

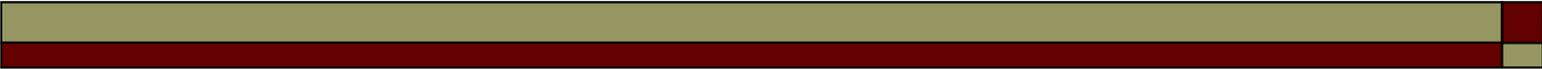
CHILD SUPPORT GUIDELINE REVISION ACT OF 2006

**DC OFFICE OF THE ATTORNEY GENERAL
CHILD SUPPORT SERVICES DIVISION**



Empowering CSSD Families
One Calculation at a Time.





What is a Child Support Guideline?

- ❖ A formula for the calculation of child support.
- ❖ Based on:
 1. Parents Income
 2. Needs of the child
- ❖ Purpose:
 1. Meet the needs of the child.
 2. Ensure that parents and children in similar circumstances are treated consistently in local court and administrative proceedings.
- ❖ Replaced the “best interests of the child” standard typically applied by local courts because:
 1. Standard produced insufficient awards for children
 2. Resulted in widely disparate results for families.
- ❖ A federal requirement for IV-D programs in 1984 with amendments in 1988.

Legal Basis for Child Support Guidelines

- ❖ Social Security Act 42 U.S.C. § 467 sets out the requirements for the guidelines:
 1. Guidelines are necessary as a condition for approval of State Plan.
 2. Guidelines are necessary in order to continue receiving Federal funding.

- ❖ Code of Federal Regulations 45 C.F.R. § 302.56 sets forth additional requirements for guidelines:
 1. All income earned by noncustodial parent must be included in guideline computation.
 2. Consider economic data on the cost of raising a child.
 3. Analyze case data on the application of and deviation from the guidelines.
 4. Ensure that deviations from the guidelines are limited.
 5. Guidelines must be reviewed every 4 years.



FIRST GUIDELINE IN D.C.

- ❖ Amendments to the federal laws required all states to enact guidelines by October 13, 1989.
- ❖ D.C. convened a 14-member guideline committee, and an emergency guideline was enacted on December 21, 1989.
- ❖ A permanent guideline was enacted on March 15, 1990.



CHILD SUPPORT GUIDELINE COMMISSION

- ❖ The permanent guideline included a provision that established the Child Support Guideline Commission.
- ❖ Composition of Commission-Reorganized in 2002
 - ❖ Chairperson and 8 members
 - ❖ 1 CSSD Representative
 - ❖ 1 Associate Judge
 - ❖ 1 Magistrate Judge
 - ❖ 1 Councilmember
 - ❖ 3 family law practitioners
 - ❖ 2 members of advocacy groups with child support and IV-D knowledge
 - ❖ All members must be D.C. residents
 - ❖ Members are appointed by Mayor, City Council, Superior Court Chief Judge



Goals of the Guideline Commission



- ❖ Review and recommend changes to the current Guideline every 4 years; original commission failed to do this.
- ❖ Review pertinent economic data, including poverty levels and information on the functioning of the guidelines for the purpose of recommending changes to the guidelines.
- ❖ Hold a public meeting at least once a year to receive comments from members of the Bar and the community.
- ❖ Perform all other necessary tasks to develop, update, or monitor the guidelines and ensure that the District is in compliance with all federal mandates.



Steps to creating a new guideline



Activities of the Commission: 2003-2005

- ❖ Had public meetings once or twice a month and 3 public hearings in different areas of D.C.
- ❖ Reviewed the basis and principles underlying the current guideline and analyzed case file data on the application of and deviations from the guideline.
- ❖ Examined how the current guideline formula compared to those of nearby states, and with the help of Policy Studies, Inc. (PSI), performed a thorough economic analysis of the current guideline.
- ❖ Met with Family Law Section of D.C. Bar to get private practitioners' outlook of the current guideline.
- ❖ Submitted the "Report of the District of Columbia Guideline Commission: Final Recommendations" to the Mayor; the Report included 25 substantive recommendations on revising the guideline.
- ❖ In Early 2005, the "**Child Support Guideline Revision Act**" was introduced to the D.C. City Council; the bill was signed into law on April 26, 2006.

New Legislation

Why was a new guideline necessary?

- ❖ The current guideline is deficient in a number of areas.

Problems With Current Guideline

- ❖ Does not address how to verify income.
- ❖ Does not specify treatment of means-tested income (public assistance).
- ❖ Does not specifically address how to calculate SSDI derivative benefits.
- ❖ Does not specifically address the issue of imputing income.
- ❖ Does not account for the reality that both parents generally share the payment of direct expenses for their children.
- ❖ Has an outdated custodial parent disregard.
- ❖ Does not specify a minimum guideline amount for unemployed non-custodial parents (NCPs).



Objectives of the New Guideline

- ❖ Treat cases with similar circumstances equally.
- ❖ Reflect current economic realities, including child rearing costs and parents' ability to pay.
- ❖ Income adjustments should be available to both parents.
- ❖ Parents should share the burden of the large expenses such as child care, health insurance, extraordinary medical costs.



Old Guideline vs. New Guideline: Significant Changes

Old Guideline

- ❖ Increases as child's age increases.
- ❖ Is silent on time length of retroactive support awards.
 - ❖ Case law allows retroactive support back to the child's date of birth.
- ❖ Does not address when or if income may be imputed.
 - ❖ Case law allows it under certain circumstances.
- ❖ Does not specifically explain how to treat public assistance benefits.
- ❖ Does not address treatment of third party income.
- ❖ Allows credit for childcare to be awarded only to custodial parent (CP).
- ❖ Allows credit for medical insurance to be awarded only to NCP.
- ❖ Gives credit to NCP for other children in household, but not to CP.
- ❖ Includes a plus or minus 3% variation provision that creates a range for the presumptive guideline amount.



Old Guideline vs. New Guideline: Significant Changes

New Guideline



- ❖ Specifies sources to use in verifying income.
- ❖ Excludes public assistance benefits as income.
- ❖ Includes a specific formula for the calculation of SSDI Derivative Benefits.
- ❖ Excludes third party income.
- ❖ Limits retroactive support to 24 months, absent extraordinary circumstances.
- ❖ Allows for income to be imputed.
- ❖ Eliminates the plus or minus 3% variation provision; variations from guideline are consolidated with factors which allow departures from guideline.
- ❖ Eliminates CP income disregard.
- ❖ Allows either parent to receive credit for the child's expenses; health insurance, child care, extraordinary medical costs.



New Guideline



- ❖ Provides a self support reserve for the NCP of 133% of the poverty level or \$12,382 (2006). This amount must be updated every 2 years.
- ❖ Establishes a presumptive guideline of \$50 per month for NCPs who are unemployed or have incomes below the self support reserve. The court may order support below or above \$50 per month but must issue written findings as a basis for doing so.
- ❖ Upper Income guideline limits are increased from \$75,000 for the NCP to \$240,000 using combined income of both parties.
- ❖ Shared custody threshold is decreased from 40% with either parent to 35%. Calculations for joint shared custody have been modified.
- ❖ The total child support obligation shall not exceed 35% of the adjusted gross income of the NCP.

New Guideline: Specifics

New Terms

- ❖ **Actual Family Experience:** cost of raising the child is based on the expenses incurred by each parent until the time of the court hearing.
- ❖ **Parent To Whom Support Is Owed:** replaces CP.
- ❖ **Parent With A Legal Duty To Pay Support:** replaces NCP.



No More High and Low Guideline Amounts

- ❖ The 3% plus or minus variation is gone; there is now only one presumptive guideline amount.
- ❖ Departures can be made from the presumptive amount.



New Guideline: Specifics



Departures From Guidelines

- ❖ The court can still depart from the guideline amount. All departures must be stated in writing. Some departure factors used in the old variation process are incorporated into the new guideline departure process.

Departure Factors

- ❖ Child has exceptional needs which cause extraordinary expenses
- ❖ Gross income of the NCP is substantially less than the CP
- ❖ Either parent supports an additional dependent, e.g. step-child, elderly relative, and application of the guideline would result in hardship
- ❖ The NCP is 18 or younger and a full-time student
- ❖ The NCP pays for expensive necessities for the child; e.g. school tuition
- ❖ NCP needs temporary reduction to repay a debt or reorganize finances



New Guideline Specifics



Departure Factors (continued)

- ❖ Child is the subject of a neglect proceeding and has been placed outside home with goal of reunification
- ❖ Child has regular and substantial income that can be used for support without impairing child's current or future education
- ❖ NCP has special needs that increase personal subsistence costs
- ❖ CP receives support for another child and the additional support causes the standard of living in CP household to be greater than NCP-standard of living measured according to federal poverty guidelines
- ❖ Catchall: any other exceptional circumstances that would yield patently unfair results



Income Shares Model

- ❖ The new guideline stipulates that child support obligations will be calculated pursuant to an Income Shares Model. This Model reflects a more current economic approach to calculating support.
- ❖ Add individual adjusted gross incomes of each parent.
- ❖ Divide the total by each parent's individual adjusted gross income to determine each parent's percentage of the basic child support obligation.
- ❖ Find basic child support obligation amount from schedule.
- ❖ Divide this amount by each parent's percentage amount to determine each parent's monetary share of the obligation.
- ❖ Each parent is also responsible for their percentage share of additional expenses (childcare, medical, etc.).



Income Shares Model (continued)

- ❖ After each parent is given applicable credits for their share of expenses, apply any adjustments applicable to NCP.
- ❖ Each parent has a monetary amount which reflects their percentage share of the basic child support obligation a sole custody case, NCP pays CP his share of the obligation.
- ❖ Note that the guideline no longer increases based on the age of the child.



Calculating Guidelines

- ❖ Let's practice working the new guidelines
- ❖ Using the following tools:
 1. Shared Custody Guideline Worksheet
 2. Sole Custody Guideline Worksheet

