

# oppaga Special Review



February 2002

Report No. 02-13

## Adherence to Florida's Child Support Guidelines Appears to Be Improving

### *at a glance*

Based on our sample of child enforcement cases, judges awarded child support obligations in accordance with the statutory guidelines in 91% of the cases administered by the Department of Revenue and in 52% of the private support orders issued in Florida. This represents an improvement since our examination in 1998 when only 63% of the cases administered by the Department of Revenue and 43% of the private support orders issued in Florida were in compliance with the statutory guidelines.

However, 12% of the case files administered by the Department of Revenue and 46% of the private case files lacked evidence that guideline amounts for child support had been calculated. In addition, 57% of the case files administered by the Department of Revenue and 90% of the private case files that deviated from Florida's guidelines did not have documentation describing the reasons for awarding a different child support award.

To continue to improve the level of adherence to Florida's child support guidelines and also facilitate future compliance monitoring, we recommend that the Legislature require that child support guideline calculation information and the judges' reasoning for significant deviations from the calculated amount be included in child support orders.

### Purpose

Chapter 2001-158, *Laws of Florida*, directs OPPAGA to analyze case data and court proceedings, chosen through a statistically valid random sample of child support enforcement cases in both Department of Revenue administered cases and private cases, on the application of and deviation from the child support guidelines set forth in s. 61.30, *Florida Statutes*.

We can provide reasonable but not complete assurance that the sample of child support enforcement cases used in our analysis is a statistically valid random sample of the entire population of cases as mandated by law. For our analysis, we requested the Department of Revenue provide OPPAGA with the entire population of cases containing child support orders issued during the review period of January 1 to May 31, 2001, which are administered by the department.

The department provided an initial data set followed by a subsequent data set of cases. However, in both instances, the department later questioned whether either data set contained the entire population of child support cases we requested. Reluctant to provide assurances about either data set, the

department finally reported that they are unable to identify the exact population of all applicable child support cases.

We performed an additional analysis of the population characteristics in both data sets provided by the department. As a result, we believe our random sample used in our analysis is a reasonable representation of all child support enforcement cases administered by the department.

## Background

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Florida's Child Support Enforcement Program operates under federal mandates as well as state law. Federal law 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.

The child support guidelines apply to both Title IV-D and private cases. Families who receive public assistance payments or request state 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. Families that use private attorneys in child support cases and do not receive public assistance or request state assistance are referred to as private cases.

Section 61.30, *Florida Statutes*, establishes Florida's child support guidelines, which 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. For example, a parent who makes 40% of the couple's combined net income is expected to pay 40% of the child support

payment prescribed by the guidelines. (See Appendix A for an example of how support obligations are calculated.) The 2001 Legislature amended Florida's child support guidelines by including an allowance for significant parenting time in the calculation of the guideline amount.<sup>1</sup>

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 provide written documentation of their reasons. Florida's judicial rules of procedure require that a child support guidelines worksheet be filed with the court.<sup>2</sup> This worksheet identifies the support order amount, as calculated in accordance with Florida's child support guidelines.

In 1998, at the direction of the Legislature, OPPAGA analyzed child support cases to determine whether judges were adhering to child support guidelines.<sup>3</sup> Our examination found that judges awarded child support obligations in accordance with statutory guidelines in 63% of the Title IV-D cases and 43% of the private cases.

## Findings

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Our current examination concludes that Florida's adherence to child support guidelines has improved since 1998. However, to continue to improve the level of adherence and also facilitate future compliance monitoring, changes are needed to the documentation process.

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<sup>1</sup> To be included in the calculation, each parent must exercise visitation in at least 40% of the overnights in the year.

<sup>2</sup> Family Law Rules of Procedure 12.285(j)

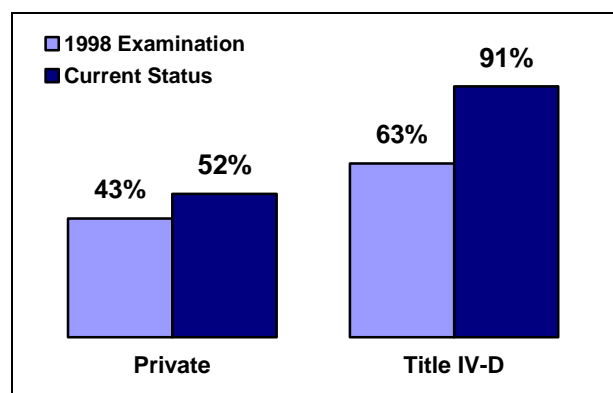
<sup>3</sup> *Review of Adherence to Child Support Guidelines*, [Report No. 97-63](#), March 1998. Subsequently, OPPAGA published a status report, *Child Support Guidelines Schedule Should Reflect Current Economic Conditions*, [Report No. 00-20](#), December 2000.

## Adherence to guidelines improves

Based on the sample of cases we analyzed, OPPAGA concluded that judges awarded child support obligations in accordance with statutory guidelines in 91% of the Title IV-D cases and 52% of the private cases. (See Exhibit 1.)

### Exhibit 1

#### Percentage of Child Support Orders in Compliance with Guidelines



Source: OPPAGA analysis.

In accordance with Ch. 2001-185, *Laws of Florida*, we chose random samples of Title IV-D and private cases for the period January 1, 2001, through May 31, 2001, to ensure that support orders that incorporate the new substantial parenting time adjustment are excluded. An additional sample of support orders issued during the period October 1, 2001, through October 31, 2001, was obtained to help identify the impact that the substantial parenting time adjustment may have had on child support orders. See Appendix B for details of the methodology used to determine the sample sizes and conduct this analysis.

### *Title IV-D Cases*

Based on our analysis of the sample of Title IV-D cases, we conclude that 91% of

Title IV-D support orders issued in Florida adhere to the child support guidelines.<sup>4</sup>

This is a significantly higher level of compliance than found in our prior examination when only 63% of the sample of support orders adhered to guideline statutes. The Department of Revenue reported this improvement may be attributed to revised procedures that helped ensure that guideline worksheets were submitted to the courts as required. Also, department staff can now use an electronic guideline calculation worksheet that allows the guideline amount to be easily recomputed when updated information is presented during the judicial proceeding.

### *Private Cases*

We determined that judges complied with Florida's child support guidelines in 52% of the private cases in the sample. From our analysis of this sample, we conclude that, with a 95% level of confidence, between 47% and 57% of all of the private support orders issued in Florida adhere to the child support guidelines. This compares favorably with the results from our 1998 examination where we reported that judges conformed to the guideline statutes in 43% of the sample.

The Office of State Courts Administrator reported that a primary reason judges award support obligations outside of the guidelines, without providing written rationale for deviating 5% above or below the guideline amount, is because private support order amounts are often based on voluntary agreements in which both parents agree to a payment amount outside the range specified by the guidelines. Also, support orders may not conform to guideline statutes when both parents do not have legal representation. In these instances, parents may be unaware of the requirement to complete a guideline worksheet or the information to perform the necessary calculations is not available.

<sup>4</sup> Assuming our sample is representative, we conclude with a 95% level of confidence that between 87% and 95% of all IV-D child support orders comply with the statutory guidelines.

### Parenting Time Adjustment Sample

To help identify the impact of recent changes to Florida law that now allow for an adjustment to the guideline amount when the children spend a substantial amount of time with each parent, we also reviewed a sample of 50 private support orders that were issued in October 2001. Because of the small sample size, we were unable to quantify with statistical significance the effect of this change on the level of adherence with Florida's guidelines.

Of the 27 support orders for which the appropriate guideline worksheet was provided, one included a parental time adjustment in the calculation. Data in the case files did not indicate whether a parental time adjustment was appropriate in the other cases.

## Improved Documentation Needed to Improve Compliance

Our 1998 examination found that it was often difficult to determine why judges departed from the guidelines because judges were not required to document the reasons for granting differing child support awards.<sup>5</sup> OPPAGA recommended that a model paragraph be developed for inclusion in final child support orders that identifies the information used to calculate the guideline amount and, when applicable, document the reason for deviating from that amount.

The Office of State Courts Administrator has developed a model child support order that includes the recommended paragraph. However, the use of this model support order is not required. In addition, the Supreme Court has promulgated a child support guidelines worksheet that identifies the support order amount, as calculated in accordance with Florida's child support guidelines, that is required to be filed with the court.

However, our current examination found that documentation demonstrating the child support guideline calculation is often not included with the applicable case file. As shown in Exhibit 2, 46% of private support orders and 12% of the Title IV-D support orders in our sample did not contain a complete child support guidelines worksheet or a calculation of the guideline amount in the support order. This indicates that neither the voluntary use of the model support order or the required use of the guidelines worksheet is regularly occurring.

In addition, 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.<sup>6</sup> As shown in Exhibit 2, this requirement for documentation is not being consistently followed. We found that 90% of private support orders and 57% of the Title IV-D support orders did not contain written documentation that explained the judges' reasoning for deviating from the guideline amount.

### Exhibit 2 Many Child Support Case Files Do Not Contain All of the Required Documentation

Type of Child Support Order	Without Guideline Calculation	Without Guideline Deviation Documentation
Private	46%	90%
Title IV-D	12%	57%

Source: OPPAGA analysis.

We continue to assert that the best way to capture and preserve significant information as to the calculation of the guideline amount and the judge's reasoning for deviating from that amount is to require that it be included in the applicable child support order.

<sup>5</sup> *Review of Adherence to Child Support Guidelines*, [Report No. 97-63](#), March 1998.

<sup>6</sup> Chapter 98-397, *Laws of Florida*.

## Recommendations —

To continue to improve the level of adherence to Florida's child support guidelines and also facilitate monitoring of judicial application of the guidelines, OPPAGA recommends that the Legislature amend s. 61.30, *Florida Statutes*, to require that information as to the amount of the child support guideline calculation and the judge's reasoning for significantly deviating from that amount be included in the final child support order. Including this information in support orders will also help ensure that significant case information is preserved and also allow judges to readily review the decisions made in their courts.

## Agency Responses —

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Department of Revenue and to the Office of the State Courts Administrator for each to review and respond.

The executive director of the Department of Revenue provided a written response to our preliminary and tentative findings and recommendations. The director concurred with our findings and recommendations. The department's response is reprinted in Appendix C on page 9.

In addition, the State Courts Administrator provided a written response to our preliminary and tentative findings and recommendations.

The State Courts Administrator expressed concerns about the validity of OPPAGA's evaluation that is based on documents provided by court clerks. The administrator expressed reservations about the currency and accuracy of information provided by court clerks to OPPAGA. The administrator also expressed concern about the reliability of information available from Family Courts, where litigants frequently represent themselves.

Although the administrator does not agree with our recommendation for additional statutory mandates regarding documentation, the Office of State Courts Administration (OSCA) agrees for the need to explore ways to increase the use of model language in child support orders to easily identify whether the award conforms to or deviates from the guideline schedule.

OSCA's response is reprinted in Appendix C on pages 10 and 11.

## Appendix A

# Calculation of Child Support Obligation

Section 61.30, *Florida Statutes*, establishes Florida's child support guidelines, which 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. Table A-1 provides an example of how child support obligations are calculated.

**Table A-1**  
**Example of Child Support Obligation Calculation**

	Custodial	Non-Custodial
Tax Year	2001	2001
Number of Children	1	N/A
Filing Status (S = Single, M = Married)	S	S
Withholding Allowances	2	1
Gross Monthly (Non-Taxable) Income	\$0.00	\$0.00
Gross Monthly (Taxable) Income	\$1,500.00	\$2,600.00
Court Ordered Child Support	\$0.00	\$0.00
Other Allowable Deductions	\$0.00	\$560.00
Self Employed?	No	No
Total Health Insurance Premium	\$0.00	\$45.00
Child of This Act. Covered?	No	No
Number of Individuals Covered (if above is yes)	N/A	N/A
Child Care	\$200.00	\$0.00
SSD Benefits Paid to Children	\$0.00	\$0.00
<b>Child Support Obligation</b>	<b>\$139.48</b>	<b>\$398.52</b>

Source: OPPAGA.

## *Appendix B*

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# Methodology

Our examination is based first on a statistically valid sample of 12,513 cases of private support orders from the Florida Association of Court Clerks and Comptrollers (FACC). It is also based a data set of 9,199 Title IV-D cases of support orders provided to us by the Department of Revenue. Distinctions between the two populations are noted in text, and results for each are generally reported separately. Table B-1 provides details of the number of case files included in our samples.

### *Private Cases*

The FACC provided the population for the private child support orders through its automated system (CLERC). This population consisted of support orders issued during the period January 1, 2001, through May 30, 2001, and included orders modifying existing support orders. To allow us to report with a 95% level of confidence that the population will be within 4% of the reported results, OPPAGA randomly selected 601 cases from a reported population of 12,513 support orders. We requested that the applicable clerk of court provide a copy of the applicable Child Support Guidelines Worksheet and the Motion to Deviate From the Guidelines when required. For cases in which the worksheet was not available, all documentation required to calculate the guideline amount was requested.

### *Title IV-D Cases*

The Department of Revenue provided two separate data sets of Title IV-D cases that consisted of new support orders issued during the period January 1, 2001, through May 31, 2001.<sup>7</sup> To allow us to report with a 95% level of confidence that the population will be within 4% of the reported results, OPPAGA randomly selected 600 cases from the reported population of 9,199 cases. For each of these selected cases, we requested that the Department of Revenue provide a copy of the applicable Child Support Guidelines Worksheet. For support order cases where the worksheet was not available, we requested all case documentation to calculate the guideline amount, including the applicable financial affidavits. OPPAGA determined the applicable guideline amount for each support order by reviewing the documentation received. For those orders that deviated by more than 5% from the guideline amount, we then requested that the responsible clerk of court provide the Motion to Deviate From the Guidelines, if available.

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<sup>7</sup> Although the department questioned whether either of the two data sets provided by the department contained the entire population of child support cases we requested, we performed an additional analysis of the population characteristics of both data sets provided by the department. As a result, we believe the random sample from the data set of 9,199 cases used in our analysis is a reasonable representation of all child support enforcement cases administered by the department.



### *Parenting Time Adjustment*

In addition, a sample of 50 Non-Title IV-D support orders were issued during the period October 1, 2001, through October 31, 2001, to help identify the impact of recent changes to Florida law, which allows for an adjustment to the guideline amount when the children spend a substantial amount of time with each parent.<sup>8</sup> The sample was also drawn from a reported population of 3,157 orders by FACC. We then requested that the applicable clerk of court provide the documentation necessary to determine if the guideline calculation included an adjustment when the non-custodial parent exercises visitation at least 40% of the overnights in a year for each order in our sample.

For each of these samples, OPPAGA excluded cases such as contempt orders that did establish the amount of child support to be paid. For those cases where a child support guidelines worksheet was provided, we identified the guideline amount, but did not attempt to validate the calculation.

**Table B-1**  
**Details of Sample Used in OPPAGA Analysis**

	Title IV-D Cases Sample	Private Cases Sample	Parenting Time Adjustment Sample
Population Size	9,199	12,513	3,157
Cases files sampled	600	601	50
Valid Case files received	569	487	27
Case files with guidelines worksheet	501	261	12
Worksheets with parental time adjustment	NA	NA	1
Case files with sufficient information to calculate guideline amount	501	324	NA
Support orders within guideline amount	418	150	NA
Support orders that deviated 5% above or below guideline amount	83	174	NA
Case files with written documentation of reason for deviating 5% above or below guideline amount	36	18	NA
Support orders with sufficient information that adhere to guideline statutes	454	168	NA

Source: OPPAGA.

<sup>8</sup> Section 61.30(1)(a), *Florida Statutes*.





DEPARTMENT OF REVENUE

TALLAHASSEE, FLORIDA 32399-0100

JIM ZINGALE  
EXECUTIVE DIRECTOR

February 14, 2002

Mr. John W. Turcotte, Director  
Office of Program Policy Analysis and  
Government Accountability  
111 West Madison Street, Room 312  
Tallahassee, Florida 32302

Dear Mr. Turcotte:

We concur with the preliminary findings and recommendations presented in OPPAGA' s draft report, **Adherence to Florida's Child Support Guidelines Appears to Be Improving**, dated January 2002.

We appreciate the professionalism displayed by your staff during this review. If further information is needed, please contact Fred Roche, our Inspector General, at 488-4328.

Sincerely,

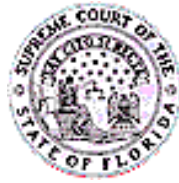
/s/  
Jim Zingale

JZ/bs0

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Charles T. Wells  
Chief Justice

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Robin L. Lubitz  
State Courts Administrator

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February 14, 2002

Mr. John W. Turcotte  
Director  
Office of Program Policy Analysis  
and Government Accountability  
Claude Pepper Building, Room 312  
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Dear Mr. Turcotte:

Thank you for affording me the opportunity to respond to the findings in the Office of Program Policy Analysis and Government Accountability's (OPPAGA) draft of the special review, Adherence to Florida's Child Support Guidelines Appears to Be Improving. We are pleased that the review suggests significant improvements since your last study in 1998. We also share your interest in seeking ways to further improve documentation regarding reasons for guidelines deviation in child support awards.

We have received input from the judiciary and court administration personnel throughout the state and would like to raise two concerns about the evaluation of compliance in private cases:

**Reliability of Information Examined:** As previously indicated in OSCA's response to the March 1998 OPPAGA report, "Review of Adherence to Child Support Guidelines," court files were not reviewed in their entirety. The data elements used to examine adherence to the guidelines were gathered from selected documents pulled from court case files. These documents were provided to OPPAGA by the court clerks. There is no assurance that the clerks provided OPPAGA with the latest, most relevant documents. Therefore to the extent that outdated or inaccurate data elements were used to determine adherence, the number of private cases out of compliance may not be accurate.

**Calculation of Support Guidelines:** OPPAGA was unable to ascertain who completed the child support guidelines worksheet and was unable to verify the correctness of the worksheet calculations. The family law rules require that the parties complete and file the worksheet. Family court is a high volume court where at least 70% of litigants represent

Mr. John W. Turcotte  
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themselves. Many circuits do not have the necessary case management staff to ensure that litigants file the required paperwork prior to the hearing. At the hearing, calculations are performed quickly, using pencil and paper, or a pocket calculator. This may explain some of the cases in which calculation of the support guidelines was not documented. Furthermore, instances where the judge did not appear to follow the guidelines worksheet in the file may reflect the fact that the worksheet calculation was erroneous.

As stated in the special report, OSCA responded to the 1998 recommendations by developing model language designed to capture how the support amount was calculated and the justification for any deviation. OSCA agrees that, as a matter of best practice, the orders should indicate whether the amount ordered is the guideline amount and, if not, the judge's reason for deviating. However, we do not concur with the recommendation for an additional statutory mandate. In conjunction with the Family Court Steering Committee, we will explore ways to increase the use of model language in orders designed to easily identify whether the award conforms to or deviates from the guideline schedule.

Finally, we support the recommendation made in a previous OPPAGA report, Child Support Guidelines Schedule Should Reflect Current Economic Conditions (December 2000), which suggested that the Legislature establish a study commission or appoint a select committee to review the child support guidelines. Furthermore, we suggest that future studies include an examination of the following factors: 1) frequent reasons for deviation from the guidelines schedule amount; 2) complexities associated with child support cases that need to be considered when deciding the child support obligation; 3) variables related to the population of cases where deviations were made; and 4) other factors that may suggest the need for legislative revision of the guidelines schedule.

Please feel free to call me if you or your staff have any questions or concerns regarding this response.

Sincerely,

/s/

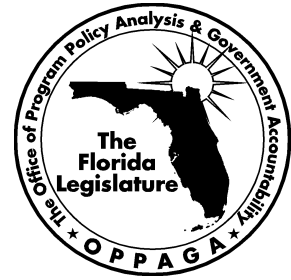
Robin L. Lubitz

RLL/SN

# ***The Florida Legislature***

## ***Office of Program Policy Analysis and Government Accountability***

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