for taxes and to be on par with other income eligibility programs. NY State is the highest 135% of the FPG, so that's \$1,435 per month (\$1,063 times 135%).			
11:05	Maricopa			
Comment	B.C.'s written comment: "I would like to ask the courts to not allow judges to google a minimum wage of another state as [name purposely deleted] did this in my case and got it wrong by three dollars an hour this is an egregious issue that even three years later he has refused to correct even with the the appropriate paperwork"			
Response	The current Supreme Court child support calculator provides the minimum wage amounts when selecting a state or U.S. Territory. Similar functionality will be considered for the updated statewide calculators eliminating this issue.			
11:10	Pima		Almost Equally	
	R.S. scheduled time to comment but did not appear.			
	Staff reached out to R.S. by email and telephone to offer time to comment at the January 25, 2021 meeting. No response was received.			
11:20				
Comment	J.R. could not connect during the Public Hearing. Staff reached out by telephone to offer time to comment at the January 25, 2021, meeting. J.D. a parent with special needs had positive comments about receiving child support through an electronic payment (debit) card and asked the subcommittee not to impact that option.			
Response	The subcommittee assured J.D. that the draft proposed Guidelines have no impact on the receipt of child support by debit card.			

*Appendix C: CLS Comments and Questions and Subcommittee Responses*

## Community Legal Services' Comments and Questions regarding the Proposed Arizona Child Support Guidelines

Patricia A. Madsen, Managing Attorney, Community Legal Services

February 18, 2021

Edited February 24, 2021, to include proposed responses for the Child Support Guidelines Review Subcommittee's consideration.

As the Child Support Guidelines Review Subcommittee well knows, the Proposed Arizona Child Support Guidelines are complicated and involve many interrelated concepts. I have attempted to simplify the questions and comments raised by Community Legal Services (CLS) on behalf of our client community, by presenting them in outline form. The terms "Payor" and "Recipient" are used throughout, and where negative effects are identified as impacting a child support Recipient, negative effects to the Recipient are generally understood to also impact the children for whom child support is intended. I have noted which sections are of particular concern to CLS and included proposals to address those concerns. It is understood that not all identified "negative impacts" are capable of being remedied, but we have attempted to note where cumulative negative impacts might be mitigated.

### 1. DETERMINING CHILD SUPPORT INCOME

- *The changes in these sections are of particular concern to CLS.*
- Earned Income Tax Credit and Additional Child Tax Credit = Page 6, II(A)(2)(a)(ii) = Both EITC and ACTC are means-tested, like TANF, etc., and there are not any examples in this paragraph of means-tested tax benefits, so they should be explicitly included.
  - **PROPOSAL** = EITC and ACTC should be added as examples of means-based income not to be included in a parent's child support income.

**RESPONSE** = The workgroup recommends including this language.

- Attributing income = Page 8, II(A)(5)(b)(iii) & (iv) = "Examples of cases in which it might be inappropriate to attribute income" are restricted, compared to current guidelines.
  - The examples in this section are already subject to the court's discretion, using "might" in both the current and proposed guidelines.
  - II(A)(5)(b)(iii) = A court may only decline to attribute income to a parent under this section if the parent is unable to work outside of the home due to "unusual emotional or physical needs of a natural or adopted child *common to the parties.*"

- Whether a child is common to the parties does not impact the underlying reason why the parent cannot work outside of the home = the fact that they must care for a child with special needs.
  - This appears to show lack of care and understanding for hardships and challenges experienced by parents of children with special needs.
- II(A)(5)(b)(iv) = A court may only decline to attribute income to a parent under this section if the parent is unable to work outside of the home due to being the “caretaker of a young child *common to the parties* and the cost of childcare is prohibitive.”
  - Whether a child is common to the parties does not impact the underlying reason why the parent cannot work outside of the home = the fact that the cost of childcare is prohibitive.
  - Childcare is notoriously expensive, especially for infants, and childcare subsidies are notoriously scarce.
- This section also removed “The parent is a current recipient of Temporary Aid to Needy Families” from the current guidelines. This removal would not present a problem if the previous two sections were not restricted to “children in common.” However, taken together, these restrictions appear to target low-income Recipients and Payors experiencing poverty. They will also most certainly negatively impact parents experiencing poverty.
- While one of the above examples is addressed in the new section on deviation [IX(D)], deviation is not equal to explicitly mentioning instances where the court might find it inappropriate to attribute income.
  - Deviation is an explicit exception to what the guidelines dictate. What does this communicate to parents? (“In order to get the guidelines to care about *all* caretakers of young children or children with special needs, one has to request an exception be made?”)
  - Because deviations are exceptions to the rules, judicial officers are hesitant to create them absent agreement of the parties. Routine deviations also raise the issue of policy exceptions and may create problems with federal funding for IV-D.
  - The deviation section only includes the example of “unusual emotional or physical needs of a natural or adopted child not common to the parties” and does not include “caretaker of a young child not common to the parties....”
  - There is no cross-reference to deviation in Section II(A)(5).

- Likely effect = greater impact on women, especially women experiencing poverty, whether Recipients or Payors, as women comprise the majority of stay-at-home caretakers for both young children and children with special needs.
  - Effects of the COVID-19 pandemic = 80% to 90% of U.S. workers who have left the workforce during the pandemic are women, with most having left to perform caretaking duties.
- **PROPOSAL** = Rather than making these changes at this time, refer consideration to the Interim Workgroup for the next Child Support Guidelines Review Committee. Allow for further analysis of the effect on children and parents and obtain feedback from potentially affected populations.

**RESPONSE** = Having considered the issue of special needs children and understanding that in both instances the attribution of income relies upon court discretion, the subcommittee concluded there are additional factors to consider when the special needs child is not common to the parties in this action. An example involves the financial resources of the non-party parent of the special needs child who is not common to the parties. The consensus is that this issue should be considered holistically as a deviation.

Additionally, the consensus of the subcommittee was not to comment on child care for children not common to the parties.

## 2. CHILDCARE EXPENSES - Page 14, II(B)(4)

- Inclusion of childcare expenses in calculating the Basic Child Support Obligation is already discretionary = “The amount paid for childcare so a parent can work or seek employment *may* be added to the Basic Child Support Obligation.” II(B)(4)(a)
- Section II(B)(4)(a) states “If both parents incur childcare expenses, the amount each incurs may be added to the Basic Child Support Obligation.” This statement goes against a basic goal of the Income Shares Model, to avoid duplicating expenses.
  - Can encourage parents to each seek out their own childcare arrangements, instead of keeping child in a single, stable childcare setting.
  - **PROPOSAL** = add language similar to that included in the guidelines section regarding overtime, such as “The court generally encourages parents to use the services of a consistent childcare provider where possible and to avoid duplicating expenses associated with childcare.”

**RESPONSE** = The Guidelines have never required or suggested the use of one child care provider. The selection of the child care provider is not a Guidelines issue, but one of legal decision-making. Further, because the parents do not use the same provider, these are not duplicated expenses.

- Childcare provided by “dependents” = II(B)(4)(a) = Under the proposed guidelines, parents are prohibited from including childcare expenses paid to a “dependent” in the Basic Child Support Obligation.
  - *The changes in this section are of particular concern to CLS.*
  - How does receiving payment for providing childcare, which cost must already be found to be appropriate to the parents’ financial abilities, conflict with a childcare provider’s status as a dependent? A person is a “dependent” under IRS regulations if the parent pays more than half of that dependent’s living expenses. Amounts paid to a “dependent” childcare provider are highly unlikely to exceed half of that dependent’s total living expenses.
  - Protections are already in place to counter possible fraud. Already, along with showing that childcare costs are appropriate to the parents’ financial abilities, parents must also prove that childcare expenses have actually been paid to the provider.
  - This change significantly impacts low-income parents, who are often unable to afford childcare from high-quality childcare centers and providers, and those for whom traditional childcare centers do not work – such as parents whose work schedules fluctuate or who work nights.
  - The change also suggests that childcare providers who are not dependents are more valid childcare providers. Is it presumed to be better for a child to be cared for by virtually any daycare center, rather than by a live-in grandparent or older sibling?
  - Referencing “Internal Revenue Service Publication 501” in this section goes against the CSGRS’ stated goals to remove such references and to simplify the guidelines’ language and operation.
  - While the CSGRS has largely succeeded in streamlining and simplifying the guidelines to increase certainty for both parents and reduce opportunities for conflict, creating this prohibition adds an additional point of likely conflict and contention. With the change, parents may now challenge, and the court must now determine, whether a childcare provider qualifies as a “dependent” under IRS regulations.
  - Including “Unless the court orders otherwise” does not address the problems created by this prohibition, as this merely creates the opportunity to request an exception from this burdensome prohibition. Again, the prohibition is the rule.
  - **PROPOSAL** = Rather than making these changes at this time, refer consideration to the Interim Workgroup for the next Child Support Guidelines Review Committee. Allow for further analysis of the effect on children and parents and obtain feedback from potentially affected populations.



**RESPONSE** = This issue was thoroughly discussed. The subcommittee considered feedback including from its own members and the public. Not everyone agreed; however, the consensus of the Subcommittee was to move forward in this fashion with the understanding that future reviews may reconsider.

### 3. PARENTING TIME ADJUSTMENTS – Page 16, Section V

- *The changes in this section are of particular concern to CLS.*
- An adjustment for costs associated with parenting time, made to the amount of child support to be paid by a Payor parent is historical. However, though the adjustment appears to be neutral -- “When parenting time is or is expected to be exercised by both parents, an adjustment is made to the proportionate share of the Combined Child Support Obligation” -- the adjustment only operates to reduce one parent’s proportionate share of the combined child support obligation, that of the Payor. The adjustment operates to reduce the amount of child support received by the Recipient parent. V(A)(2)
- The premise of such an adjustment is sound, as long as it reflects estimated costs expended by the Payor parent for time that parent is actually responsible for caring for the child, and as long as the adjustment does not unreasonably reduce the amount of child support to be paid.
- While true equal parenting time is 182.5 days for each parent, Section V(D) provides an equal parenting time adjustment to a parent who has parenting time of just 164 days and above. It is not clear why the Parenting Time Table treats 164 days, 18.5 fewer days than true equal parenting time, as equal parenting time. Also, the span between 163 days and 182.5 days is 19.5 days, a much larger span of time than between nearly all of the other steps in the chart. If the desire was to minimize abrupt jumps in parenting time adjustment percentages caused by minimal differences in parenting time days, this chart does not accomplish that. The proposed Parenting Time Table creates the new goal of getting to 164 days of parenting time, at least on paper, to attain a .50 adjustment percentage, rather than a .40 adjustment percentage, and so on down the chart. Considering 172 days as equal parenting time, for instance, and introducing more tiers in the chart, with less drastic differences between the steps would create a more equitable result all around, and one less susceptible to manipulation.
- Changes to and simplification of the Parenting Time Table (currently Table A and Table B in the current guidelines) may not, in and of themselves, significantly disadvantage child support Recipients. However, “lowering the bar” for an equal parenting time adjustment, in combination with other changes, can result in significant negative effects.

- The most concerning of the changes to Adjustment for Costs Associated with Parenting Time appear in Section V(B).
  - Section V(B) presents a complete reversal of historical policy with regard to the time a child spends with a third-party, such as a school or childcare provider.
  - The current guidelines indicate that neither parent receives “credit” against child support for time a child spends in school or childcare. Specifically, number 11 of the current guidelines states that in calculating the parenting time days, “Time that the child is in school or childcare is not considered,” and “Each block of time begins and ends when that parent receives or returns the child from the primary residential parent or from a third party with whom the primary residential parent left the child.”
  - The proposed guidelines echo the current guidelines in explaining that parenting time is calculated based upon the segments of time that are assigned to each parent, and that the parenting time for either parent begins at the time the child is exchanged from one parent to the other.
  - However, Section V(B) provides a reversal of the policy in the current guidelines, stating in V(B) “Unless otherwise provided in the court order, if the exchange occurs at school or with a caregiver, the receiving parent’s time commences at the end of the day. Conversely, the other parent’s segment ends at the same time.”
    - This means, for child support purposes only, a parent who drops off a child with a third party, such as a school or childcare provider, “gets credit” for the time the child is with that third party, until the other parent picks up the child. For a 6-hour school day, this has the effect of adding 6 hours to the time the dropping-off parent can claim for a parenting time adjustment – if that parent is the child support Payor, as only the Payor parent is able to claim an adjustment for costs associated with parenting time.
    - Section V(C)(2) further provides that 6 hours counts as one-half day for child support purposes.

**RESPONSE** = Ultimately, the subcommittee must determine to whom the time at school should be attributed. There are 168 hours in a week. The guidelines must account for all of those hours. Example: If a parent has the child from after school on Wednesday until drop of at school on Thursday, the current Guidelines would credit that parent with one full day of parenting time since the parent has more than 12 hours and also has an overnight. Under these proposed Guidelines, that parent would still have one full day of parenting time. By accounting for all hours, these Guidelines more accurately credit for time even if the ultimate result is unchanged. As is now noted in the Report and Recommendations, the parenting time

adjustment requires additional consideration and should be the subject of the work of an interim workgroup.

- The preceding section, Section V(A)(3), specifies that “The methods for calculating parenting time in these Guidelines are directions for determining child support. They do not alter parenting time orders and must not be used to alter parenting time orders.”
  - In other words, this directive in the child support guidelines trumps the parenting plan, for purposes of contributing to a parenting time adjustment for the Payor parent.

**RESPONSE** = This provision was to ensure that the manner in which child support is calculated is not then used as a basis to interpret a parenting plan. This is value-added. It is designed to ensure consistent application of the Guidelines for cases where there is true equal parenting time.

- In effect, even if the parties’ parenting plan provides that one parent’s parenting time ends when the child is dropped off at school, that parent “gets credit” for the time the child spends in school, when the other parent is effectively “on duty” according to the parenting plan.

**RESPONSE** = The subcommittee disagrees with the above analysis. Whatever is done on one end should be the same on the other end. For example, if a parent’s parenting time starts at the end of the school day, the other parent’s parenting time ends at the end of the school day. The consensus of the subcommittee was that time at school should not be credited only to one parent.

- While the provision explained in V(A)(3) and V(B) is ostensibly neutral, it does not operate neutrally.
  - For both the Payor and the Recipient, the parent dropping off the child to a third party “gets credit” for time the child spends with the third party.
  - However, only the Payor parent receives an adjustment based on that time, which operates to reduce that parent’s child support obligation.
- The effect of crediting the dropping-off parent with time a child spends with a third party is cumulative, and the partial days spent with third parties can accumulate into significant time – and result in a significant reduction in the amount of child support awarded to a Recipient.
  - For example, consider a 7-hour school day from 8:00 a.m. to 3:00 p.m. Section V(C)(2) says 6 hours counts as one-half day for child support purposes. If the Payor parent drops off the child at school once per week = .5 day x 44 weeks of a school year = 22 days the Payor parent adds to their parenting time adjustment. If the Payor parent drops off the child at school twice per week = 1 day x 44 weeks = 44 days added to the

parenting time adjustment. Again, this is all for time the child spends in school.

- Since a parent can obtain an equal parenting time adjustment with only 164 days of parenting time, the Payor parent in the examples above could qualify for an equal parenting time adjustment with a parenting plan granting them only 142 days in the first example or 120 days in the second example.
- Furthermore, allowing a parent to obtain an “adjustment for costs associated with parenting time” for time a child spends with a third party subverts the very justification for the adjustment. The adjustment exists to acknowledge and offset the additional incremental expenses a parent incurs when they spend time with their children. The parent incurs no additional costs associated with parenting time when the child is with a third party.
- It appears that the Section V(B) changes were proposed and adopted by the CSGRS on January 25, 2021. Therefore, there has been limited time for vetting, detailed analysis of impacts, and opportunity for public review and comment.
- **PROPOSALS =**
  - Change the threshold for an equal parenting time adjustment of .50 from 164 days to 172 days and add more tiers to the Parenting Time Table chart, with less drastic differences between the steps, to minimize abrupt jumps in parenting time adjustment percentages caused by minimal differences in parenting time days.
  - Rather than making the changes in V(A)(3) and V(B) at this time, refer consideration to the Interim Committee for the next Child Support Guidelines Review Committee. Allow for further analysis of the effect on children and parents and obtain feedback from potentially affected populations.

**RESPONSE =** There are relatively few cases that fall into the 163-182 ranges under the current guidelines. The difference between 182.5 and a case that falls within these higher ranges are approximately 1 day each month. There are few commonly ordered plans that differ by 1 day each month. For the cases that fall into this category, the nominal difference in the adjustment from the current version to the proposed version is either .078 or .014. Further, by replacing section 12 of the current Guidelines with a .50 adjustment, there will be a slight increase in child support under the Proposed Guidelines above what is arrived at under the current Guidelines for cases where there is true equal parenting.

#### 4. SELF-SUPPORT RESERVE TEST – Page 21, VIII

- The Arizona Self-Support Reserve (AZ SSR) amount is the highest in the United States.
  - 20 other states have a higher cost of living than Arizona.

- The Center for Policy Research’s Dr. Venohr found Arizona’s cost of living to be comparable to the federal average.
- While Arizona child support expenses are based on federal data, AZ SSR is based on the state minimum wage.
  - AZ SSR is 80% of minimum wage at 40 hours per week.
  - AZ minimum wage is the 5<sup>th</sup> highest minimum wage in the U.S.
    - Arizona’s minimum wage has increased in large increments over the past few years and now increases with the cost of living.
    - In the future, the federal minimum wage may increase to \$15 per hour.
  - Many states, several with costs of living higher than Arizona’s, base SSR on a percentage of the federal poverty level, which uses federal data and also reflects increases in cost of living.
    - New Jersey SSR is 105% of the federal poverty level
    - Washington state SSR is 125% of the federal poverty level
- Impact on Recipients =
  - Increasing SSR shifts more child support orders for low-income families to below-adequate awards or zero orders.
  - In contrast to many other states, Arizona has SSR but no mandatory minimum child support amount. This means Arizona protects the income of Payors from child support so they retain enough income “to maintain at least a minimum standard of living,” but does not attempt to ensure funds to support the needs of children for food, housing, and other necessities. Page 21, VIII
  - When application of the SSR reduces or eliminates the child support obligation of a Payor, the Payor does not contribute a proportionate share of the costs of supporting the child, even though those expenses are still incurred by the Recipient.
    - When application of the SSR reduces or eliminates the child support amount, is the Payor still able to claim child tax benefits related to the payment of child support? If so, the negative effect on the Recipient is compounded: Recipient does not receive adequate child support due to the SSR, and the Payor is able to claim the child tax benefits, even though they did not contribute a proportionate share of child-rearing expenses.
- **PROPOSALS =**
  - Long-term = Explore and institute a more equitable means of ensuring minimum standards of living for the Payor, Recipient, and children. Implement changes, such as using SSR tied to the federal poverty level, instead of minimum wage amount, and instituting a minimum child support amount. Also, examine

whether application of the SSR results in Payors claiming child tax benefits out of scale with their contributions to child-rearing expenses.

- Short-term = Change to use 70% or 75% of minimum wage for AZ SSR, to lessen the negative impact of the application of SSR on low-income families.

**RESPONSE** = Nothing was changed as to the benchmark for the AZ SSR. The issue raised is the work of the 2018 Committee for an Interim Review, that moved from a percentage of the Federal Poverty Level to a percentage of Arizona minimum wage. The AZ SSR premise is that no one earning minimum wage should pay more than 20% of their income as child support. Research shows that compliance decreases when orders are higher than that 20% standard. As the report makes clear, the AZ SSR will be reviewed in future quadrennial reviews. Section VIII.D and E address an alternative to a minimum order based on the proration of the remaining monies after the SSR is applied among that parent's children.

## 5. CHILD TAX BENEFIT

- The proposed guidelines include a new requirement that the child support Recipient notify the Payor – for a tax year when the Payor would ordinarily be entitled to claim the child tax benefit – that the Payor has not paid the child support obligation for that tax year and that, consequently, the Recipient intends to claim the child tax benefit.
  - This is another change to the current guidelines that apparently addresses a concern of Payors, rather than Recipients. While significant improvements have been made to the CSGRS' initial proposal on this matter, it remains the unpaid Recipient's obligation to inform the Payor of the nonpayment, the extent of the shortfall, and the fact that the Recipient intends to claim the child tax benefit for which the Payor failed to qualify. (For instance, it could instead be the Payor who notifies the Recipient when the Payor has satisfied the condition of paying the full child support obligation and intends to claim the tax benefits.)
  - The several-step process for the Recipient to follow is arguably confusing.
  - It could be dangerous or onerous for certain Recipients, especially victims and survivors of domestic violence, to reach out to a Payor and initiate a discussion that essentially criticizes the Payor's conduct and accuses them of wrongdoing.
  - While this change addresses instances where a Recipient wrongly claims child tax benefits a Payor is entitled to, the problem of child support enforcement continues to be a near-universal concern for Recipients. Enforcement of child support orders, including nonpayment of current support, nonpayment of arrears, and failure to pay unreimbursed costs, continue to cause major problems for Recipients, and therefore merit significant attention in any review of the Child Support Guidelines and associated statutes.

**RESPONSE** = The current self-help process has been untenable. The subcommittee tried to eliminate all the disputes that arise from self-help while providing judicial guidance. Once the recipient of child support places the paying parent on notice, the burden falls on the paying parent who may be behind on child support to take action. This benefits the recipient parent by providing a process to avoid the tax issues that can occur when both parents attempt to claim the same child in the same tax year.

## 6. OTHER OVERALL OBSERVATIONS

### A. Exception to the Income Shares Model

- In calculations to determine child support schedule amounts, Arizona uses the higher “single” tax filer amount instead of the “joint” filer amount that would be consistent with the Income Shares Model use of expenses of intact households. Employing this exception is believed to lower child support schedule amounts overall, but it is not known to what extent.
  - While using the “single” tax filer amount may be historical, this review of the Child Support Guidelines is an opportunity to consider the overall cumulative effects of historical assumptions and practices, as well as new proposals.

### B. Statutory Issues that contribute to the cumulative effect of the Child Support Guidelines

- Duration of Child Support
  - Arizona child support duration is one of the lowest in the U.S., at 18 years-old or 19 years-old if still in high school.
  - COVID complications? Will more children be graduating later due to COVID?
- Arrears and Back Child Support
  - Arizona used to use the United States Rule for payments on child support arrears debts, but now payments are applied to principal first. [See *Flood Control District of Maricopa County v. Paloma Investment Limited Partnership*, 237 Ariz. 322, 350 P.2d 826 (2015)]
  - No interest on back child support.
  - Back child support is limited to 3 years.
  - Interest on arrears is simple interest.
  - Interest on arrears is proposed to be reduced from 10% to 5%.
  - Cumulatively, does this result in disparate impact, or could it result in a possible equal protection claim, as the majority of child support Recipients are women?
  - **PROPOSAL** = Understanding these are statutory issues not contained in the Child Support Guidelines under review by the CSGRS, the CSGRS could recommend

returning to applying the United States Rule, in addition to reducing the interest rate on arrears to 5% simple interest.

**RESPONSE** = This was not and is not a subject for this subcommittee because the interest is statutory and other issues are rules-based. This is best addressed by the Family Court Improvement Committee.

C. Simplification of the Guidelines

- One goal of the CSGRS was to simply the guidelines and add more certainty for parents, but some elements have been made more complex and have introduced new opportunities for confusion, interpretation and contention:
  - Childcare = prohibition on including childcare costs paid to a “dependent” in calculating Basic Child Support Obligation; also refers to IRS form for the definition of “dependent.”
  - Parenting Time Adjustment = giving parenting time credit to one parent for time a child spends in school or childcare – while completely unrelated to the time-sharing and parental duties stated in the parties’ parenting plan.

D. Possible corrections or clarifications

- Page 5, II(A)(1)(b) = parenthetical reference to Section VII(B) should be to X(B).
- Page 6, II(A)(2)(a)(iii) = parenthetical reference to Section VII(B) should be to X(B).
- Page 9, II(B)(2)(e) = reference to “Section II.B.2.b or II.B.2.c above” should be “II.B.2.c or II.B.2.d”?
- Page 19, V(F) = Suggest clarifying last sentence in first paragraph by adding words (italicized here) = “If this presumption is rebutted, *and the costs are not substantially or equally shared by both parents*, the court may order a deviation under Section IX below.”
- Page 20, V(G)(1) = Suggest clarifying first sentence by adding (italicized here) = “If the parents have multiple children and each parent exercises more than half of the parenting time with at least one *child*, 2 child support worksheets are prepared.”





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Final Report and Recommendations of the  
Family Court Improvement Committee  
Child Support Guidelines Review Subcommittee

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