

Program Status Report



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Child Support Guidelines Schedule Should Reflect Current Economic Conditions

at a glance

Based on OPPAGA's recommendations, state law has been amended to require judges to provide a written record of reasons for deviating from child support guidelines and to allow credit for the time children spend with the secondary residential parent in determining support awards.

However, the current child support guidelines schedule continues to reflect 1973 expenditure data and 1992 economic conditions and should be updated. Several economic models that could be used to update the guidelines schedule would affect support obligations differently.

Purpose

In accordance with state law, this report informs the Legislature of actions taken relevant to our findings and recommendations in our 1998 report.^{1,2} This report also presents information regarding the need to update the child support guidelines schedule and options for facilitating this process.

¹ Section 11.45(7)(f), *Florida Statutes*.

² *Review of Adherence to Child Support Guidelines*, OPPAGA Report No. 97-63, March 1998.

Background

Parents are responsible for the financial support of their minor children. However, when one or both parents fail in this responsibility, the minor children may require public assistance. To reduce or avoid these costs, federal and state governments have established child support programs.

The federal child support program sets standards and provides funding for state child support programs. To remain eligible for federal funding, states must establish guidelines for setting and modifying child support amounts. Federal law also requires states to review their guidelines every four years and revise them if necessary to ensure that the guidelines' application results in the determination of appropriate child support award amounts.

To comply with this review requirement, the Legislature contracted in 1996 with Policy Studies, Inc., to study Florida's guideline amounts. In addition, the Legislature directed OPPAGA to study and analyze case files for child support cases to determine whether judges adhere to child support guidelines.

Child support guidelines apply to both Title IV-D and private cases. Families who receive public assistance payments or request state

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assistance with child support collections and enforcement are classified as Title IV-D cases. These Title IV-D cases are administered by the Department of Revenue, which assists in establishing paternity, obtaining support awards from the court, and collecting and enforcing support. Instances in which families use private attorneys in child support cases and do not receive public assistance or request state assistance are referred to as private cases.

The child support guidelines include a schedule similar to a tax table that prescribes basic support obligations based on two factors: the number of minor children requiring support and combined net parental income.³ State law authorizes judges to order support awards up to 5% above or below the schedule in the guidelines. Judges may depart from this range, but must make their reasons part of the written record.⁴ The obligation amounts included in the schedule are based on estimates developed by economic models, not the actual costs of raising children.

Status of Prior Findings and Recommendations

In our 1998 report, OPPAGA found that judicial reasons for not adhering to child support guidelines needed to be documented. OPPAGA also found that the guidelines needed clarification as to how courts should round monthly income and treat time spent with the secondary residential parent. In addition, OPPAGA found that support obligations proposed in 1998 legislation would have a significant impact on low-income families and would encourage non-payment.

³ Section 61.30(6), *F.S.*, presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter.

⁴ Although in many courts hearing officers or general masters hear child support cases, this report refers to all triers of fact as judges.

Adherence to Guidelines

Our 1998 review found that judges routinely ordered support awards above and below the range specified in the statutory guidelines. Judges departed from the guidelines for several reasons. Most commonly, the parents had negotiated a settlement agreement that included a support agreement that was outside the guidelines range. Other reasons judges departed from the guidelines included children that had extraordinary expenses, such as medical care; situations where both parents provided care for the child a significant amount of the time; and cases where one or both parents supported children in multiple families. However, it was often difficult to determine why judges departed from the guidelines in many cases, because judges were not required to document the reasons for granting differing child support awards.

Recommendation. To facilitate monitoring of judicial application of the guidelines, OPPAGA recommended that the Office of State Courts Administrator (OSCA) confer with the Department of Revenue to develop a model paragraph to be used in child support final orders.⁵ This paragraph would identify (1) the number of children in the support case; (2) the net income of each parent; (3) the payment amount prescribed by the guidelines; (4) how much support the judge awarded; and, (5) when applicable an explanation of why the judge did not follow statutory guidelines.

Status. The Office of State Courts Administrator and the Department of Revenue did not develop the recommended paragraph. However, the 1998 Legislature amended state law to require that judges provide a written explanation of their reasons for deviating from child support guidelines when awards deviated 5% above or below the guidelines.⁶ Developed by OSCA, the Supreme Court also promulgated the Child Support Guidelines Worksheet, which is required to be filed in all cases and includes most of the elements listed

⁵ The administrative responsibilities of the Supreme Court are carried out by the Office of State Courts Administrator (OSCA).

⁶ Chapter 98-397, *Laws of Florida*.

above. The written explanation for deviations in combination with the worksheet meets the intent of the model paragraph. However, to ensure that the worksheet accurately reflects the information used to establish the final order amount, any amendments to the information that affects the judge's final decision, should be recorded on the worksheet.

Clarification of Guidelines

Our 1998 review identified several concerns with interpretation of child support guidelines. Courts often varied in their interpretation of how the guidelines schedule should be used. For example, some courts took a monthly income and rounded up to assign support obligations, while other courts rounded down. Many judges also indicated a need for more guidance concerning what proportion of time the guidelines presume a child spends with the secondary residential parent.

Recommendations. To improve adherence with the child support guidelines, OPPAGA recommended that the Legislature amend Ch. 61, *Florida Statutes*, to provide instruction on whether joint income should be rounded up or down when using the guidelines schedule. OPPAGA also recommended that the Legislature amend Ch. 61, *Florida Statutes*, to define the amount of time children are presumed to spend with their secondary residential parent.

Status. The Legislature did not amend state law to provide instruction on whether joint net income should be rounded up or down when using the guidelines schedule. We continue to believe the Legislature should consider this step to provide more guidance in how the courts should calculate child support awards. The Legislature did amend state law to allow credit for the amount of time children are presumed to spend with their secondary residential parent, so that support awards can be revised appropriately when arrangements are made for other amounts of visitation. However, with the growing trend towards children spending greater amounts of time with their secondary residential parent,

concerns have arisen as to the vagueness of the revision. The Legislature may want to define what is considered to be a substantial amount of time.

Update of Guidelines Schedule

Many judges considered guidelines too high for minimum wage and low-income parents. They believed that if parents could not meet their own food, shelter, and transportation needs, requiring a child support payment they cannot afford was likely to result in non-payment and be detrimental to the children and the state. During the 1998 session, legislation was proposed to revise the child support guidelines based on the recommendations of a national expert.⁷ The purpose was to update the basic support obligations to reflect changes in consumption, income, and cost of living since 1992.

Recommendation. OPPAGA analysis of the 1998 legislation indicated that the proposed change would have the greatest impact on lower-income families, the group that judges were most concerned about forcing into a position of non-payment. OPPAGA recommended that the Legislature review the new support obligations proposed in the 1998 legislation to determine whether they were too high for low-income families and would encourage non-payment.

Status. The Legislature did not adopt the 1998 proposed revisions to the child support guidelines schedule due to concerns about the increased burden on low-income parents. Similarly, the Legislature did not adopt a revised schedule proposed during the 2000 session that would have phased in changes to support obligations in the lower-income levels.⁸

⁷ Robert G. Williams of Policy Studies, Inc., *Economic Basis for Updated Child Support Schedule*, January 30, 1997.

⁸ The revised schedule was also based on recommendations by Policy Studies, Inc., March 2000.

Updating the Guidelines Schedule

Federal regulations require states to review their child support guidelines every four years. Proposals to modify Florida's child support guidelines are considered during legislative sessions when members must deal with many other issues. However, decisions to modify child support guidelines are complex and can be contentious. These decisions must address concerns that the needs of children will not be met if obligations are set too low or that non-custodial parents can be overburdened if the obligations are set too high, which can result in non-compliance.⁹

As noted earlier, included in the child support guidelines is a schedule of prescribed support obligations. There are two components within the schedule that need to be considered when assessing whether changes to the guidelines are needed: the self-support reserve and the basic support obligations.

The self-support reserve currently reflects the 1992 poverty level

Florida's current guidelines schedule understates the income that non-custodial parents need to retain to avoid living in poverty. The schedule includes a self-support reserve that functions to reduce the basic support obligation if the non-custodial parent's income is just above the poverty level. This is intended to leave the individual with enough income after paying child support to live at or above the poverty level.¹⁰

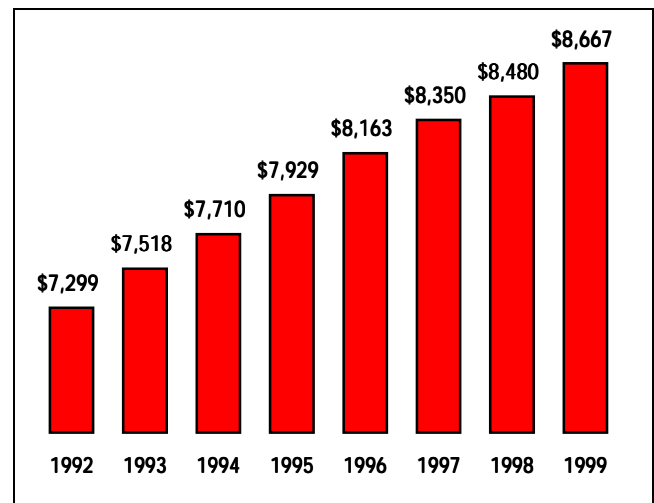
This self-support reserve is currently set using the 1992 poverty level. However, as shown in Exhibit 1, the poverty level for a single-person

⁹ For a more detailed discussion of this issue, see *Family Law Quarterly*, Spring 1999, Vol. 33, No.1; and *Justification Review of the Child Support Enforcement Program*, OPPAGA report to be published in December 2000.

¹⁰ Ensuring that the non-custodial parent has excess income after the payment of child support is intended to provide incentive for the individual to continue to work to earn more than the self-support reserve.

household has increased by 19% since 1992 from \$7,299 to \$8,667. As the poverty level increases, more money is needed to meet an individual's basic needs. For example, a person making \$8,000 a year who would have been above the poverty level in 1992 would now be under the poverty level. The combination of the increasing poverty level and not updating the guidelines schedule has effectively resulted in the nullification of the self-support reserve.

Exhibit 1
The Poverty Level Threshold Has Increased 19% Since 1992



Source: U.S. Census Bureau poverty thresholds data 1992-1999.

Basic support obligations can be established using several economic models

The basic support obligations included in the guidelines schedules are based on estimates of the cost of child rearing. Due to the difficulty of capturing actual expenditures on children, states often rely on economic models that have been developed to produce estimates of expenditures on children. Of the various models that have emerged, one is currently used by Florida and two others have been accepted as providing credible estimates.

- **Espenshade Model.** Florida's current basic support obligations are based on economic assumptions that have become outdated. The guidelines schedule was developed using the Espenshade economic model,

which uses national data on household expenditures from the 1972-73 U.S. Consumer Expenditure Survey.¹¹ These expenditure levels were last updated to reflect changes in the Consumer Price Index through 1992.

This model estimates household expenditures in all categories based on the proportion of income spent on food.¹² The model assumes that the percentage of the family's expenditures on non-food items is equivalent to that spent on food. However, because the percentage of the family's food that is consumed by children is probably greater than the percentage of non-food items, this model is believed to over-estimate the cost of raising children and result in high child support obligations.

- **Betson Model.** The Betson model was developed based on a study on child-rearing costs conducted in the early 1990s.¹³ The model uses data from the 1980-86 Consumer Expenditure Survey, updated to reflect changes in the 1996 Consumer Price Index.¹⁴ The Betson model estimates household expenditures in all categories based on the proportion of

income spent on adult goods, such as alcohol, tobacco, and adult clothing, in estimating the fiscal impact of children on a household.¹⁵ It has been criticized for potentially understating levels of expenditures on children. Proposals for changes to the guidelines schedule during both the 1998 and 2000 Florida legislative sessions were based on the Betson model.

- **USDA Model.** The United States Department of Agriculture (USDA) produces annual estimates of child-rearing expenditures. The 1999 annual report on child-rearing expenses was based on the 1990-92 Consumer Expenditure Survey updated to 1999 dollars using the Consumer Price Index. The USDA model allocates housing, transportation, and miscellaneous expenses equally among all members of a household.¹⁶ As this model assumes that housing, transportation, and miscellaneous expenses are shared equally, it is believed by some economists to overstate expenditures on children in these three expenditure categories.¹⁷

The choice of economic models will substantially influence the guidelines schedule

No consensus has emerged among economists that one economic model is superior to the others, and each model has limitations and biases. Of the three discussed here, the Espenshade model produces the highest support obligations and the Betson model the lowest, while support obligation developed with the USDA model fall in the middle.

¹¹ The federal Consumer Expenditure Survey is a survey of household expenditures collected nationwide. It collects information on socio-demographic characteristics, income, and expenditures of a nationally representative sample of households.

¹² This model attempts to estimate the marginal or extra costs of child rearing relative to expenditures in the absence of any children. It does so by comparing expenditures on food between two households that are equally well off economically, one with children and one without. The additional expenditures by the household with children are deemed to be the costs of child rearing.

¹³ In response to Congressional mandate, the U.S. Department of Health and Human Services contracted with David Betson to conduct a study of expenditures on children. In this report, [Alternative Estimate of the Cost of Children from the 1980-86 Consumer Expenditure Survey](#), Betson compares five different estimators, Per Capita, Engel, ISO-PROP, Rothbarth, and Barten-Gorman, for estimating the cost of raising children. He found that the Rothbarth estimator provides the best available evidence on child-rearing costs, which is the basis for this model.

¹⁴ Betson is currently in the process of updating his expenditure study to reflect current economic and expenditure data. New estimates are expected to be available in December 2000.

¹⁵ This model also attempts to estimate the marginal or extra costs of child rearing relative to expenditures in the absence of any children, but does so by comparing expenditures on adult goods.

¹⁶ Other expenditure categories are allocated separately using different methods. Food and health care expenditures are allocated among each family member using proportions derived from the 1994 USDA Food Plans and the 1987 National Medical Survey. Expenditures on children's clothing, education, and childcare, which are directly reported in the federal Consumer Expenditures Survey, are divided equally among each child.

¹⁷ These three budgetary components account for about 60% of USDA-reported child-rearing costs.

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Exhibit 2 shows the percentage of household expenditures that are attributed to child rearing for the three models at varying income levels.

**Exhibit 2
Economic Models Differ in Their Estimates of Expenditures Attributable to Children¹**

Household Expenditure Level	Espenshade Model	Betson Model	USDA Model
Low	49%	36%	45%
Average	49%	36%	42%
High	49%	35%	39%

¹Table compares the average percentage of household expenditures attributable to children in husband-wife families.

Source: "A Comparison of Child Support Awards Calculated Under States' Child Support Guidelines with Expenditures on Children Calculated by the U.S. Department of Agriculture," *Family Law Quarterly*, Spring 1999.

Florida's current child support guidelines schedule (based on the Espenshade model) tends to be higher than most states. A 1999 national study compared child support guidelines requirements of the 50 states based on hypothetical family income levels.¹⁸ The states' guidelines amounts were ranked by OPPAGA from high (1) to low (50) for the three income levels. Florida's current guidelines ranked 18th highest in the nation at the \$20,330 income level, 8th highest at the \$41,800 income level, and 10th highest at the \$65,480 income level. As shown in Exhibit 3, Florida's child support guidelines produce support obligations that were well above the national averages. The guidelines changes proposed during the 2000 legislative session (based on the Betson model) would have lowered Florida's child support guidelines schedule, but would have continued to produce support obligations above the national average.

¹⁸ Laura W. Morgan and Mark C. Lino, "[A Comparison of Child Support Awards Calculated Under States' Child Support Guidelines with Expenditures on Children Calculated by the U.S. Department of Agriculture](#)," *Family Law Quarterly*, Spring 1999.

**Exhibit 3
Florida's Schedule Results in Support Obligations That Are Higher Than the National Average**

Case	Current Guidelines	2000 Legislative Proposal	National Average
Family 1 - Joint Net Income of \$20,330	\$ 471	\$ 468	\$ 403
Family 2 - Joint Net Income of \$41,800	939	847	790
Family 3 - Joint Net Income of \$65,480	1,292	1,137	1,069

Source: Compiled by OPPAGA based on "A Comparison of Child Support Awards Calculated Under States' Child Support Guidelines with Expenditures on Children Calculated the U.S. Department of Agriculture," *Family Law Quarterly*, Spring 1999 and Proposed Committee Bill 00-08 — Committee on Family Law and Children.

As Florida's guidelines are currently higher than the national average, changing the model used to develop the current schedule may result in lowering existing support obligations. This could affect families that have come to depend on current support payments.

It should also be noted that each of the economic models are based on national data from the federal Consumer Expenditure Survey, which may not accurately reflect Florida's cost of living. However, it would be costly to collect comparable data at the state level. As a result, any of the economic models may tend to somewhat overstate or understate the cost of raising children in Florida.

Options available for updating Florida's current guidelines schedule affect support obligations differently

Both the self-support reserve and obligation amounts in Florida's current guidelines schedule require revision. Exhibit 4 identifies three options for updating the schedule, summarizes the economic model, and shows the impact on support obligations.

Exhibit 4

Options for Updating the Child Support Guidelines Schedule Will Affect Support Obligations Differently

	Option 1	Option 2	Option 3
Description of Option	Contract to have new schedule developed using Espenshade model, updated to reflect current economic data.	Contract to have new schedule developed using updated Betson model.¹	Contract to have new schedule developed using USDA model.
Effect	Guidelines will reflect current economic data, but will continue to reflect 1972-73 expenditure data. Will result in higher basic support obligations than in current law	Guidelines will reflect current economic and expenditure data. May result in lower basic support obligations than in current law	Guidelines will reflect current economic and expenditure data, which is updated annually by USDA. May result in lower basic support obligations than in current law
Description of Model Supporting Option	Espenshade Model Marginal cost model Uses same method to allocate expenditures in all categories Used to develop Florida's current Guidelines Schedule	Betson Model Marginal cost model Uses same method to allocate expenditures in all categories Used to develop Florida's 1998 and 2000 legislative proposals	USDA Model Hybrid approach Uses different methods to allocate each category of expenses Not used in Florida
Description of Estimator² Used In Model	Engel Estimator Expenditures allocated based on the proportion of income spent on food	Rothbarth Estimator Expenditures allocated based on the level of income spent on adult goods	Per Capita Estimator Housing, transportation, and miscellaneous expenses allocated in equal proportions among all household members
Effect	Believed to overstate expenditures on children Results in estimates that lie within the upper bounds	Believed to understate expenditures on children Results in estimates that lie within the lower bounds	Believed to overstate expenditures on children Results in estimates that fall between those developed with Espenshade and Betson models

¹ Betson is currently in the process of updating his expenditure study to reflect current economic and expenditure data. New estimates are expected to be available in December 2000.

² An estimator is a methodology used to allocate household expenditures among family members using an equivalency standard or per-capita or some other method for separating child-rearing expenditures from total family expenditures.

Source: OPPAGA.

Changing the child support guidelines will affect the workload of the department and court system to some degree. Either parent can request a review of their child support order for possible modification when economic conditions change, and changing the guidelines schedule would likely result in additional requests for modification reviews. The potential workload impact cannot be accurately projected until a new guidelines schedule is developed. However, the changes to the guidelines proposed in the 2000 session would have affected cases involving three or more children and monthly net income

levels ranging from \$3,200 to \$8,100. As approximately 10% of child support cases have three or more children and even fewer would meet the income criterion, the impact would have been minimal. Any workload increase caused by a change in the guidelines schedule would be temporary and would be resolved once the cases had been reviewed and/or modified. In addition, the Legislature could limit the impact by adjusting the required threshold for change in circumstances (currently set at \$50 or 15%) that is required before orders can be considered for modification.

Alternate processes could be used for future updates of Florida's guidelines

Modifying child support guidelines is a highly complex process that must include assessing economic data on child rearing and considering the implications of various economic models. This is a major undertaking that requires the dedication of time and resources to allow individuals involved in the process to focus on the myriad of details, issues, and nuances. To ensure a comprehensive assessment and timely update of the guidelines, the Legislature may wish to implement one of the processes discussed above.

- ***Establish Study Commission.*** A number of states have established study commissions, comprising legislators, judges, attorneys, economists, and parents, to support the entity responsible for updating the guidelines. The commission would be established every four years and given responsibility for conducting analysis and researching current child support issues. The commission would be charged with determining whether revisions of the child support guidelines are needed and making proposals to the Legislature. To allow active participation by citizens and other stakeholders, the commission could hold public hearings and forums throughout the state. This option would require an appropriation to cover the cost of travel for commission members and staff support to research issues, analyze data, and coordinate commission meetings.

- ***Appoint Select Committee.*** Alternately, the Legislature could establish a joint select committee every four years to consider changes to the child support guidelines. The appointment of a select committee would allow legislators more time to consider this issue and be fully involved in developing revisions rather than relying on the recommendations of others. The committee could also hold public hearings and solicit testimony throughout the state as deemed necessary. The committee could be staffed by legislative analysts assigned to other committees or through its own dedicated staffing.

Recommendations ---

Based on the continuing requirement for a quadrennial review of child support guidelines, the complexity of the economic models, the contentiousness of the issue, and the limited time available during session, we recommend the Legislature consider establishing a study commission or appointing a select committee to review child support guidelines every four years.

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