

JUDICIAL COUNCIL OF CALIFORNIA

REVIEW OF STATEWIDE
UNIFORM CHILD SUPPORT GUIDELINE

DECEMBER, 1993

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Section 1. Introduction

1.1. Authority of this report

This report is prepared pursuant to the requirements of Family Code section 4054 which provides, in part:

(a) The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.

(b) The review shall include economic data on the cost of raising children¹ and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date.² The review shall also include analysis of guidelines and studies from other states,³ and other research and studies available to or undertaken by the Judicial Council.⁴

...

(e) The initial review by the Judicial Council shall be submitted to the Legislature and to the State Department of Social Services on or before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.

1.2. Purpose of this report

The legislation establishing the requirement of a report also indicates specific purposes of the report in Family Code section 4054:

(c) Any recommendations for revisions to the guideline shall be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law.

(d) The Judicial Council may also review and report on other matters, including, but not limited to, the following:

(1) The treatment of the income of a subsequent spouse or nonmarital partner⁵

¹ See section 7 of this report.

² See section 5 of this report.

³ See section 6 of this report.

⁴ See section 8 of this report.

⁵ See section 6.1 of this report.

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- (2) The treatment of children from prior or subsequent relationships⁶
- (3) The application of the guideline in a case where a payor parent has extraordinarily low or extraordinarily high income,⁷ or where each parent has primary physical custody of one or more of the children of the marriage
- (4) The benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline
- (5) Whether the use of gross or net income in the guideline is preferable⁸
- (6) Whether the guideline affects child custody litigation or the efficiency of the judicial process

1.3. Procedure used

This report was prepared under the guidance of the Judicial Council Family and Juvenile Law Standing Advisory Committee. The scope of that committee's work includes:⁹

- (a) The Family and Juvenile Law Standing Advisory Committee shall identify issues and concerns confronting the judiciary regarding procedure, practice, and case management for any type of case involving marriage, family, and children and suggest appropriate solutions and responses.

The committee also benefited by work done by predecessor advisory committees, including the Judicial Council's former Family Law Advisory Committee. In particular, the draft report prepared by that committee in January 1992, in preparation for public hearings pursuant to former Civil Code section 4720.1, was used together with information gathered at those public hearings. The report also contained helpful comments from the Child Support Advisors, chosen to ensure that interested groups would be consulted during the guideline report development process. For more information concerning this process, and for an explanation of the Child Support Advisors' role, see the draft report.

Since the statutory guideline has been in effect, many letters have been received from the public either in support of or opposition to the

⁶ See section 6.2 of this report.

⁷ See sections 6.3 and 6.4 of this report.

⁸ See section 6.5 of this report.

⁹ California Rules of Court, rule 1024.

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guideline or in response to pending legislation on the guideline. Other letters stated in general terms problems the writer had with the guideline or with other aspects of the child support system. A few letters contained specific details concerning problems with the guideline.

The Advisory Committee on Family and Juvenile Law is closely studying the child support system and will consider the problems raised in those letters in that study. The recommendations from this study will form part of the basis for future reports to the Legislature under Family Code section 4054.

Section 2. History of the Guideline

2.1. Origin of California guidelines

2.1.1. The earliest guidelines - Marin

What is generally considered the first formal child support guideline in California was developed in Marin County under the initiative of Ann Diamond, Marin family law practitioner, who had learned of the use of guidelines to set child support on a trip to Hungary. The guideline was developed "to promote uniformity of results and predictability for lawyers and clients."¹⁰ The guideline, which covered both child and spousal support, was developed by a committee of lawyers and judges in Marin and was based on their notions of the typical orders as well as a sense of fairness.

For several years use of the guideline spread throughout the Bay Area on an informal basis. In 1977 it was adopted, with minor changes, as the guideline in the Uniform Domestic Relations Rules for the Bay Area Superior Courts, under the leadership of then San Francisco Superior Court Judge (now Justice) Donald King. This schedule was also used in Los Angeles County.

2.1.2. Santa Clara charts it own path

In 1978, Santa Clara County adopted a guideline that was different from the Marin/Bay Area guideline.¹¹ According to one of the leading figures in the development of guidelines both statewide and in Santa Clara County, the Santa Clara decision was based on a feeling "that the older Bay Area schedule worked fairly well when support for both the spouse and children was ordered, but fell far short of setting realistic child support levels."¹² The feeling was that the Santa Clara guideline, being based on "empirical

¹⁰ Norton, *Explaining and Comparing The California Child and Spousal Support Schedules*, 4 Cal. Family Law Monthly 1 (Aug. 1987) at p. 1.

¹¹ For a number of reasons, Santa Clara County had not adopted the family law rules and guidelines that had been adopted by other Bay Area courts.

¹² Norton, *id.*, at p. 4.

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data on the cost of raising children . . . more accurately reflected actual costs of raising children."¹³

The first Santa Clara schedule was designed by Karl Nigg, a Santa Clara family law attorney. The guideline did not make its support calculation in the same manner as most of its successor schedules. It first calculated child support based on the noncustodial parent's income, and then applied a reduction based on 18 percent of the total estimated cost of raising children.¹⁴ This reduction was based on the view that the children spent 18% of their time with the noncustodial parent in the "standard visitation order." The resultant percentage of income of the noncustodial parent used for support determination was:

1 child	18%	2 children	27%
3 children	35%	4 children	42%
5 children	48%		

The Santa Clara schedule then subtracted an amount based on one-third of the income of the custodial parent. This approach is conceptually different from income shares. It should be noted, though, that the result is often the same as under the more recent income shares approaches.

2.1.3. Santa Clara tries again

After some experience with the guideline in Santa Clara County, the family law section of the Santa Clara County Bar Association established a subcommittee to develop some changes to the child and spousal support guideline. The ostensible stimulus for this effort was to reach an appropriate method of handling income of new partners of either parent. The result, while not solving this problem,¹⁵ established the framework for child support guidelines through the present day.

¹³ *Ibid.*

¹⁴ The first Santa Clara guideline was based, in large part, on empirical data on the costs of raising children that was available from Fresno County.

¹⁵ This issue continues to have a significant effect on guideline policy. It was one of the major issues concerning child support guidelines during the 1992-1993 legislative session. See discussion in section 2.7.1.1.

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According to an article written by the leader of that subcommittee,¹⁶ the Santa Clara group reached three conclusions regarding the basic conceptual framework for child support guidelines:

- The schedule should be based on the best available data on the cost of raising children.¹⁷
- Each parent should have responsibility for supporting his or her children according to the parent's financial circumstances.
- Income of both parents available for child support should be allocated to each parent commensurate with the time that parent spends with the children.

The mathematical development of the Santa Clara guideline, based on these principles, was undertaken by Santa Clara family law attorney George Norton. The percentages were derived from a study by Jaques van der Gaag for the Child Support Project at the University of Wisconsin. Van der Gaag studied data derived from United States Department of Agriculture studies and found a correlation between the cost of raising children and parental income. He derived the following percentages of income used for children¹⁸:

1 child	26 percent	2 children	39 percent
3 children	45.5 percent	4 children	52 percent
5 children	55.25 percent		

The importance of the guideline adopted by Santa Clara County can be seen by its subsequent history. The guideline was adopted, in slightly modified form, by the Judicial Council as its discretionary guideline mandated by the Agnos Child Support Standards Act.¹⁹ The council's discretionary guideline served as the framework for rule 1274, the first mandatory statewide guideline. Senate Bill Nos. 370 and 1614 made

¹⁶ Norton, *id.*, at p. 4.

¹⁷ The data available on the cost of raising children is not without its own controversy. See the discussion in section 7 of this report.

¹⁸ These figures are not directly comparable to those used in the first Santa Clara County guideline. The first Santa Clara County figures are reduced 20% to account for the portion allocated to the noncustodial parent.

¹⁹ See discussion in section 2.3.2.

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adjustments to rule 1274, but the basic framework established by the second Santa Clara guideline exists to this day.

According to the author of the guideline, the Santa Clara guideline "followed the basic three principles for child support on which the study groups had all agreed."²⁰ These principles are discussed above. The Santa Clara schedule added a fourth principle to the three mentioned above, namely, "that a decreasing percentage of income is required for children as the parents' total income available for child support increases."²¹

2.2. The first legislative steps: simplified support modification

In 1983, the Legislature adopted a procedure for simplified child support modification.²² This procedure was designed "to provide an additional, simplified method for the modification of child . . . support orders."²³ Under the procedure a parent who receives or pays child support can ask the court annually²⁴ for an increase or decrease in the order of up to 10 percent per year²⁵ without having to retain an attorney.²⁶ The measure also permits a change based on a sudden "significant decrease in income."²⁷

No showing of changed circumstances is required²⁸ and no attorneys are permitted at the court hearing.²⁹ If a party is represented by an attorney,

²⁰ Norton, *id.*, at p. 5

²¹ Norton, *id.*, at p. 7.

²² Stats. 1983, ch. 1036, adding Civil Code section 4700.1, now found in the Family Code beginning at section 3680.

²³ Family Code section 3680.

²⁴ Family Code section 3682.

²⁵ Family Code section 3687.

²⁶ Family Code section 3685(a).

²⁷ Family Code section 3688.

²⁸ Family Code section 3687(a).

²⁹ Family Code section 3685(a).

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the proceeding automatically becomes a normal proceeding to modify support.³⁰

Pursuant to this legislation, the Judicial Council adopted implementing forms.³¹

The Judicial Council also conducted a survey of the use of this procedure in selected counties. The survey found that the new procedure was used in only about 11% of the child support modification cases. A number of other findings were also reported.³²

As discussed in the recommendations section of this report, it is questionable whether these provisions comply with the federal child support guideline requirements and the Legislature might, therefore, wish to consider repealing them.

2.3. The first legislative guideline

2.3.1. The Agnos Child Support Standards Act

In 1984, the Legislature became actively involved in the field of child support guidelines by passing the Agnos Child Support Standards Act of 1984.³³ This measure was critical of the widespread variation among child support orders in the state³⁴ and set up a minimum child support amount based on the AFDC standard of monthly need.³⁵

³⁰ Family Code section 3693(b).

³¹ These forms are discussed in section 4.2.7 of this report. See also, 1986 Judicial Council Annual Report at pages 49-50.

³² 1986 Judicial Council Annual Report at pages 50-51. Tables summarizing the findings of the survey appear at pages 52-54.

³³ Former Civil Code sections 4720 - 4732 as added by Stats. 1984, ch. 1605, operative July 1, 1985.

³⁴ Former Civil Code section 4720(b).

³⁵ Former Civil Code section 4720(d).

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To figure the minimum child support order under the Agnos Child Support Standards Act required the following steps:³⁶

- 1. Multiply the total family income by the percentage factor for the number of children³⁷**
- 2. Compare this amount to the AFDC need standard for the appropriate number of children to be supported by the order**
- 3. Take the lower of these two figures and apportion it among the parents according to their income. The noncustodial parent pays his or her share of the total amount to the custodial parent.**

The minimum child support order provided only basic food, clothing, and shelter, and the courts were encouraged to make an additional order.³⁸ Courts were required to order higher than minimum child support amounts in appropriate cases.³⁹ They were to use either their own guideline if "not in conflict with the mandatory minimum award established by this chapter, and the legislative intent that children share in their parents' standard of living as set forth in this chapter,"⁴⁰ or a child support schedule developed by the Judicial Council.⁴¹

Under the Agnos Act, the court was authorized to "take into consideration expenses incurred and savings resulting from shared physical custody arrangements in determining the pro rata share of the mandatory minimum child support award to be allocated to each parent" except where the children were receiving AFDC.⁴²

³⁶ Former Civil Code section 4722.

³⁷ This factor was 18% for one child, 27% for two children, 36% for three children, and 4% more for each additional child up to 10 children. Former Civil Code section 4722(b)(1).

³⁸ Former Civil Code section 4723.

³⁹ Former Civil Code section 4724.

⁴⁰ Former Civil Code section 4724(a).

⁴¹ Former Civil Code section 4724(b).

⁴² Former Civil Code section 4727. Shared physical custody was defined as "an arrangement in which the parents share physical

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2.3.2. The Judicial Council guideline

Pursuant to the requirement of former Civil Code section 4724(b) that the Judicial Council adopt a discretionary child support schedule for use in those courts that did not have their own schedule, the council solicited comment on what factors should be considered in developing a guideline. The council considered the comments received, reviewed the existing schedules in use in California and in other states, examined the factors considered by various schedules, and adopted a schedule based mainly on the Santa Clara schedule. A full report on the considerations leading to the Judicial Council discretionary schedule, and a copy of that schedule, appears in the 1987 Judicial Council Annual Report.⁴³

The guideline adopted by the Judicial Council effective July 1, 1986, though, contained one provision that was not found in the Santa Clara schedule. It allowed for a 15 percent deviation, up or down, from the scheduled amount. There were no criteria in the guideline for the application of this discretionary modification.

Following the adoption of the Judicial Council guideline, various counties either enacted their own guideline schedules or followed the council's guideline. There were at least six discretionary schedules in effect:⁴⁴

- The Santa Clara County schedule (called "new" Santa Clara), expressly or impliedly followed in many other counties;
- The Judicial Council schedule, based on the Santa Clara County schedule but permitting a deviation of 15% from the schedule amount;
- The Los Angeles County schedule, based on the Santa Clara County schedule but permitting a deviation of 20% from the schedule amount;
- The Kern County schedule, based on the Santa Clara County schedule but at a level 29% below that amount;
- The Sacramento County schedule, used in several neighboring counties as well, which is a modified extension of the Agnos formula; and

custody so that both have custody of the child or children more than 30 percent of a 365-day period."

⁴³ 1987 Judicial Council Annual Report at pages 23 to 30, attached to this report at pages 117-124.

⁴⁴ Norton, *id.*, at p. 7.

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- The old Santa Clara County Schedule, used for a while in San Francisco and several Central Valley counties.

2.4. The Federal Government acts

2.4.1. Federal requirements

The Federal Government first became actively involved in child support enforcement in 1975 with amendments to the Social Security Act,⁴⁵ which added Title IV-D to that act. The federal enforcement action in child support is often referred to as a IV-D action. This act strongly encouraged the establishment of a child support enforcement program in each state by the following means:

- Federal reimbursement of 75% of the administrative costs of the child support program;⁴⁶
- State recovery of its portion of AFDC costs on the amount of support collected;
- Incentive payments of additional money for meeting certain performance standards; and
- A 5 percent reduction in AFDC funding for a state that did not develop a program.⁴⁷

A congressional report on the effect of the 1975 Act noted that while the procedures available for child support enforcement improved, the adequacy of the amount of support was not addressed.⁴⁸ The report further noted that states that had implemented child support guidelines demonstrated considerable success in increasing the amount of support going to children. As a consequence, Congress passed the Child Support

⁴⁵ **Social Security Act Amendments of 1975, sections 451-460. For a history of this involvement see Goldberg, *Child Support Enforcement: Balancing Increased Federal Involvement with Procedural Due Process*, 19 Suffolk U.L.Rev. 687, 689-692 (1985).**

⁴⁶ **Social Security Amendments of 1975 at sections 455 and 458.**

⁴⁷ **Social Security Amendments of 1975 at section 460(c)(6)(A).**

⁴⁸ **S. Rep. No. 378, 98th Cong., 2nd Sess. at p. 40 (1984).**

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Enforcement Amendments of 1984.⁴⁹ This law, in addition to provisions to further improve the procedures for child support collections, required all states to develop child support guidelines as part of their enforcement plan.⁵⁰ The guidelines were discretionary, not mandatory.

Congress evidently believed the results under discretionary guidelines were not adequate. In 1988 it passed the Family Support Act of 1988, which required presumptive guidelines -- that is, guidelines that create a rebuttable presumption that the amount of support established by the guideline is the correct amount of support. The provision provides:

(a) Each State, as a condition for having its State plan⁵¹ approved under this part, must establish guidelines for child support award amounts within the State. The guidelines may be established by law or by judicial or administrative action, and shall be reviewed at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts.

(b)(1) The guidelines established pursuant to subsection (a) shall be made available to all judges and other officials who have the power to determine child support awards within such State.

(2) There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded. A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case, as determined under criteria established by the State, shall be sufficient to rebut the presumption in that case.⁵²

The regulations adopted by the Director of Health and Human Services implementing the federal statute provided the following:

- **There be one set of guidelines.⁵³**

⁴⁹ **Public Law No. 98-378, sections 1-23, 98 Stats. 1305-1330 (1984).**

⁵⁰ **Child Support Enforcement Amendments of 1984, section 18.**

⁵¹ **The plan referred to is the state's child support enforcement plan under Title IV-D of the Social Security Act. The consequences of not having a state plan are discussed above.**

⁵² **42 U.S.C. section 667.**

⁵³ **45 C.F.R. section 302.56(a).**

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- **The guidelines (1) take into consideration all income of the noncustodial parent; (2) be based on descriptive and numeric criteria resulting in a computed support amount; and (3) provide for health care needs.⁵⁴**
- **States are required to review and revise, if appropriate, the guidelines at least every four years,⁵⁵ with the review considering economic data on the cost of raising children and analyzing case data. The purpose of the review is to ensure that deviations from the guideline are limited.⁵⁶**

2.4.2. Problems with the California system

The California system, at the time of the adoption of the 1988 amendments, appeared to have several problems:

- **There was a single statewide guideline providing for a minimum child support amount (the Agnos formula) but there were multiple discretionary guidelines. There was doubt, therefore, whether the California system would meet the single guideline test.**
- **The Agnos amount was denominated a mandatory figure, not a rebuttably presumed one. It was doubtful whether the guideline would meet the rebuttable presumption test.**
- **There was no provision for review and revision of the guideline on a periodic basis.**

2.4.3. Assembly Bill No. 3974 (1990)

In response to the perceived problems with the federal guideline requirement, and to bring about a better, more unified system of child support, the Legislature, in 1990, enacted Assembly Bill No. 3974,⁵⁷ which required that the Judicial Council develop a temporary guideline, to be adopted by court rule, and a permanent guideline, to take the form of a recommendation to the Legislature. Under the provisions of that law,

⁵⁴ 45 C.F.R. section 402.56(c).

⁵⁵ 45 C.F.R. section 302.56(e)

⁵⁶ 45 C.F.R. section 302.56(h).

⁵⁷ Stats. 1990, ch. 1493.

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the temporary guideline to be adopted by the council was to be based on its previously adopted discretionary guideline. The provisions of the discretionary guideline could be amended to take into account certain additional factors:

Except as necessary to meet new federal regulations or to address the findings of the study on guidelines commissioned by the Judicial Council in 1989,⁵⁸ the initial guidelines to be established shall be those promulgated by the Judicial Council pursuant to subdivision (b) of Section 4724. Except as necessary to meet new federal regulations or to address the findings of the study on guidelines commissioned by the Judicial Council in 1989, the initial guidelines shall retain the intent of Sections 4721, 4723, 4727, 4728, and 4728.5. . . . Any guidelines proposed or adopted by the Judicial Council shall not result in child support awards less than the current mandatory minimum child support awards as established by the Agnos Child Support Standards Act of 1984.⁵⁹

2.5. The Council responds to the Legislature

2.5.1. Rule 1274

In response to the legislative requirement, the Judicial Council adopted California Rules of Court, rule 1274. The first version of this guideline was adopted in November 1990, and was largely based on the previous discretionary Judicial Council guideline. The changes made to the discretionary guideline included the following:

- **The adjustment of the guideline based on shared custody of the child was restricted to cases where each parent had the child at least 30% of the time;**
- **The discretion to deviate by 15% from the guideline amount was removed;**
- **The guideline was expressly made a rebuttable presumption;⁶⁰ and**
- **Specific factors in rebuttal to the guideline amount were included.⁶¹**

⁵⁸ This report is discussed in section 8.3.

⁵⁹ Former Civil Code section 4720.1(a)(1).

⁶⁰ California Rules of Court, rule 1274(d).

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2.5.2. Rule 1274 revised

Almost immediately upon its adoption, a controversy arose as to whether rule 1274 appropriately treated the shared custody adjustment. As a result, and to permit full consideration of the opposing arguments, the Judicial Council postponed the effective date of rule 1274 from January 1, 1991, to March 1, 1991.

Those who favored the original version of rule 1274 argued that the 30 percent threshold before joint custody could be considered was required by the provision in Civil Code section 4720.1 mandating that the guideline be consistent with the intent of then Civil Code section 4727. This section required that shared custody only be considered as an adjustment to support where both parents have custody of the children more than 30% of a 365-day period. Those opposed to the provision noted that the Legislature did not expressly state that rule 1274 impose a 30% threshold for consideration of shared custody and predicted that it would create a flood of custody and visitation litigation by parents seeking to either achieve 30% visitation or prevent the other parent from achieving 30% visitation.

After consideration of the various arguments, the Judicial Council, in January 1991, amended rule 1274 by removing the threshold requirement preventing the consideration of shared custody unless each parent has custody of the children 30% of the time. The council also made several other changes to rule 1274 at that time:

- It added a provision that if the amount of shared custody is at least 10% it would be treated as 20%;⁶²**
- It provided that if shared custody exceeded 30%, the court could adjust the guideline amount "to reflect . . . substantial expenses by the noncustodial parent or substantial savings by the custodial parent resulting from the shared custody arrangement."⁶³ It should be noted**

⁶¹ **California Rules of Court, rule 1274(e). These factors include: stipulated amount (rule 1274(e)(1)), hardship (rule 1274(e)(2)), use of family residence (rule 1274(e)(3)), income of subsequent spouse or partner (rule 1274(e)(4)), extraordinarily high income (rule 1274(e)(5)), and other special circumstances.**

⁶² **Rule 1274(b)(6).**

⁶³ **Rule 1274(e)(7)**

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that this provision was not an adjustment to the formula but a factor in rebuttal to the presumptive guideline amount. Nonetheless, there is evidence that many courts, in applying the guideline, merely used a presumptive amount of shared custody of 20% except where a parent proved either more than 30% or less than 10% shared custody, in which case the court applied that percentage figure to the formula.

2.6. The legislative response to Rule 1274

2.6.1. Senate Bill No. 101 (1991)

Shortly after the adoption of the revised version of rule 1274, a bill was introduced in the Legislature seeking to overturn the council's interpretation of the legislative intent in Assembly Bill No. 3974. This measure, Senate Bill No. 101 (Hart), was amended several times and ultimately was adopted.⁶⁴ But the measure was adopted with a delayed effective date of July 1, 1992. As a result of the delayed effective date and the adoption by the Legislature of Senate Bill No. 370, this measure never took effect.

Senate Bill No. 101 repealed the authority of the Judicial Council to adopt a guideline and, thus, effective July 1, 1992, invalidated rule 1274. In its place it established a new, legislative child support guideline, Civil Code section 4720.2. The significant changes to rule 1274 included:

- A new formula that eliminated any consideration of shared custody. Indeed, the new formula was nearly a "payor only" formula in which the amount of child support was defined as a percentage of the noncustodial parent's net income.⁶⁵ The only consideration given to the custodial parent's income was in the determination of the actual percentage figure used in the calculation -- the higher the combined net income, the lower the actual percentage figure.⁶⁶
- A new rebuttal factor was added if the custodial parent had a higher income than the noncustodial parent.⁶⁷

⁶⁴ Stats. 1991, ch. 110, effective July 1, 1992.

⁶⁵ Former Civil Code section 4720.2(a).

⁶⁶ Former Civil Code section 4720.2(b)(3).

⁶⁷ Former Civil Code section 4720.2(e)(4).

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- **The rebuttal factor of rule 1274 that permitted a reduction in support where the noncustodial parent has substantial custody time that results in either substantial expenses to the noncustodial parent or substantial savings to the custodial parent⁶⁸ was changed to require both substantial expenses to the noncustodial parent and substantial savings to the custodial parent.⁶⁹**
- **The income adjustment for add-ons⁷⁰ under rule 1274 provided for subtraction of both spousal support and child support for the payor's income and the inclusion of both in the payee's income.⁷¹ Under Senate Bill No. 101, child support would be subtracted from the payor's income but not added into the payee's income.⁷² The result, under Senate Bill No. 101, would have been a higher portion of the add-on expenses being paid by the payor parent.**

2.6.2. Senate Bill No. 370 (1992)

In the 1992 legislative session, as a result of discussions among various groups involved in child support issues, a compromise measure was adopted that was a middle ground between the provisions of rule 1274 (revised) and Senate Bill No. 101. This measure was Senate Bill No. 370, and it became law as an urgency measure when signed by the Governor on May 8, 1992.⁷³

The changes made by this measure resulted, for the most part, in the currently existing guideline (discussed below in section 3 of this report). The changes made subsequent to this measure result from either Senate Bill No. 1614 of the 1992 Legislature (discussed in section 2.6.3 of this report) or changes made by the 1993 Legislature (discussed in section 2.7 of this report).

⁶⁸ Rule 1274(e)(7).

⁶⁹ Former Civil Code section 4720.2(e)(5).

⁷⁰ Section 3.7 of this report.

⁷¹ Rule 1274(i)(1).

⁷² Former Civil Code section 4720.2(i)(1).

⁷³ Stats. 1992, ch. 46.

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2.6.3. Senate Bill No. 1614 (1992)

Senate Bill No. 1614 became law on September 22, 1992, when signed by the Governor as an urgency measure.⁷⁴ This measure made a number of minor changes to the guideline adopted under Senate Bill No. 370, including the following:

- **The legislative intent that the court depart from the guideline only in stated circumstances was changed. The earlier measure provided that the circumstances had to be "exceptional" while the new measure provided that the circumstances had to be "special."⁷⁵**
- **The treatment of the adjustment for the amount of time each parent had the children was changed from one of "physical custody" to one of "primary physical responsibility" and the figure was denominated an "approximate" feature.⁷⁶**
- **The requirement that the court state the information used in determining the guideline amount was changed from a mandatory requirement to one required only when requested by a party.⁷⁷**
- **An additional required finding when the court departs from the guideline was added, namely, "that application of the formula would be unjust or inappropriate in the particular case."⁷⁸**
- **The allocation of additional child support amounts was changed so that, absent a request of either party, one-half of the expenses would be allocated to each parent.⁷⁹**
- **The previous formula approach to calculation of a hardship deduction for additional children in the household of the parent, which had first appeared under the Agnos Child Support Standards**

⁷⁴ Stats. 1992, ch. 848.

⁷⁵ See Family Code section 4052.

⁷⁶ See Family Code section 4055(b)(1)(D).

⁷⁷ See Family Code section 4056.

⁷⁸ See Family Code section 4057(b).

⁷⁹ See Family Code section 4061.

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Act,⁸⁰ was removed in favor of the remaining statement that the amount deducted for the hardship children not exceed, on a per child basis, the amount of the child support order in the present case.⁸¹

2.7. Recent legislative action on guidelines

2.7.1. Enacted measures

The 1993 session of the Legislature saw significant action in the area of child support and guidelines. Ten bills concerning child support were chaptered. In addition to the guideline bills discussed below, measures were enacted concerning wage assignments for support,⁸² ranking of child support enforcement programs according to effectiveness,⁸³ renewal of support judgments and other matters involving support enforcement,⁸⁴ handling of delinquent child support matters,⁸⁵ permitting a state employee to authorize deductions from salaries or wages for child or spousal support,⁸⁶ cleaning up various provisions of the Family Code,⁸⁷ and permitting the imposition of an order to complete community service in lieu of or in addition to a fine or imprisonment for contempt of court for failure to pay a support order.⁸⁸

⁸⁰ Former Civil Code section 4722.

⁸¹ Family Code section 4071.

⁸² Stats. 1993, ch. 745 (Senate Bill No. 788 (Watson)).

⁸³ Stats. 1993, ch. 253 (Senate Bill No. 606 (Rosenthal)).

⁸⁴ Stats. 1993, ch. 876 (Senate Bill No. 1068 (Wright)).

⁸⁵ Stats. 1993, ch. 677 (Assembly Bill No. 823 (Bates)).

⁸⁶ Stats. 1993, ch. 176 (Assembly Bill No. 877 (McDonald)).

⁸⁷ Stats. 1993, ch. 219 (Assembly Bill No. 1500 (Speier)). This measure also moved the provisions concerning the child support guideline from the Civil Code to the Family Code, without substantive amendment.

⁸⁸ Stats. 1993, ch. 746 (Assembly Bill No. 934 (Rainey)).

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2.7.1.1. New mate income (Senate Bill No. 145)

Statutes of 1993, chapter 935 (Senate Bill No. 145 (Calderon)), deletes the rebuttal factor that previously existed for income of a subsequent spouse or non-marital partner. Family Code section 4057(b)(3) in its list of factors that could rebut the amount of child support established by the guideline formula included:

A parent's subsequent spouse or nonmarital partner has income that helps meet that parent's basic living expenses, thus increasing the parent's disposable income available to spend on the children.

To clarify further the legislative intent concerning consideration of such income, the bill also adds section 4057.5 to the Family Code to state:

The income of [a] . . . parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the [parent] . . . or by the [parent's] . . . subsequent spouse or nonmarital partner.⁸⁹

The measure states that an extraordinary case may include voluntarily quitting work or reducing income.⁹⁰ (The measure makes a similar change in regard to spousal support.)⁹¹

⁸⁹ **This provision is found in Family Code section 4057.5(a)(1) as to the obligor parent and in section 4057.5(a)(2) as to the obligee parent.**

⁹⁰ **Family Code section 4057.5(b).**

This measure also requires the consideration of a hardship deduction for any stepchildren of the parent (Family Code section 4057.5(d)).

It should be noted that the court already had authority to consider the earning capacity of a parent under the guideline. (Family Code section 4058(b)).

⁹¹ **Family Code section 4323.**

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2.7.1.2. Miscellaneous guideline revisions (Senate Bill No. 541)

Statutes of 1993, chapter 1156 (Senate Bill No. 541 (Hart)) makes a number of changes to the child support guideline. The changes are listed here in code section order, without an attempt to classify them by significance:

- Revision of the percentage of income allocated to children (the "K" factor);⁹² this technical change was made to smooth out the reduction in child support amounts as income rises.
- Removal of the requirement that no shared visitation be considered when the children are receiving Aid to Families with Dependent Children..⁹³
- Changing the requirements for a declaration of information used in determining the guideline amount to require a statement, in writing or on the record, of certain information whenever the court orders a child support amount that differs from the guideline.⁹⁴ Previously the information required, and certain other information, was to be stated only if a party requested. This change was made "to comply with federal law."

The requirements in the statement when the court deviates from the guideline include:

⁹² Family Code section 4055(b)(3). The old and new provisions are:

<u>New K Factor</u>		<u>Old K Factor</u>	
\$0-800	0.20 + TN/16,000	\$0-800	0.20 + TN/16,000
\$801-6,666	0.25	\$801-7,000	0.25
\$6,667-10,000	0.10 + 1000/TN	\$7,001-10,000	0.20 + 350/TN
Over \$10,000	0.12 + 800/TN	\$10,001-20,000	0.16 + 400/TN
		Over \$20,000	0.12 + 800/TN

⁹³ Former Family Code section 4055(b)(6) provided: "If the children who are the subject of the child support order are receiving assistance under the Aid to Families with Dependent Children (AFDC) program, H% shall be set at zero in the formula."

⁹⁴ Family Code section 4056. The previous provision was made subdivision (b). A conforming change was made to Family Code section 4057(b).

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"The amount of support that would have been ordered under the guideline formula."⁹⁵

"The reasons the amount of support ordered differs from the guideline formula amount."⁹⁶

"The reasons the amount of support ordered is consistent with the best interests of the children."⁹⁷

- The provision concerning stipulated agreements for child support was modified to require specified declarations only where the amount of support agreed to is below the guideline formula amount.⁹⁸**
- The establishment of the guideline was declared to be a change of circumstances in all cases.⁹⁹**
- A phase-in of an increase in child support is permitted in specified circumstances.¹⁰⁰**

The phase-in permitted is limited to the following cases:

- The new order amount is the guideline amount without any rebuttal factors;¹⁰¹**

⁹⁵ **Family Code section 4056(a)(1). The prior language was, "The amount of support that would have been received under the formula."**

⁹⁶ **Family Code section 4056(a)(2). The prior language was, "Any rebuttal factors found under subdivision (b) of Section 4057."**

⁹⁷ **Family Code section 4056(a)(3). The prior language was, "A finding that the revised amount is in the best interests of the children."**

⁹⁸ **Family Code section 4065.**

⁹⁹ **Family Code section 4069. The previous provision provided that the establishment of the guideline was only a change of circumstances "for the purpose of any modification of child support order entered before the guideline's operative date."**

¹⁰⁰ **Family Code section 4076.**

¹⁰¹ **Family Code section 4076(a)**

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- **The obligor has not unreasonably increased his or her financial obligations following notice of the motion;**¹⁰²
- **The obligor has no child support arrearages owing;**¹⁰³ and
- **The obligor has a history of good faith compliance with prior support orders.**¹⁰⁴

The phase-in can occur in two steps,¹⁰⁵ **with at least 30 percent of the increase occurring as part of the first phase,**¹⁰⁶ **and the full support order must be payable no later than one year after it is made.**¹⁰⁷ **The phase-in section contains significant requirements concerning its application:**

- **". . . to provide the obligor with time for transition to the full formula amount"**¹⁰⁸
- **"The period . . . is carefully limited to the time necessary for the obligor to rearrange his or her financial obligations to meet the full formula amount of support."**¹⁰⁹
- **The court is required to make specific findings, in writing, concerning the phase-in.**¹¹⁰

2.7.2. Pending measures

A number of bills involving child support are still pending in the Legislature. This section of the report notes those measures affecting the

¹⁰² **Family Code section 4076(a)(3)**

¹⁰³ **Family Code section 4076(a)(3)**

¹⁰⁴ **Family Code section 4076(a)(3).**

¹⁰⁵ **Family Code section 4076(a).**

¹⁰⁶ **Family Code section 4076(a)(2).**

¹⁰⁷ **Family Code section 4076(b)(2)**

¹⁰⁸ **Family Code section 4076(a).**

¹⁰⁹ **Family Code section 4076(a)(1).**

¹¹⁰ **Family Code section 4076(b).**

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child support guideline and other measures affecting child support in general.

Senate Bill No. 279 (Calderon) would require the court, on request, for good cause shown, to order either party to submit to an examination by a vocational training counselor at the requesting party's expense. If the counselor finds the party is employable, the court would be required to impute the party's prospective earnings to that party's income unless the court makes specified findings.

Senate Bill No. 407 (Hughes) would establish the Department of Child Support Enforcement in the Health and Welfare Agency, and would specify the responsibilities of the department for the enforcement of child support obligations in the state. This would entail a major reorganization of the handling of child support enforcement.

Senate Bill No. 412 (Ayala) would authorize, when child support becomes more than 30 days in arrears, the support obligor to serve an order to show cause with the notice of delinquency requiring the support obligor to appear and provide proof of any hardship.

Senate Bill No. 579 (Watson) would extend the duration of child support to age 21 under certain circumstances, in the court's discretion.

Senate Bill No. 787 (Watson) would establish a rebuttal presumption that a person on Aid to Families with Dependent Children cannot pay child support.

Senate Bill No. 942 (Wright) would require the district attorney to provide an obligor parent with annual notice of the amount owing by the parent, including any arrearages.

Senate Bill No. 997 (Calderon) would change from conclusive to rebuttable the presumption that a man is the presumed father under the statutory law and would authorize the filing of a notice of motion for blood test under these provisions to establish paternity.

Senate Bill No. 1067 (Wright) would authorize the court to make an order that modifies or terminates a child support order operative at a reasonable future date.

Assembly Bill No. 20 (Sher) would repeal provisions of the Revised Uniform Reciprocal Enforcement of Support Act and enact the provisions of the Uniform Interstate Family Support Act.

Assembly Bill No. 262 (Ferguson) would recast and revise AFDC eligibility requirements as they relate to child support collection. The bill would

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specify what acts constitute cooperation by an applicant or recipient, and specify the conditions under which good cause for refusal to cooperate would exist.

Assembly Bill No. 409 (Quackenbush) would authorize counties to contract with private collection agencies for the collection of delinquent child support payments.

Assembly Bill No. 923 (Speier) would revise the method of calculating child support under the statewide uniform guideline where the payor's monthly total net disposable income is less than \$1,500. It would preclude a court from considering the income of a parent's subsequent spouse or nonmarital partner as a factor rebutting the guideline presumption.

Assembly Bill No. 1115 (Bornstein) would establish a two-year pilot project relating to the calculation of child support under which the superior court clerk would designate an employee to be responsible for the calculation of child support under the guideline.

Assembly Bill No. 1278 (Archie-Hudson) would provide that a child support order may be made retroactive to the birth of the child or 1/1/94, whichever is later.

Assembly Bill No. 1303 (Andal) would make it a felony to violate the provision relating to omission of necessary food, clothing, shelter, or medical attendance, or other remedial care to a child by a parent.

Assembly Bill No. 1400 (Harvey) would authorize the court, in any proceeding for modification of child support, to delay or phase in the full support amount for up to one year to enable the support obligor to rearrange his or her financial situation.

Assembly Bill No. 1655 (Eastin) would extend the duration of child support to age 21, unless the child is on active military or has been legally emancipated.

Assembly Bill No. 1955 (Goldsmith) would declare the intent of the Legislature that the child support guideline be reviewed by the Legislature at least every three years instead of the current four years.

Section 3. Description of the Guideline

3.1. "Income Shares" approach

The California Guideline uses what is commonly called an "income shares" approach to the determination of child support. At its simplest, income shares means that the amount of money allocated to children in a guideline is based on a share of the income of both parents. While this concept is simple to state, its implementation is anything but simple.

The income shares approach to child support is one of several different methods in use. Each has its adherents and its critics. In a study published in 1987, Robert G. Williams identified five approaches to child support guidelines:¹¹¹

Income shares model: "The income shares model is based on the concept that the child should receive the same proportion of parental income he or she would have received if the parents lived together. Under this model, a basic child support obligation is computed based on the combined income of the parents (replicating total income in an intact household). This basic obligation is then pro-rated in proportion to each parent's income."¹¹² Williams, who is the leading proponent of the income shares approach to child support, notes that the model includes a self-support reserve for the payor, and adjustments for ages of the children, shared custody, and split custody.

Delaware-Melson formula: The Melson formula is stated in the following terms:

The Melson formula is based on the following principles. First, after determining net income, a self-support reserve is subtracted from each parent's income. This self-support reserve is usually set at \$450 per month, or less if living with others. Only income above this reserve is deemed available for child support under the formula (although a minimum order is set).

Second, above the self-support reserve, all parental income is next allocated to the primary support needs of the children. In most cases this is set at \$180 per month for the first child, \$135 per month for each of the second and third, and \$90 per month for each of the fourth, fifth, and sixth. Added to primary support needs are actual child care and extraordinary medical expenses. These primary

¹¹¹ **Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report, Part II: Final Project Report, Executive Summary at pp. vi - ix.**

¹¹² *Id.* at p. vi.

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support needs are pro-rated between the parents based on their available income (after deduction of the self-support reserve).

Third, after deduction of the self-support reserve and payment of the pro-rata share of children's primary support needs, 15 percent of each parent's remaining income is allocated to additional child support for the first child, 10 percent more for each of the second and third, and 5 percent more for each of the fourth, fifth, and sixth.¹¹³

Williams notes that the Melson formula is the most comprehensive approach in the number of factors addressed. It can be adjusted for split and shared custody and for obligations for prior or subsequent dependents.

Wisconsin percentage of income: This approach, deemed the "simplest," resembles a tax. It allocates child support based strictly on the amount of income of the payor parent, with a fixed percentage based on the number of children being supported. The formula does not consider self-support, childcare, or extraordinary medical expenses. It can be adjusted for shared custody and prior or subsequent dependents.

Washington approach: Williams identifies as a separate category the Washington State Guidelines. He notes, though, that they are "functionally similar" to the income shares approach but vary in that they are the only formula with age adjustments.¹¹⁴ It should be noted that the

¹¹³ *Id.* at p. vii.

¹¹⁴ See also Division V of the California Rules of Court, "Age Increase Factor Table," adopted by the Judicial Council effective July 1, 1994. This provision was adopted pursuant to Civil Code section 4700.3, now Family Code section 3686, which reads, "In making a modification based on a request to increase the amount of child support payments pursuant to this article, the court shall take into consideration the age increase factor developed by the Judicial Council pursuant to paragraph (8) of subdivision (a) of Section 4005."

Section 4005(a)(8) provides that the court shall consider, in determining an amount for child support, "The preservation of the adequacy of the child support award over the length of time during which the parents will be obligated to support a minor child, by utilizing an age increase factor in the standard used for the determination of child support. The Judicial Council shall develop a

Section 3. Description of the Guideline

Munsterman study for the National Center on State Courts¹¹⁵ includes Washington among the income shares states.

Equal living shares model: This approach, also called the Cassetty Model after its developer, Dr. Judith Cassetty of the Texas Attorney General's Office, uses a significantly different approach to determination of the amount of child support. It first exempts from net income a poverty level of support for each member of the two households. It then reallocates the remaining income between the two households in proportion to the number of persons in each family unit so as to achieve an equalization of living standard. It can consider the effects of shared custody.

The Munsterman report, three years after the Williams report, finds four approaches in use by the states. The equal living shares model, as Williams notes, was not adopted by any state. The report also includes the Washington approach as included in income shares. However, there are now two approaches to the Wisconsin percentage of noncustodial income -- a fixed percent and a varying percent method.¹¹⁶

The report also shows, as of 1990, the significant prevalence of the income shares approach:

formula for the determination of that factor for the use of the courts."

It is questionable whether this provision is still valid under the existing guideline. This would be an appropriate area for further study and report to the Legislature.

¹¹⁵ Munsterman et al., A Summary of Child Support Guidelines, National Center for State Courts, February 1990, pursuant to a grant from the Office of Child Support Enforcement.

¹¹⁶ In the income shares approach, the percentage of income allocated to children decreases as the amount of income increases, in recognition of the findings of van der Gaag and Espenshade that while the amount spent on children increases as total income increases, the percentage of income spent on children decreases.

By contrast, the varying percentage method of support determination use a higher percentage of income as the level of income increases.

Section 3. Description of the Guideline

Table 3-1 Method of Guideline Used by States¹¹⁷			
Income Shares	Fixed Percent	Varying Percent	Melson/Delaware
35 states	8 states	7 states	3 states

The income shares method, while widely adopted, is not without its severe critics. Indeed, one critic notes that the fact that Robert Williams is a strong advocate for the income shares approach, coupled with his advocacy of that approach in his report for the Office of Child Support Enforcement, has led many states to adopt an income shares approach despite the "fragility of his analysis." This same critic states that the report contains many policy judgments that are not clearly stated.¹¹⁸

Marilyn Ray Smith, the chair of the Massachusetts Child Support Committee subcommittee on guidelines, makes the following comments concerning the choice of method to be used for a child support guideline:

The choice of method for analyzing the adequacy of a proposed child support guideline depends upon the underlying policy goal to be achieved. The comparisons [by Williams] are structured to support the premise that child support should reflect the same proportion of parental income that would have

¹¹⁷ The table includes as "states" the District of Columbia, Guam, and Puerto Rico. In the report, California is listed as a varying percent state. This was based on a probable misinterpretation of the language of the then California guideline. The Judicial Council guideline has, since its inception, been based on the Santa Clara II guideline, which is an income shares approach. The table in this report indicates the correct placement of California as an income shares approach state. The report by Robert G. Williams, *Analysis of California's Child Support Guidelines*, October 19, 1990, contends that Connecticut and New Hampshire should be classified as fixed percent states rather than income share states because the child support percentage does not vary with respect to the obligee's income. This contention is not reflected in the table.

¹¹⁸ Polikoff, *Looking for the Policy Choices Within an Economic Methodology: A Critique of the Income Shares Model*, in *Essentials of Child Support Guidelines Development: Economic Issues and Policy Considerations*, (Proceedings of the Women's Legal Defense Fund's National Conference on the Development of Child Support Guidelines, September 1986) at p. 28.

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been spent had the family remained intact. They do not look at the economic impact of divorce on children, but rather focus solely on the economic consequences of child support on the obligor without reference to the other family members.

If, on the other hand, the purpose of child support is to protect children as much as possible from the economic impact of divorce, then the standard of living analysis becomes the method of choice for measuring the "bottom line" in each household relative to the number of persons in it. The total costs for the family clearly go up as the household splits into two, and unless there is additional income, somebody's standard of living must go down. Under the current method of distributing the income between the two households, it is almost always the custodial parent and children who bear the brunt of the costs, while the noncustodial parent -- assuming he or she is the primary breadwinner before and after divorce -- actually ends up with relatively more income to meet the needs of a smaller household than would have been available to him or her in the intact family.

The standard of living of the custodial parent and children are not separable. As Williams and economists have observed, the greatest costs of maintaining a household (and the most inelastic ones) are those that are incurred for all family members: housing, food, and transportation. ...

Consideration of standard of living issues is therefore critical to the success of the child support enforcement program.¹¹⁹

This discussion of the pros and cons of the income shares approach is not meant to be exhaustive. Rather it is included as an indication that the Legislature may wish to give further consideration to the overall approach to child support guidelines, or request further consideration of this issue by the Judicial Council.

3.2. Description of the formula

Family Code section 4055(a) provides: "The statewide uniform guideline for determining child support orders is as follows: $CS = K[HN - (H\%)(TN)]$."

The definition of items in this formula are:

¹¹⁹ **Smith, *Standard of Living: The Benchmark for Measuring the Adequacy of Child Support Guidelines* in *Essentials of Child Support Guidelines Development: Economic Issues and Policy Considerations*, (Proceedings of the Women's Legal Defense Fund's National Conference on the Development of Child Support Guidelines, September 1986) at pp. 221, 225-226.**

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CS is the child support amount to be determined by the formula.

K is the percent of income allocated for child support. This number is loosely based on the findings of van der Gaag and Espenshade on the amounts intact families traditionally spend on children. This K factor, though, has been modified over the years and thus no longer completely reflects these findings. However, it should be noted that the determinations made by van der Gaag and Espenshade have themselves been subject to some criticism from people on both sides of the issue, with some claiming that they reflect an amount for child support that is too low and others claiming the amount is too high.. In addition, the data used are now over 20 years old. But there has, unfortunately, been no data of any greater reliability forthcoming. There is need for a comprehensive study before the current factor used is further adjusted. The costs of such a study are considerable and the practical difficulties in carrying it out not insignificant.¹²⁰

The percentage of income allocated to children is 25% in most cases, that is, where the combined net disposable income is between \$801 and \$6,666 per month. In cases of very low income, the amount allocated to children falls to 22.5% at \$400 per month and to 21.25% at \$200 per month. Even in cases approaching \$0 income per month, the amount allocated remains above 20%. For amounts over \$6,666 per month, the percentage also gradually drops (although the dollar amounts do not) to 21.7% at \$8,500, 17.3% at \$15,000, and 15.3% at \$25,000.

This factor is then adjusted according to the amount of shared custody. The more time that the child spends with the noncustodial parent, the higher the percentage of total family income allocated to child support. This result is based on the legislative determination that higher amounts of shared custody result in greater child rearing costs. It should be noted that this is not a determination that it is undesirable to have higher amounts of shared custody; only that it is more costly.

HN is the net income of the high earner of the two parents.

H% is the amount of time the high earner has primary physical responsibility for the children compared to the other parent. Historically this part of the formula has been one of the more bitterly contested provisions.¹²¹

¹²⁰ See discussion in section 7 of this report.

¹²¹ See discussion in sections 2.5.2, 2.6.1., and 2.6.2 of this report.

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TN is the total net disposable income.

The effect of the formula is to (1) first compute the total amount that will be allocated to children according to the K and H% factors; (2) allocate the amount payable by each parent; and (3) for each parent, determine how much he or she pays to the other parent for the amount of shared custody. Thus, in a case where the total net income is \$5,000 (\$4,000 for the high earner and \$1,000 for the low earner) and the amount of time the high earner has the children is 20%, the calculation would be as follows:

(1) the total amount allocated to child support is \$5,000 [total net income] times .25 [K factor] times 1.20 [1 + H%] or \$1,500.

(2) the amount payable by each parent is the same ratio as their incomes, so the high earner will pay $4,000/5,000$ times \$1,500 or \$1,200 and the low earner will pay $1,000/5,000$ times \$1,500 or \$300.

(3) 20% of the amount allocated to the high earner will be spent on the child when the child is in his or her custody, resulting in a payment of 80% to the low earner. $\$1,200 \times .8$ is \$960. 20% of the amount allocated to the low earner will be spent on the child when the child is in the custody of the high earner so the low earner should pay $\$300 \times .20$ or \$60 to the high earner. Subtracting these cross payments results in $\$960 - 60$ or \$900 paid to the low earner by the high earner.

3.3. Determination of income

Family Code section 4053(d) provides, "Each parent should pay for the support of the children according to his or her ability." Probably the most important determinate of ability of a parent is the amount of income earned by that parent. As a review of the formula discussed in section 3.2 shows, income is one of the major components of the final amount of child support calculated by the guideline.

California is one of the states that uses net income to determine child support. (See discussion of this issue in section 6.5.) The term "net income," though, might be misleading. Net in this case does not mean the same as taxable income or available income. The technical term is "net disposable income" and it is strictly defined by statute.

Family Code section 4058 defines the gross income of each parent. It is a very broad definition of "income from whatever source derived," with stated exceptions. It includes "commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits,

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disability insurance benefits, social security benefits, and spousal support actually received from a person not a party to the order."¹²² It also includes "gross receipts from the business reduced by expenditures required for the operation of the business."¹²³ This provision is stated more generally than has been urged by some writers:

[T]he definition of allowable business expenses for child support purposes should be more restrictive than the IRS definition. In particular, investment credits, allowances for the accelerated component of depreciation, and entertainment expenses should be disallowed in determining child support. Courts . . . should be given broad discretion to disallow other business expenses as well.¹²⁴

The court may, in appropriate circumstances, also include as income employee benefits or self-employment benefits.¹²⁵ The court may also use the earning capacity of a parent in lieu of income to the extent this is consistent with the best interests of the child.¹²⁶ California's guideline has one of the shorter provisions concerning the circumstances in which the court may consider earning capacity. Many other states include lists of factors as an assistance to courts in making the determination including such factors as voluntary unemployment or underemployment. Another part of this same issue is whether overtime should be considered as part of income, and under what circumstances.¹²⁷ These issues might be appropriate for further study.

¹²² Family Code section 4058(a)(1).

¹²³ Family Code section 4058(a)(2).

¹²⁴ Williams, *op. cit.*, at II-44.

¹²⁵ Family Code section 4058(a)(3), "taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts."

¹²⁶ Family Code section 4058(b).

¹²⁷ See In re Marriage of Simpson (1992) 4 Cal.4th 225 in which the Supreme Court held that a parent who worked significant amounts of overtime during the marriage would not necessarily be locked into the same work habit once the marriage had ended. The court noted that the support order "generally should not penalize for his or her efforts a supporting spouse who voluntarily had undertaken an extraordinarily rigorous work regimen during the marriage, by locking that spouse into an excessively onerous work schedule."

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Certain items are also excluded from income, as part of a policy determination. These are child support payments, and need-based public assistance.¹²⁸

In determining gross income, the code requires the use of annual figures. The use of annual figures is a legacy of the Agnos Child Support Standards Act. An annualized figure better reflects the true financial situation of a parent, since it tends to minimize month-to-month variations in income that some parents may experience. The code also allows an adjustment to the child support amount to accommodate the seasonal or fluctuating income of a parent.¹²⁹

Once gross annual income is determined, certain deductions are permitted by the guideline. These include:¹³⁰

- State and federal income tax liability
- Social security
- Mandatory union dues
- Mandatory retirement benefits contributions
- Health insurance and health plan premiums for the parent and any children the parent has an obligation to support
- State disability insurance premiums

¹²⁸ Family Code section 4058(c).

¹²⁹ Family Code section 4064. The accommodation of the entire child support order, and not just the income figure, may be necessary in cases of sharply fluctuating income. This adjustment will allow the payor to pay less during periods of low income while providing a cushion to the recipient through higher payments in periods of higher income of the payor. Of course, the court should consider whether the responsibility for the creation and maintenance of this cushion should rightly fall on the payor or recipient. It would appear appropriate to permit the court discretion in this area, as it currently has. The court's determination can, for the most part, be based on a determination on which parent is more likely to preserve adequate funding for the child's needs during periods of fluctuating income.

¹³⁰ Family Code section 4059.

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- **Child or spousal support being paid, pursuant to court order,¹³¹ to others not in the present proceeding**
- **Job-related expenses¹³²**
- **Hardship deductions (see section 3.8)**

Following the determination of annual net disposable income, the guideline then divides that amount by 12 to reach the average monthly net disposable income. In an effort to have a figure as representative as possible, the guideline further provides:

If the monthly net disposable income figure does not accurately reflect the actual or prospective earnings of the parties at the time the determination of support is made, the court may adjust the amount appropriately.¹³³

3.4. Factors in rebuttal

The guideline provides that the amount resulting from the calculation is "presumed to be the correct amount of child support to be ordered."¹³⁴ This presumption is defined as a rebuttable presumption affecting the burden of proof.¹³⁵ The presumption may be rebutted by one of a list of

¹³¹ **In the case of child support, actual child support not to exceed the guideline amount, may be deducted in lieu of court-ordered child support.**

¹³² **The court is supposed to consider the necessity of the expenses, whether they benefit the employee, and other relevant facts.**

¹³³ **Family Code section 4060.**

¹³⁴ **Family Code section 4057(a).**

¹³⁵ **Evidence Code section 605 provides, in part, "A presumption affecting the burden of proof is a presumption established to implement some public policy other than to facilitate the determination of the particular action in which the presumption is applied." In the case of the child support guideline, the establishment of a guideline that is presumptively correct is required by federal law. (See discussion in section 2.4.1.) The use of a presumption affecting the burden of proof implements the public policy, determined by the federal government, that enforcement of child support is furthered by the use of guidelines that are presumed to yield correct amounts of support.**

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factors, found to be applicable by a preponderance of the evidence. Before applying the rebutting factor and modifying the guideline amount, the court must find the following:¹³⁶

- Application of the formula would be unjust or inappropriate
- The revised amount is consistent with the principles regarding the child support guideline¹³⁷
- The revised amount is consistent with the best interests of the children

The guideline itself lists nine factors in rebuttal:¹³⁸

- Agreement between the parties¹³⁹
- Deferred sale of the family residence¹⁴⁰
- Income of a new spouse or nonmarital partner that helps meet the parent's basic living expenses¹⁴¹
- Extraordinarily high income
- Party not contributing to the needs of the children commensurate with that party's custodial time
- Different time-sharing arrangements for different children
- Substantially equal time-sharing and great disparity in housing costs
- Special medical or other needs

¹³⁶ Family Code section 4057(b).

¹³⁷ See discussion in section 3.5 of this report.

¹³⁸ Family Code section 4057(b)(1)-(6)

¹³⁹ Family Code section 4065 lists the requirements for an agreement.

¹⁴⁰ See In re Marriage of Duke (1980) 101 Cal.App.3d 152.

¹⁴¹ This provision was removed by legislation adopted this year. See discussion in section 2.7.

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- **Unjust or inappropriate amount due to special circumstances**

3.5. Legislative policy

In various code section of the child support guideline, the Legislature has expressly made a policy statement. These provisions are in addition to the policy determination that can be inferred from specific provisions of the guideline. The major policy statements are as follows:

- **Family Code section 3900 sets an equal responsibility on parents for support of a child "in the manner suitable to the child's circumstances."**
- **Family Code section 4050 sets a state policy of remaining "in compliance with federal regulations for child support guidelines."**
- **Family Code section 4053 sets the following 12 principles concerning child support guidelines:**
 - **A parent's first and principle obligation is to support his or her minor children according to the parent's circumstances and station in life.**
 - **Both parents are mutually responsible for the support of their children.**
 - **Each parent's actual income and level of responsibility for the children is taken into account.**
 - **Each parent should pay for the support of the children according to his or her ability.**
 - **The interests of children is the state's top priority.**
 - **Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.**
 - **Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.**
 - **The financial needs of the children should be met through private financial resources as much as possible.**

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- **It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.**
- **Fair and efficient settlements of conflicts between parents and reduction of litigation is encouraged.**
- **Child support orders pursuant to the guideline are intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.**
- **Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.**
- **Family Code section 4054(c) seeks to ensure that the guideline results in appropriate child support orders and has limited deviations.**
- **Family Code section 4054(g) sets a "legislative intent that children share in the standard of living of both of their parents."**
- **Family Code section 4067 state a legislative intent that "application [of the guideline] results in the determination of appropriate child support amounts."**

3.6. Judicial determination of facts

One of the requirements of federal regulations concerning child support guidelines provides:

A written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, as determined under criteria established by the State.

Such criteria must take into consideration the best interests of the child.

Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.¹⁴²

¹⁴² 45 C.F.R. section 302.56(g).

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The origin of these requirements can be found in the report by the Advisory Panel on Child Support Guidelines established by the Office of Child Support Enforcement in 1984. The recommendations, which were published in 1987, included a recommendation that guidelines be rebuttable presumptions. As part of the discussion of this recommendation, the panel stated that on-the-record findings be required for the following reasons:

- To preserve the integrity of the guidelines
- To document patterns to justify revisions of the guideline
- To facilitate equitable determinations in modification hearings
- To ensure an adequate record for appellate review.¹⁴³

It appears that the last two reasons are designed for the protection of the parties to a support proceeding and the first two are designed for the protection of the system.

Under California law, "findings of fact" have had a specific meaning defined by both statute and case law.¹⁴⁴ The term "findings" was avoided in the guideline to avoid the formal burden of the accumulated case and statutory law attached to the concept of "findings." Yet to permit compliance with the spirit of the federal requirements the Legislature, and prior to that the Judicial Council required statements of facts found by the courts.

The primary implementation of the fact determination requirement is found in Family Code section 4056. This provision requires, "in writing or on the record," a statement of certain specified items of information used in determining the guideline amount of support. These items include:

- Net monthly disposable income of each parent
- Federal income tax filing status of each parent

¹⁴³ Report of the Advisory Panel on Child Support Guidelines at p. I-7.

¹⁴⁴ The requirements of findings of fact (and conclusions of law) were largely repealed in 1981 and a new procedure, called a "statement of decision" was adopted in its place. Stats. 1981, ch. 900. But the former law still has significance. See Witkin, California Procedure, Trial, section 368(d). For a general discussion of findings and the statement of decision see sections 368-404.

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- **Deductions from gross income allowed**
- **Percentage of time each parent has custody of the child**
- **The presumptive guideline amount of support**
- **Rebuttal factors found**
- **A finding that the actual child support amount ordered is in the best interests of the child**

In addition to section 4056, the Family Code contains other provisions requiring a statement of determination of facts in the child support guideline:

- **Section 4057(b) discusses the factors supporting deviation from the guideline amount. It states that one of the listed factors rebutting the guideline amount must be found to be applicable by a preponderance of the evidence. In addition, the court must find, "in writing or on the record, that application of the formula would be unjust or inappropriate in the particular case and that the revised amount is in the best interests of the children."**
- **Section 4072(a) requires the following in cases of a deduction for hardship expenses:**
 - **A statement of "the reasons supporting the deduction in writing or on the record."**
 - **A documentation of the amount of the hardship deduction and the "underlying facts and circumstances."**

As noted earlier in this section, one of the reasons for the requirement of determination of facts is to assist in needed revision to the guideline. The California guideline explicitly recognizes this need in Family Code section 4054(b). That section, in discussing the review and report to the Legislature by the Judicial Council (of which this is the first), notes, "The review shall include ... analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date."

Family Code section 4068(b) authorizes the Judicial Council to develop "[a] form to assist the courts in making the findings and orders required by this article." As discussed in section 4.2.14 of this report, the Judicial Council has adopted three forms to help in this process, Forms 1296.31B, 1296.31B(1), and 1296.31B(2).

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As discussed in section 5 of this report, the use of these forms, or other forms making specific determinations of fact, does not appear to occur in a significant majority of the child support cases. Under the current provision, the courts are not required to make these determinations unless requested by the parties. There is no question that the making of these formal, written determinations is a time-consuming and expensive proposition to courts that are already strapped for time and funds. The Legislature may wish to request that the Judicial Council determine alternative methods of obtaining useful data for reporting on child support enforcement that would not require the courts to make written factual determinations in all cases. This recommendation could be made to the Legislature in advance of the requirement of the four year review and possible revision of the guideline required by federal and state law (see Family Code section 4067).

3.7. Additional child support amounts

The Advisory Panel on Child Support Guidelines recommends that under any guideline,

actual child care and extraordinary medical expenses are added to a basic child support obligation and pro-rated between the parents based on their respective incomes. Under [some] ... approaches, no special consideration is given to these costs. Failure to give these costs special treatment places a disproportionate burden on the custodial parent. If child care costs are not treated separately, there can also be a disincentive for the custodial parent to work. If medical costs are not covered separately, a child's extraordinary medical needs may be unmet if the custodial parent has inadequate income.¹⁴⁵

The first statewide "guideline" in California, the Agnos Child Support Standards Act, provided:

The mandatory minimum child support award established pursuant to this chapter is intended to assure adequate basic living expenses, including food, shelter, and clothing, for the supported children. The court shall not assume that any other costs related to the rearing of children are provided within the mandatory minimum award. Child care expenses, special educational expenses, expenses for special medical, dental, or mental health needs, and expenses related to other special needs of the children are not provided in the mandatory minimum child support award. These expenses shall be considered

¹⁴⁵ **Report of the Advisory Panel on Child Support Guidelines at p. I-17.**

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by the court in making an award in addition [to the basic amount]. ... These additional awards may be made in separate orders by the court.¹⁴⁶

The Judicial Council's discretionary child support guideline established pursuant to the Agnos Act provided that "child care costs related to employment or reasonably necessary education or training for employment," "travel expenses for visitation," and "health care and health insurance costs for children" should be "shared in accordance with the net income of the parties."¹⁴⁷

These concepts have been carried over to the present guideline. Family Code section 4062 provides two categories of "add-ons" to the amount of child support computed by the formula. Items that must be added to the basic obligation include child care costs for work or education for work,¹⁴⁸ and reasonable uninsured health care costs.¹⁴⁹ Items that may be added to the basic obligation, in the court's discretion, include educational or other special needs of the children and travel expenses for visitation.¹⁵⁰ The court may order the payment of these additional amounts to be made directly to the provider of services.¹⁵¹

The recommendation from the Federal Advisory Panel includes a recommendation that these additional amounts be pro-rated in accordance with the parents' income. Under California Law, there is a presumption for equal division of these additional costs,¹⁵² although there can be pro-rated division "[i]f requested by either parent, and the court

¹⁴⁶ Former Civil Code section 4723 as added by Stats., 1984, ch. 1605 and amended by Stats. 1985 ch. 379.

¹⁴⁷ Division VI, Appendix to the California Rules of Court, paragraphs 8(a), (b), and (c).

¹⁴⁸ Family Code section 4062(a)(1).

¹⁴⁹ Family Code section 4062(a). The code provides, "There is a rebuttable presumption that the costs actually paid for the uninsured health care needs of the children are reasonable."

¹⁵⁰ Family Code section 4062(b).

¹⁵¹ Family Code section 4063. Direct payment is not permitted if the child support obligation has been assigned to the county due to receipt of AFDC by the custodial parent.

¹⁵² Family Code section 4061(a).

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determines it is appropriate. . . ."153 Before apportionment, in this case, the net income of each parent is adjusted before determining the ratio of incomes.¹⁵⁴ The adjustments include:

- Subtracting child support and spousal support from the income of the payor parent
- Adding spousal support (but not child support) to the income of the recipient parent

3.8. The concept of hardship

The term "hardship" as a concept for a child support guideline first appeared in the Agnos Child Support Standards Act. That act provided:

In the event that a parent is experiencing extreme financial hardship due to justifiable expenses resulting from the circumstances enumerated in this section, upon the request of a party, the court may allow such income deductions as may be necessary to accommodate those circumstances¹⁵⁵

Where a court determined that a hardship existed, it did not deduct the amount of hardship from the child support order but from the income of the party with the hardship. This diluted the effect of the hardship on the actual order, and reflected the reality that a hardship should affect the entire living standard of the party and not just the amount received by the child. This manner of addressing hardships continues under the present guideline.

The former statute listed specific cases of hardship:

- Extraordinary health expenses
- Uninsured catastrophic loss
- Natural or adopted child who lives with the parent¹⁵⁶

¹⁵³ Family Code section 4061(b).

¹⁵⁴ Family Code section 4061(c) and (d).

¹⁵⁵ Former Civil Code section 4725, added by Stats. 1984, ch. 1605.

¹⁵⁶ The deduction under this provision was set by a formula for cases involving the mandatory minimum child support order under the Agnos Act. In the case of an order under the county's discretionary

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There was some concern initially about whether items in the statute were the exclusive items of hardship that could be claimed. But the case law is now clear that the list of hardship items is strictly limited to those mentioned in the statute.¹⁵⁷

Family Code section 4070 now provides that income deductions may be allowed for hardship for "the circumstances enumerated in Section 4071." The court has discretion to allow the deductions under these provisions. The stated categories for hardship deductions continue to be the three items first enumerated in the Agnos Act.

One problem with the hardship deduction for children residing with the parent claiming the hardship is the limitation currently found in Family Code section 4071(b). The statement of the limitation appears to be simply that the deduction not exceed the per child support amount established in the present proceeding.¹⁵⁸ The actual calculation, though, is not so easy.

Under the provision, a court wishing to allow the maximum hardship deduction would first allocate an amount based on the actual expenses shown. This amount would be used as a deduction from income and the child support for the present case would be preliminarily calculated. If the child support in the present case is less than the deducted amount, the amount of the deduction would have to be adjusted down and the child support recalculated. Further adjustments, up or down as appropriate, would continue to be made until the amount of the deduction equaled the amount of the child support order (on a per child comparison).

guideline, the amount of the deduction was not to exceed the amount of support ordered per child in the case before the court.

¹⁵⁷ County of San Diego v. Sierra (1990) 217 Cal.App.3d 126; Marriage of Norvall (1987) 192 Cal.App.3d 1047. Both of these cases interpreted the hardship provisions of the Agnos Child Support Standards Act. Family Code section 4059(g) permits a deduction for hardship "as defined by Sections 4070 to 4073, inclusive, *and applicable published appellate court decisions.*" (Emphasis added.)

¹⁵⁸ "The maximum hardship deduction ... for each child who resides with the parent may be equal to, but shall not exceed, the support awarded each child subject to the order." (Family Code section 4071(b).)

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It should be noted that this type of calculation is very easy to make if a properly programmed computer is available. But it is questionable if the guideline should have a provision in it that requires, as a practical matter, the use of a computer.¹⁵⁹

At first glance, it would appear that an alternative approach to a hardship deduction would provide that the guideline consider a calculation of a guideline figure for all the children in the present case plus all the hardship children residing with the payor. But this approach would prevent the consideration of the true guideline figure for these other children because of differences in amount of custody time and the income of all other parents. Any attempt to include these variations in the calculation would further complicate the process.

The Legislature might wish to request that the Judicial Council study the issue of the appropriate way to handle the hardship deduction for other children in the home. This study could (1) survey the courts concerning the present methods of handling hardship deductions; (2) survey the available literature in the field regarding appropriate approaches to the problem; and (3) review the methods used in other states.

The Advisory Panel on Child Support Guidelines has made recommendations regarding how to address multiple support responsibility. The principles developed by that panel are:¹⁶⁰

Where a parent has multiple child support responsibilities, each child entitled to support from that parent should share equally in that parent's resources, subject to the variations required by the needs of the individual child and the amount of support due that child from the child's other parent.¹⁶¹

Whenever possible, a support award should consider all support responsibilities of a parent when support is set for any child of that parent.

¹⁵⁹ It would be possible, as a matter of mathematical formulas, to state the deduction as a set of complex formulas or instructions, possibly as simultaneous equations. However, it is doubtful that this statement would make the guideline more accessible to those using it. The solving of simultaneous equations or other complex formulas is not a simple matter for the vast majority of the population.

¹⁶⁰ Report of the Advisory Panel on Child Support Guidelines at p. I-19.

¹⁶¹ This principle forms part of the basis for Family Code section 4071.

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When a parent is under an order to provide support for children whose support is not subject to modification in the instant proceeding, funds the obligated parent is required by law to provide for those children, and actually pays, should be considered unavailable for calculating support in the instant proceeding.¹⁶²

The Advisory Panel further notes:

Considerations raised by multiple families post difficult issues for states implementing guidelines. Further analysis and modeling of situations involving multiple support responsibilities are needed to assist a state in designing guidelines which yield the most equitable results for the child involved and their parents.¹⁶³

3.9. Health insurance

California law, in compliance with federal regulations, provides that the court shall require health insurance coverage for a child subject to a support order from either or both parents "if that insurance is available at no cost or at reasonable cost to the parent."¹⁶⁴ In determining the amount of income a parent has, the court deducts the amount of any health coverage premium for both the parent and any children the parent has an obligation to support.¹⁶⁵ Any health care costs for the child that are not reimbursed by insurance generally are to be shared by the parents if they are reasonable.¹⁶⁶

This treatment of health care premiums is consistent with the recommendation of the Advisory Panel on Child Support Guidelines. That panel recommended that:

[G]uidelines include a provision specifying parental responsibility for the child's health insurance coverage. In applying a guideline to determine the level of

¹⁶² **This principle forms part of the basis for Family Code section 4059(e).**

¹⁶³ **Report of the Advisory Panel on Child Support Guidelines at p. I-24.**

¹⁶⁴ **Family Code section 3751(a). The code notes that health insurance is reasonable in cost "if it is employment-related group health insurance or other group health insurance, regardless of the service delivery mechanism."**

¹⁶⁵ **Family Code section 4059(d).**

¹⁶⁶ **Family Code section 4062(a)(2). There is a rebuttable presumption that costs actually paid are reasonable.**

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child support, financial credit should be given to the parent that is carrying the insurance policy.¹⁶⁷

The Advisory Panel noted that further analysis should be made of the health care cost issue:

There is a complex relationship between the various components of health care costs (health insurance premiums, routine medical expenses, and extraordinary medical expenses) and the monetary child support obligation computed using a guideline. The great variation in health insurance policies and cost-sharing arrangements between employers and employees makes it difficult to develop a uniform and equitable rule. Further research could help clarify whether other ways of treating health care costs would be more consistent and practical than the approaches currently being used.¹⁶⁸

The Legislature might wish to consider requesting additional research and analysis of this issue.

3.10. Effect of spousal support

Among the principles of the child support guideline are that the first and principal obligation of a parent is to support his or her children,¹⁶⁹ and the interests of the children are the "state's top priority."¹⁷⁰ Accordingly, the guideline requires that child support be calculated, for the most part, without regard to spousal support. There are, however, several exceptions to this general rule:

- **Spousal support received by a parent from another relationship is included in gross income.¹⁷¹**
- **The tax effects of spousal support are not considered in determining net income "[u]nless the parties stipulate otherwise."¹⁷²**

¹⁶⁷ Report of the Advisory Panel on Child Support Guidelines at p. I-18.

¹⁶⁸ *Id.*, at p. I-23.

¹⁶⁹ Family Code section 4053(a).

¹⁷⁰ Family Code section 4053(e).

¹⁷¹ Family Code section 4058(a)(1). Note, however, that child support received from another relationship is not considered part of income (Family Code section 4058(c)), presumably because that is money for the child or children and not for the parent.

Section 3. Description of the Guideline

- **Spousal support for another relationship, actually being paid pursuant to a court order, is deductible from gross income.¹⁷³**
- **In allocating "add-ons" other than 50-50, the spousal support paid in the relationship before the court is subtracted from the income of the payor and added to the income of the recipient.¹⁷⁴**

3.11. The requirement of periodic reports

Family Code section 4054 provides, in part:

(a) The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.

(b) The review shall include economic data on the cost of raising children¹⁷⁵ and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date.¹⁷⁶ The review shall also include analysis of guidelines and studies from other states,¹⁷⁷ and other research and studies available to or undertaken by the Judicial Council.¹⁷⁸

The initial review is required by December 31, 1993 and this report is being submitted pursuant to this requirement. Subsequent reviews are required at least every four years "unless federal law requires a different interval."¹⁷⁹

¹⁷² **Family Code section 4059(a).**

¹⁷³ **Family Code section 4059(e).**

¹⁷⁴ **Family Code section 4061(c).**

¹⁷⁵ **See section 7 of this report.**

¹⁷⁶ **See section 5 of this report.**

¹⁷⁷ **See section 6 of this report.**

¹⁷⁸ **See section 8 of this report.**

¹⁷⁹ **Family Code section 4054(e). 45 C.F.R. section 302.56(e) requires each state to "review, and revise, if appropriate, the guidelines established ... at least once every four years to ensure that their application results in the determination of appropriate child support award amounts." The regulation further requires that the review "consider economic data on the cost of raising children and**

Section 3. Description of the Guideline

Throughout this report are several suggestions for areas that the Legislature may consider for further study and report. It is believed that information on any of these items would serve the Legislature as it considers further refinement or other modification of the guideline. It is further believed that a choice should be made as to the items that the Legislature considers the highest priority items as there do not appear to be sufficient resources for all the items listed to be studied.¹⁸⁰

The development of the recommendations requires the Judicial Council to consult with a broad cross-section of groups involved in child support issues and to seek public comment.¹⁸¹ During the previous year, when developing a draft recommendation under the predecessor child support guideline,¹⁸² the council consulted with a broadly based group of child support advisors and held public hearings at four locations throughout the state. In addition, the council received many communications during the past year concerning the guideline. These materials have been considered in making this report and will continue to be utilized in future reports.

analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited." 45 C.F.R. section 302.56(h).

¹⁸⁰ Appendix A collects the list of items that the Legislature may wish to consider for further study except for those items discussed in section 9.

¹⁸¹ Family Code section 4054(f) and (g).

¹⁸² Former Civil Code section 4020.1(b)-(e).

Section 4. Forms Implementing the Guideline

4.1. Introduction - The council's role in form production

When the Family Law Act of 1969 was adopted, some provisions permitted pleadings "in form and content approved by the Judicial Council."¹⁸³ These provisions, together with the authority of the Judicial Council to adopt practice and procedure rules for family law "[n]otwithstanding any other provision of law,"¹⁸⁴ combined to create mandatory Judicial Council forms for use in family law proceedings.¹⁸⁵

The effect of these sections has been to make Judicial Council forms an integral part of family law practice.. Thus, any discussion of the Child Support Guideline in California necessarily includes a discussion of the Judicial Council forms involving child support. These forms are discussed in this chapter of the report.

4.2. Discussion of forms

4.2.1. Form 1281 - Petition

The petition¹⁸⁶ is the document that commences a family law action for dissolution of marriage, nullity, or legal separation. These actions constitute a major component of the actions involving child support.¹⁸⁷ The petition form notes if there are minor children of the marriage (paragraph 3.b.). The form does not expressly request child support but, rather, notes in paragraph 8:

¹⁸³ Former Civil Code section 4503, now Family Code section 2331.

¹⁸⁴ Civil Code section 4001, now Family Code section 211.

¹⁸⁵ See Continuing Education of the Bar, Attorney's Guide to Family Law Practice (1970) section 2.12.

¹⁸⁶ A copy is attached at pages 125-126.

¹⁸⁷ Other actions involving child support include Domestic Violence Prevention Act proceedings, paternity actions, Uniform Reciprocal Enforcement of Support Act proceedings (URESAs), and AFDC reimbursement actions. The federal government forms for URESAs have been expressly approved for use in California. California Rules of Court, rule 1276.

Section 4. Forms Implementing the Guideline

If there are minor children of the marriage, the court will make orders for the support of the children without further notice to either party. A wage assignment will be issued.

This provision was inserted in the petition to conform to the requirements of case law that a defaulting respondent must be given notice, through the petition, that child support is one of the issues in the proceeding. A general prayer for relief is not considered adequate.¹⁸⁸

4.2.2. Form 1282 - Response

The response¹⁸⁹ is the document used to respond to a petition. Like the petition, it contains a provision involving the minor children of the marriage (paragraph 3.b.). It also contains the same language as the petition does concerning child support (in paragraph 10).

4.2.3. Form 1285 - Order to Show Cause

If a party to a family law action seeks an order establishing or modifying the amount of child support, the party has two methods of starting the process. One method is by an order to show cause. This form,¹⁹⁰ together with the appropriate attachments (discussed below), commences this process. The form contains a notice to the responding party concerning child support orders and the result of a failure to provide the court with information about the responding party's finances.

4.2.4. Form 1285.10 - Notice of Motion.

The other method of seeking an order establishing or modifying the amount of child support is by a notice of motion. This form,¹⁹¹ together

¹⁸⁸ **In re Marriage of Lippel (1990) 51 Cal.3d 1160. The changes to the petition to conform to the Lippel holding are generally viewed as "automatically put[ing] child support in issue by warning that if there are minor children of the marriage, 'the court will make orders for the support of the children without further notice to either party.' " Hogoboom and King, California Practice Guide, Family Law 1 at pp. 6-20.**

¹⁸⁹ **A copy is attached at pages 127-128.**

¹⁹⁰ **A copy is attached at page 129.**

¹⁹¹ **A copy is attached at pages 130-131.**

Section 4. Forms Implementing the Guideline

with the appropriate attachments (discussed below), commences this action. The form contains a notice to the responding party concerning child support orders and the result of a failure to provide the court with information about the responding party's finances.

4.2.5. Form 1285.20 - Application for Order and Supporting Declaration

Paragraph 3 of this form,¹⁹² which is attached to an Order to Show Cause or a Notice of Motion, is used for formally requesting the child support order. It is used to indicate if a modification of an existing order is sought (paragraph 3.c.). If the party seeking child support seeks to have the guideline amount used, no amount of child support sought need be stated. This is in keeping with the philosophy that the guideline amount of child support is the presumptively correct amount of support.

4.2.6. Form 1285.27 - Stipulation to Establish or Modify Child or Family Support and Order

This form¹⁹³ presents the mechanism where parties can indicate their agreement on the amount of child support. One of the principles of the guideline is "to encourage fair and efficient settlements of conflicts between parents."¹⁹⁴ The guideline recognizes that an agreed amount of child support is a factor rebutting the presumption of the guideline amount.¹⁹⁵

The Family Code sets forth requirements for a stipulation. Section 4065 provides:

- The parties must be fully informed of their rights
- There must be no coercion or duress
- The agreement is in the best interests of the children
- The needs of the children are adequately met

¹⁹² A copy is attached at pages 132-133.

¹⁹³ A copy is attached at pages 134-135.

¹⁹⁴ Family Code section 4053(j).

¹⁹⁵ Family Code section 4057(b)(1).

Section 4. Forms Implementing the Guideline

- **There has been no assignment of the right to support or the district attorney has joined in the agreement.**

In addition, if the agreed amount is below the guideline amount, a motion to change support can be brought without showing a change in circumstances.

The form provides for all the information the court will need in acting on an agreed amount of support, either in the present or in the future, including the following:

- **The income of the parents (paragraph 1)**
- **The amount of time each parent has the children (paragraph 2)**
- **Any hardships (paragraph 3)**
- **The amount of support (paragraph 4) and whether by guideline (paragraph 5) or otherwise (paragraph 6).**
- **The delineation of the amounts leading to the total support order (paragraph 7)**
- **Health insurance coverage (paragraph 8)**
- **Wage assignment provisions (paragraph 9)**
- **Travel expenses for visitation (paragraph 10)**
- **The necessary statements needed to find a proper agreement (paragraphs 13-15).**

Section 4. Forms Implementing the Guideline

- 4.2.7. Form 1285.30 - Notice of Request to Change Support Order**
Form 1285.30(A) - Information Sheet; New and Simplified Way to Change Child or Spousal Support
Form 1285.32 - Notice of Hearing and Notice of Opposition to Request to Change Child Support Order
Form 1285.32(A) - Information Sheet; How to Oppose a Request to Change Child or Spousal Support
Form 1285.34 - Order Changing Support (Uncontested)
Form 1285.36 - Order Changing Support (Contested- No Attorneys)
Form 1285.38 - Proof of Service (Simplified Support Modification)
Form 1285.39 - Certificate of Filing with District Attorney (Simplified Support Modification)

These forms¹⁹⁶ were designed to be used for the "simplified method for modification of ... support orders."¹⁹⁷ See further discussion in section 9.1 of this report, which recommends that this provision be repealed as inconsistent with the guideline.

- 4.2.8. Form 1285.40 - Responsive Declaration to Order to Show Cause or Notice of Motion**

This form¹⁹⁸ provides the means for the responding party to either consent to the child support order (paragraph 3.a.), consent to a guideline support order (paragraph 3.b.), or suggest an alternative child support amount (paragraph 3.c.).

¹⁹⁶ Copies are attached at pages 136-149.

¹⁹⁷ Family Code section 3680.

¹⁹⁸ A copy is attached at pages 150-151.

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4.2.9. Form 1285.50 - Income and Expense Declaration

The Income and Expense Declaration¹⁹⁹ and its attachments are the centerpiece of any child support proceeding as they contain the information needed by the judge to apply the guideline. The Income and Expense Declaration itself functions as a cover sheet, showing what additional forms are attached and a summary of some of the information on the attachment forms.

4.2.10. Form 1285.50(a) - Income Information

The Income Information²⁰⁰ contains information about the income of a party and the deductions from that income. The guideline requires the use of the "annual" income of a parent. The income form interprets this requirement as meaning the last 12 months. In addition, since the guideline permits the court to adjust the income figure to "reflect the actual or prospective earnings of the parties at the time the determination of support is made,"²⁰¹ there are two columns of figures, one for "annual" (called "Average last 12 months") and one for the last month.

Items 5 to 14 of the form implement the statutory deductions from income as follows:

See Table 4-1

The form also includes, on lines 17-21, additional information that may be of assistance to the court in making a decision concerning child support.

4.2.11. Form 1285.50(b) - Expense Information

The Expense Information²⁰² is used to show the expenses of a parent. Preliminarily it should be noted that, with few exceptions, the guideline does not use expenses of a party in making a child support determination.

¹⁹⁹ A copy is attached at page 152.

²⁰⁰ A copy is attached at page 153.

²⁰¹ Family Code section 4060.

²⁰² A copy is attached at page 154.

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**Table 4-1
Summary of Deductions on Income Information**

Item of deduction	Line Number	Family Code Section
State income tax	5	4059(a)
Federal income tax	6	4059(a)
FICA and Medicare	7	4059(b)
Health insurance	8	4059(d)
State Disability Insurance	9	4059(d)
Mandatory union dues	10	4059(c)
Mandatory retirement and pension fund contributions	11	4059(c)
Child and spousal support for another relationship	12	4059(e)
Job-related expenses	13	4059(f)
Hardship deduction	14	4059(g)

The expense declaration consists of five parts:

Part 1 is used to list all persons in the household and their income. There are three reasons for this information:

- **If the party is claiming significant housing or other expenses, it is helpful to the court to determine what other parties contribute to these expenses and what income they have.²⁰³**
- **If the party is claiming a hardship for other children living in the home, this section supplies the court with the base information needed for this. It also might raise a question as to whether a party**

²⁰³ **With the changes in the law regarding the consideration of income of new spouses or nonmarital partners (see section 2.7 of this report), the utility of this information is open to question.**

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should be claiming a hardship deduction but is not, possibly out of ignorance or inadvertence.

- If the court is to consider income of a subsequent spouse or non-marital partner, this section provides the information needed.²⁰⁴

Part 2 lists expenses required in all cases. The purpose of these questions is as follows:

Table 4-2 Expenditures Listed on Expense Information Form			
Item requested	Purpose for which requested	Line #	Family Code Section
Residence payments	Percentages of income used for housing	2.a.	4057(b)(6)(B)
Uninsured medical and dental benefits	Hardship deduction	2.b.	4071(a)(1)
Child care	Add-on to child support	2.c.	4062(a)(1)
Children's education	Add-on to child support	2.d.	4062(b)(1)

Part 3 lists expenses required for either spousal support determinations or special needs. It is not normally used in child support hearings.

Part 4 allows for the itemization of installment debts. It provides the detail for one of the items in part 3 of the form.

Part 5 lists attorney fees and costs. It is used for a determination of what party should pay attorney fees and how much. It is not used in child support determinations except to the extent that there is a request for attorney fees as part of a child support hearing.

4.2.12. Form 1285.50(c) - Child Support Information

This form²⁰⁵ provides various information for the court when a child support hearing is planned. The information is used as follows:

²⁰⁴ See discussion in the previous footnote.

Section 4. Forms Implementing the Guideline

Table 4-3 Child Support Information on Form			
Item Requested	Purpose for Which Requested	Line #	Family Code Section
Health insurance availability	Ordering health insurance coverage	1	3751
Percentage of time each parent has responsibility for the children	Computing guideline amount with formula (H%)	2	4055(b)(1)(D)
Child care costs	Add-on to child support	3.a.	4062(a)(1)
Uninsured health care costs	Add-on to child support	3.b.	4062(a)(2)
Educational or other special needs of the children	Add-on to child support	3.c.	4062(b)(1)
Travel expenses for visitation	Add-on to child support	3.d.	4062(b)(2)
Hardship costs	Hardship deduction	4.a.-c.	4059(g)

4.2.13. Form 1285.75 - Application and Order for Health Insurance Coverage Form 1285-76 - Employer's Health Insurance Return

As discussed earlier in the form, the guideline, pursuant to federal requirements, requires either parent to provide health insurance coverage for a minor child if the coverage is available at little or no cost. (See discussion in section 3.9.) The first of these forms²⁰⁶ is provided for a party to request a court order directly to the employer or other person providing health insurance coverage for the parent, to enroll the children under that parent's health insurance policy. The second form provides a

²⁰⁵ A copy is attached at page 155.

²⁰⁶ A copy is attached at pages 156-157.

Section 4. Forms Implementing the Guideline

means for an employer to return information to the court regarding the health insurance coverage.²⁰⁷

4.2.14. Form 1296.31B - Child Support Information and Order Attachment
Form 1296.31B(1) - Child Support Extended Information Attachment
Form 1296.31B(2) - Child Support Extended Order Attachment

The Judicial Council has a form for optional use by the courts to make its formal written decision after a hearing. This is form 1296.31, Findings

and Order After Hearing. It is used following a hearing on (1) child support, (2) custody and visitation, (3) spousal or family support, (4) various property orders, and (5) miscellaneous domestic violence orders.

Three form attachments are provided for use in child support cases. An additional attachment is provided for use in family support cases and is discussed in the next part of this report.

The most common findings and orders in a child support hearing are contained in the Child Support Information and Order Attachment.²⁰⁸ It is designed to be a one-page order regarding child support. The form contains a series of check boxes so that the parties can indicate an agreement on one or more issues before the court. The amount of support owed per month is set forth in a box at the bottom of the form.

If extended findings are required by the parties or made by the court, the Child Support Extended Information Attachment²⁰⁹ can be used. It is also a one-page form, designed in the same format as the Child Support Information and Order Attachment.

The final of the three forms is used when there are provisions of the child support order that go beyond the typical order. The Child Support Extended Order Attachment²¹⁰ is used in this case.

²⁰⁷ A copy is attached at page 158.

²⁰⁸ A copy is attached at page 159.

²⁰⁹ A copy is attached at page 160.

²¹⁰ A copy is attached at page 161.

Section 4. Forms Implementing the Guideline

The courts are not required to use the order forms. Therefore, there is not a single document or set of documents that can be used to study child support orders. (See further discussion of this issue in section 5 of this report.)

4.2.15. Form 1296.31C - Spousal or Family Support Order Attachment

Family Code section 4074 provides:

This article applies to an award for the support of children, including those awards designated as "family support," that contain provisions for the support of children as well as for the support of the spouse.

Internal Revenue Code section 71(c)(1) provides generally that child support is nontaxable to the recipient parent and nondeductible by the payor parent if "the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) a sum which is payable for the support of children of the payor spouse." This means that any amount of support that is unequivocally allocated to children²¹¹ is considered nondeductible by the payor. But if the amount is part of a total unallocated sum, and it passes the other tests of deductibility and includability,²¹² the amount paid will be deductible from the payor's income and includable in the recipient's income. Where the recipient is in a lower income tax bracket than the payor, this can result in a tax savings, which can be allocated between the parties.

The Spousal or Family Support Order Attachment²¹³ is used to reflect the order in these cases. It should be noted that the amount of actual child support in these cases is not precisely determinable since, if it was, it would render the amount nondeductible and nonincludable.

²¹¹ **Sperling vs. Commissioner (2nd Cir. 1984), 726 F.2d 948.**

²¹² **See the discussion in King and Hogoboom, California Practice Guide, Family Law, The Rutter Group, 1993, at sections 10:120 to 10:137.**

²¹³ **A copy is attached at page 162.**

Section 5. The Operation of the Guideline A Preliminary View

5.1. Introduction

The data presented in this section of the report should be taken as very preliminary. It represents a sampling over a three-week period, approximately one year after the guideline went into operation. Data was collected by asking each superior court to send child support orders entered during that period to the Administrative Office of the Courts. The data collection effort was hampered by the fact that there is no mandatory form used by all the courts in entering a child support order. Some courts use the Judicial Council form Child Support Information and Order Attachment (rule 1296.31B)²¹⁴ to the Findings and Order After Hearing. Others simply use a minute order and, in some cases, attached a computer printout from one of the child support calculation programs showing the relevant facts of the case. Still others just have a minute order.

By far the most complete data is found on the Child Support Information and Order Attachment. When used in conjunction with the additional information and order forms for the exceptional cases, the form provides a record of all the factual findings made in a particular case.

Computer program printouts are useful but not as complete. Certain data elements are missing, particularly information about past orders and the ages of children. Still, enough useful information was extracted from these forms to provide some statistical data.

No usable data was available from the cases where the court merely provided a minute order. That order normally just provided information about the dollar amount of the order. In a few cases there was information about the number of children. But there was no information about the income of the parents nor the amount of time the child spent with each parent. Since the information from these minute orders was not usable, the data from these cases are not included in this report.

With the current budgetary problems besetting the court system (and, indeed the entire state), it was considered unwise to impose a significant additional general record keeping burden on the court clerks for purposes of statistical gathering. While the data would be useful, the collection cost would simply have been too great. The advisory committee intends, however, to conduct more narrowly focused data collection efforts on one

²¹⁴ See discussion in section 4.2.14.

Section 5. The Operation of the Guideline A Preliminary View

or more specific issues in the future. This targeted data can provide assistance to the Legislature as it considers specific policy questions concerning child support guidelines. The committee would appreciate suggestions from the Legislature concerning issues in which the Legislature is particularly interested.

5.2. Cases collected

Data was collected over a three-week period in July and August, 1993. Seventeen counties supplied usable data about 495 child support orders entered during this period. A number of other counties provided minute orders which, as discussed above, did not result in usable data. Some of the smaller counties reported that they had no cases during the data collection period. Finally, some of the counties were not able to provide any data.

The number of child support orders collected during this period is shown in the following table:

Name of County	# of Cases	%age of All Cases	Name of County	# of Cases	%age of All Cases
Alameda	18	3.6	San Diego	11	2.4
Contra Costa	5	1.0	San Joaquin	64	12.9
El Dorado	3	0.6	Santa Barbara	8	1.6
Humboldt	9	1.8	Santa Clara	47	9.5
Los Angeles	169	34.3	Santa Cruz	15	3.0
Merced	3	0.6	Stanislaus	6	1.2
Monterey	3	0.6	Tulare	14	2.8
Riverside	62	12.3	Yuba	3	0.6
Sacramento	54	10.9			

Section 5. The Operation of the Guideline A Preliminary View

5.3. Number of children per family

Data was collected concerning the number of children subject to each order. This data is summarized in the following table.

Table 5-2 Number of Child Subject to Each Order					
# of Children	# of Orders	%age of Total Orders	# of Children	# of Orders	%age of Total Orders
1 child	229	51.0	4 children	6	1.3
2 children	152	33.9	5 or more children	6	1.3
3 children	56	12.5			

As can be seen from this data, the great majority of cases involve fewer than four children. This data lends further support for the recommendation in section 9.11 that the Legislature might want to study the increases in guideline orders for cases of more than three children and consider the use of discretion in cases involving large numbers of children.

5.4. Range of visitation

One of the significant factors affecting the amount of child support ordered in a particular case is the amount of time the child spends with each parent.²¹⁵ The guideline orders surveyed showed a range of visitation as shown in the following table.

See Table 5-3

As can be seen from this data, the commonly held view that average visitation in cases where there is non-zero visitation, gathers around the 20 percent range is true, at least as to this data sampling. While cases that fall outside this normal range should be entitled to the full

²¹⁵ See discussion in section 3.2.

Section 5. The Operation of the Guideline A Preliminary View

**Table 5-3
Range of Visitation**

Amount of time children spend with "non-custodial" parent	Number of Cases	Percentage of Cases
Less than 5 percent	137	32
5 to 10 percent	35	8
11 to 15 percent	18	4
16 to 20 percent	162	38
21 to 25 percent	20	5
26 to 30 percent	20	5
31 to 35 percent	11	3
36 to 40 percent	10	2
41 to 45 percent	5	1
More than 45 percent	8	2

adjustment, up or down, for the amount of visitation involved, it might reduce the amount of litigation involved if the guideline provided a "default" level of visitation of 20 percent which would apply in cases in which the amount of visitation was not lower than 15 percent nor higher than 25 percent. Given the reduced effect of the visitation adjustment under the current guideline, this change may be desirable.²¹⁶

5.5 Disparity of income

The effect of the amount of visitation on the ultimate child support guideline order varies, depending on the disparity between the income of the two parents. If the parents have roughly equal income, the effect is greater than if one parent has a significantly higher income than the other.

²¹⁶ See discussion of this recommendation in section 9.9.

Section 5. The Operation of the Guideline A Preliminary View

The following table shows the range of the disparity of income found for the orders collected during the sampling period.

Custodial Parent's Net Income	Average Non-Custodial Parent's Net Income	Median Non-Custodial Parent's Net Income	Lowest Non-Custodial Parent's Net Income	Highest Non-Custodial Parent's Net Income
\$0 to \$500	\$2,153	\$1,357	\$207	\$64,389
\$501 to \$1,000	\$1,768	\$1,529	\$10	\$7,355
\$1,001 to \$1,500	\$1,927	\$1,869	\$5	\$7,536
\$1,501 to \$2,000	\$2,078	\$1,918	\$735	\$5,884
\$2,001 to \$2,500	\$2,213	\$2,197	\$520	\$4,451
\$2,501 to \$3,000	\$2,499	\$2,652	\$633	\$3,432
More than \$3,000	\$2,822	\$3,017	\$9	\$5,262

5.6. Range of dollar amount of orders

Much of the discussion concerning the levels of child support concern the actual dollar amount ordered in a particular case. Two tables are presented in this section showing the base amount of child support ordered (Table 5-5) and the total amount of child support ordered (Table 5-6) in the cases collected during the sampling period. This data is reported for ranges of combined net income and is sorted based on the number of children subject to the order. These two factors are among the more significant elements of any child support calculation.

Section 5. The Operation of the Guideline A Preliminary View

**Table 5-5
Average Base Amount of Child Support Ordered**

Combined Net Income	Average Order for 1 Child	Average Order for 2 Children	Average Order for 3 Children	Average Order for 4 or more children
\$0 to \$500	\$58	\$122	\$167	n.a.
\$501 to \$1,000	\$181	\$250	\$362	\$469
\$1,001 to \$1,500	\$231	\$344	\$514	n.a.
\$1,501 to \$2,000	\$199	\$448	\$540	\$698²¹⁷
\$2,001 to \$2,500	\$203	\$348	\$117	\$1,300
\$2,501 to \$3,000	\$288	\$347	\$267	\$1,488
\$3,001 to \$4,000	\$281	\$427	\$804	\$2,073²¹⁸
\$4,001 to \$5,000	\$246	\$601	\$853	\$1,481
More than \$5,000	\$950	\$601	\$156	\$5,362

²¹⁷ One case, not included, involved seven children and an order of \$1,230.

²¹⁸ One case, with seven children.

Section 5. The Operation of the Guideline A Preliminary View

**Table 5-6
Average Total Amount of Child Support Ordered**

Combined Net Income	Average Order for 1 Child	Average Order for 2 Children	Average Order for 3 Children	Average Order for 4 or more children
\$0 to \$500	\$135	\$122	\$167	n.a.
\$501 to \$1,000	\$181	\$250	\$362	\$469
\$1,001 to \$1,500	\$231	\$344	\$537	n.a.
\$1,501 to \$2,000	\$177	\$463	\$523	\$698 ²¹⁹
\$2,001 to \$2,500	\$191	\$322	\$117	\$1,300
\$2,501 to \$3,000	\$297	\$344	\$211	\$1,488
\$3,001 to \$4,000	\$305	\$434	\$805	\$2,073 ²²⁰
\$4,001 to \$5,000	\$283	\$624	\$836	\$1,486
More than \$5,000	\$962	\$661	\$151	\$5,362

The difference between base and total orders is, in most of the cases collected, small. In some cases the amount of total support is smaller

²¹⁹ One case, not included, involved seven children and an order of \$1,230.

²²⁰ One case, with seven children.

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than the base amount, for the most part due to application of a hardship deduction.²²¹

Perhaps more relevant to the discussion of levels of child support is not the actual dollar amount of support ordered in a particular case but the percentage of income that the non-custodial parent is ordered to pay. Table 5-7 shows the percentage of the non-custodial parent's income that is ordered for base support in a child support case based on two variables, the amount of time the children spend with the non-custodial parent and the number of children involved. The table data is displayed in four parts on the following pages -- one for one child (Table 5-7a), one for two children (Table 5-7b), one for three children (Table 5-7c), and one for four or more children (Table 5-7d).

²²¹ For more information concerning add-ons and rebuttal factors, see the discussion in section 5.7.

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Table 5-7a
Percentage of Non-Custodial Parent's Income Paid -- One Child

Amount of time children spend with non-custodial parent	Average percentage of income ordered paid	Median percentage of income ordered paid	Lowest percentage of income ordered paid	Highest percentage of income ordered paid
Less than 5 percent	14%	18%	12%	37%
5 to 10 percent	16%	16%	16%	16%
11 to 15 percent	n.a.	n.a.	n.a.	n.a.
16 to 20 percent	18%	17%	12%	25%
21 to 25 percent	23%	23%	20%	25%
26 to 30 percent	n.a.	n.a.	n.a.	n.a.
31 to 35 percent	10%	10%	10%	10%
36 to 40 percent	n.a.	n.a.	n.a.	n.a.
41 to 45 percent	25%	25%	25%	25%
Over 45 percent	n.a.	n.a.	n.a.	n.a.

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**Table 5-7b
Percentage of Non-Custodial Parent's Income Paid -- Two Children**

Amount of time children spend with non-custodial parent	Average percentage of income ordered paid	Median percentage of income ordered paid	Lowest percentage of income ordered paid	Highest percentage of income ordered paid
Less than 5 percent	22%	33%	9%	40%
5 to 10 percent	6%	6%	6%	6%
11 to 15 percent	29%	29%	26%	32%
16 to 20 percent	34%	32%	30%	38%
21 to 25 percent	27%	27%	27%	27%
26 to 30 percent	n.a.	n.a.	n.a.	n.a.
31 to 35 percent	8%	8%	8%	8%
36 to 40 percent	20%	20%	20%	20%
41 to 45 percent	n.a.	n.a.	n.a.	n.a.
Over 45 percent	n.a.	n.a.	n.a.	n.a.

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Table 5-7c
Percentage of Non-Custodial Parent's Income Paid -- Three Children

Amount of time children spend with non-custodial parent	Average percentage of income ordered paid	Median percentage of income ordered paid	Lowest percentage of income ordered paid	Highest percentage of income ordered paid
Less than 5 percent	28%	44%	5%	50%
5 to 10 percent	n.a.	n.a.	n.a.	n.a.
11 to 15 percent	n.a.	n.a.	n.a.	n.a.
16 to 20 percent	36%	36%	36%	36%
21 to 25 percent	13%	13%	13%	13%
26 to 30 percent	n.a.	n.a.	n.a.	n.a.
31 to 35 percent	n.a.	n.a.	n.a.	n.a.
36 to 40 percent	n.a.	n.a.	n.a.	n.a.
41 to 45 percent	n.a.	n.a.	n.a.	n.a.
Over 45 percent	n.a.	n.a.	n.a.	n.a.

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Table 5-7d
Percentage of Non-Custodial Parent's Income Paid -- Four or More Children

Amount of time children spend with non-custodial parent	Average percentage of income ordered paid	Median percentage of income ordered paid	Lowest percentage of income ordered paid	Highest percentage of income ordered paid
Less than 5 percent	55%	57%	34%	68%
5 to 10 percent	n.a.	n.a.	n.a.	n.a.
11 to 15 percent	n.a.	n.a.	n.a.	n.a.
16 to 20 percent	n.a.	n.a.	n.a.	n.a.
21 to 25 percent	n.a.	n.a.	n.a.	n.a.
26 to 30 percent	n.a.	n.a.	n.a.	n.a.
31 to 35 percent	n.a.	n.a.	n.a.	n.a.
36 to 40 percent	n.a.	n.a.	n.a.	n.a.
41 to 45 percent	n.a.	n.a.	n.a.	n.a.
Over 45 percent	n.a.	n.a.	n.a.	n.a.

5.7. Add-ons and rebuttal factors

The data collected during the sampling period indicated the number and amount of childcare add-ons ordered in child support matters and also the number and amount of two rebuttal factors found -- hardship and new-mate income. This information is summarized in the following table:

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**Table 5-8
Add-ons and Rebuttal Factors**

Type of factor	Number of cases	Average amount	Minimum amount	Maximum amount
Childcare add-on	63	\$180	\$5	\$2,066
Hardship deduction for mother	44	\$352	\$3	\$961
Hardship deduction for father	70	\$430	\$2	\$1,585
Mother's new mate income	31	\$2,889	\$451	\$7,300
Father's new mate income	26	\$2,204	\$287	\$6,885

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

This section of the report compares provisions from the other 49 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. All of these jurisdictions are subject to the requirements of Title IV-D of the Social Security Act (child support enforcement, which includes guidelines) and the applicable regulations. This section uses the term "states" to refer to all these jurisdictions even though some are not states.

The information in this section is based on the publication *Child Support Guidelines: A Compendium* compiled and published by the National Center for State Courts. At the time of the writing of this report, this document was over two years old and a new compendium was under preparation. While it is believed that most of the data discussed in this section is unchanged by any revised guidelines, some of the data may be outdated. An updated summary will be presented in a subsequent report.

6.1. Income of a subsequent spouse or nonmarital partner

The use of income of a subsequent spouse or nonmarital partner was one of the hotly contested issues during the past legislative session. This debate resulted in the passage of Statutes of 1993, chapter 935, which prohibits the consideration of so-called "new mate" income except in unusual circumstances.²²²

Just over one-half of the states (27) do not have any provision either expressly permitting or prohibiting the consideration of "new mate" income.²²³ Three other states do not expressly mention the issue in the guideline although commentary in the guideline makes reference to it.²²⁴

²²² See further discussion in section 2.7.

²²³ Alabama, Arkansas, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, Oklahoma, Rhode Island, Tennessee, Vermont, Virgin Island, Virginia, and Wyoming.

²²⁴ Alaska (not considered except in exceptional cases) and Indiana (no definitive statement in commentary). The Wisconsin guideline is ambiguous on whether "new mate" income is considered.

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Twelve states have a provision expressly forbidding the consideration of "new mate" income, either in all cases²²⁵ or absent a special showing.²²⁶ Eleven states permit consideration of "new mate" income, some without specific restrictions²²⁷ and some subject to specified limitations or conditions.²²⁸

6.2. Children from prior or subsequent relationships

In California, a parent is entitled to a deduction for payments made pursuant to court order or, to the extent of a guideline amount, for other amounts paid, for children not residing in that parent's home.²²⁹ In addition, a parent is entitled to a hardship deduction, not to exceed the amount per child ordered in the present case, for the cost of raising children in that parent's home. This is a discretionary, not mandatory, adjustment.²³⁰

The obligation for and payments to children from prior or subsequent relationships of either parent are treated in a variety of ways throughout the states. In some states both prior and subsequent children are treated

²²⁵ Arizona, Minnesota, Mississippi, New Mexico, South Carolina, Texas, Utah, and West Virginia.

²²⁶ Idaho ("unless compelling reasons exist"), North Dakota ("unless the spouse's income and financial circumstances are, to a significant extent, subject to control by the obligor"; the value of in-kind income contributed by the spouse of the obligor must be considered), South Dakota ("only if the application of the schedule works a financial hardship on either parent"), and Washington (only when the parent with the new mate is seeking a deviation from the guideline amount of support for any reason).

²²⁷ Guam, Louisiana, Maine, Montana (rebuttal factor), New Jersey (rebuttal factor), New York, Ohio, Oregon, Pennsylvania, and Puerto Rico.

²²⁸ Delaware (up to 50% of spouse's income).

²²⁹ Family Code section 4059(e).

²³⁰ Family Code sections 4059(g), 4071(a)(2), and 4071(b).

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the same.²³¹ In these states, payments made for prior or subsequent children are treated as follows:

- Deduction from income to extent of court order only;²³²
- Deduction from income;²³³
- Deduction based on court order or adjustment made for amounts not subject to court order;²³⁴ and
- Basis for deviation from the guideline amount.²³⁵

Those courts that treat payments on behalf of prior and subsequent children differently often do so based on the existence of a court order for prior children.²³⁶ Other states differentiate in a variety of ways:

²³¹ Those states making no mention of either prior or subsequent children in their guideline include Arkansas, Nevada, North Dakota, Puerto Rico, Rhode Island, Tennessee, and Virginia.

²³² Connecticut, Delaware, Florida, Iowa, and Kentucky.

²³³ Georgia, Guam (discretionary with court if not pursuant to court order), Missouri, Montana, North Carolina (limited to amount of hypothetical order if not subject to order and then only for children currently residing in the household; if not court ordered, the deduction may not be the sole basis for reducing an existing order), West Virginia, and Wisconsin.

²³⁴ Arizona, Indiana, Louisiana (only if in household of parent), and New York (adjustment "only if the resources available to support such children are less than the resources available to support the children who are subject to the instant action").

²³⁵ Colorado (but not to decrease an existing order), Hawaii (test is whether payment renders payor unable to pay guideline level of support), Kansas, New Jersey, Ohio, Oklahoma (if in household of parent), Oregon, Pennsylvania, South Carolina, Texas (if in household of parent), Utah (if in household or parent; in a modification proceeding may mitigate an increase in the order but will not justify a decrease in the order), Washington, and Wyoming.

²³⁶ Alaska (payments for subsequent children only in unusual cases of hardship), District of Columbia (prior order or prior or subsequent children based on hardship), Illinois (nothing stated concerning

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

- **Alabama allows a deduction from income based either on court order or on an amount that would have been ordered, but does not allow consideration for subsequent children if the party is seeking to modify an existing order.**
- **Idaho allows a deduction for any court-ordered support and for prior children residing in the home of the parent.**
- **Maine allows a deduction for prior child based on a court order or a voluntary payment of an appropriate amount but allows a deduction for subsequent children only if in the payor's household.**
- **New Mexico allows a "reasonable amount" for either prior or subsequent children but does not allow the use of the amount for subsequent children as a basis for reducing a support amount.**
- **South Dakota allows consideration of the obligation, including the payments for stepchildren, but does not permit an existing order to be modified solely on the basis of an amount paid for subsequent children.**

6.3. Low income cases

The application of support guidelines to low income cases is a difficult question and one that has received a good deal of legislative attention. In California, the sole consideration of low income cases is the provision for a slightly lower percentage taken for child support in these cases.²³⁷ This issue was of concern to the Legislature during the last session.²³⁸ The treatment of this issue by the various states is diverse.

subsequent children), Maryland (deviation for children in household for which legally responsible), Massachusetts (court should "consider the circumstances closely" of subsequent children), Michigan (formula approach for deduction for children in household), Minnesota (nothing stated concerning subsequent children), Mississippi ("appropriate amount" for subsequent children), Nebraska (nothing stated concerning subsequent children), New Hampshire (nothing stated concerning subsequent children), Vermont (obligation to subsequent children permitted as an adjustment but not used to lower an existing obligation), and Virgin Islands (obligation to subsequent children permitted as a factor for deviation from guideline).

²³⁷ See the discussion of the K factor in section 3.2 of this report.

²³⁸ See section 2.7.

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The most common treatment is to permit case-by-case determination once income, of either the payor or both parents, is below a specified amount. In most of these cases, the guideline states there should be a minimum order of \$50 per month per child (based on the provision of Title IV-D of the Social Security Act that provides that the first \$50 of any amount collected per month on a child support obligation for a recipient of AFDC go to the recipient, with the rest being used to repay the amounts paid by the AFDC program). The treatment is shown in the following table:

See Table 6-1

Several other states use the concept of a self-support reserve, an amount that is subtracted from the payor's income before figuring child support.²³⁹ Several states have no provision for low income cases.²⁴⁰ Other provisions include:

- **Alabama: Discretionary**
- **Maine: If income below poverty guideline or otherwise insufficient to meet work related expenses and other basic necessities, order cannot be more than 10% of gross income.**
- **Michigan: If income less than \$100 per week, order is 10% of income.**
- **Nevada: Minimum order amount of \$100 per month per child unless court makes a written finding that obligor is unable to pay that amount.**

²³⁹ Delaware (\$550 reserve; \$50 minimum), New Hampshire (poverty guideline, \$50 minimum), New York (combination of self-support reserve and income not below poverty level with a minimum support amount), Vermont (\$709 reserve; \$50 minimum recommended), Washington (poverty level, \$25 minimum - but combined with other methods), and West Virginia.

²⁴⁰ Georgia, Illinois, Nebraska (chart goes down to \$0 income and recommends a minimum support amount of \$10-\$40 even in very low income cases), North Carolina, Puerto Rico, Texas, and Wisconsin.

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

**Table 6-1
State Provisions on Low Income Payors**

State	Income level	Minimum payment
Alaska	Poverty level	\$50
Arizona	\$500 combined gross	None
Arkansas²⁴¹	\$500 take-home	None
Colorado	\$500 combined gross	\$20-\$50
Connecticut	\$580 combined net	None
District of Columbia	\$625 gross	\$50
Florida	\$500 combined net	None
Guam²⁴²	\$500 combined gross	None
Hawaii	\$650 gross	\$30
Idaho	\$800 combined gross	None
Indiana	\$430 combined net	\$25-50
Iowa	\$500 net	Some
Kansas²⁴³	\$50 combined gross	None
Kentucky²⁴⁴	\$100 combined gross	None
Louisiana	\$600 combined gross	None
Maryland	\$600 combined gross	\$20-50

²⁴¹ Chart begins at \$500 take-home. Nothing else stated.

²⁴² Chart begins at \$500 gross. Nothing else stated.

²⁴³ Chart begins at \$50 gross combined. Nothing else stated.

²⁴⁴ Chart begins at \$100 gross combined. Nothing else stated.

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

**Table 6-1 (Continued)
State Provisions on Low Income Payors**

State	Income level	Minimum payment
Massachusetts	\$860 gross	\$50
Minnesota	\$400 net	Ability
Mississippi	\$412	Some
Missouri ²⁴⁵	\$100 combined	None
Montana	Poverty level	\$50
New Jersey	Poverty level	Some
New Mexico	\$600 combined gross	\$50
North Dakota	\$400 net	\$10+
Ohio	\$500 gross	Some
Oklahoma	\$50 gross	None
Oregon ²⁴⁶	\$600 gross	\$50
Pennsylvania	\$300 net	None
Rhode Island	\$500 combined gross	\$20-50
South Carolina	\$500 combined	\$50
South Dakota ²⁴⁷	\$800 combined net	None
Tennessee ²⁴⁸	\$100 gross	None

²⁴⁵ Chart begins at \$100 combined. Nothing else stated.

²⁴⁶ Between \$500 and \$1,499 per month, amount gradually moves to full schedule amount.

²⁴⁷ Chart begins at \$800 combined net. Nothing else stated.

²⁴⁸ Chart begins at \$100 gross. Nothing else stated.

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

**Table 6-1 (Continued)
State Provisions on Low Income Payors**

State	Income level	Minimum payment
Utah	\$200 combined gross	\$20
Virgin Islands	Poverty level	Nominal
Virginia	\$600 combined gross	\$65
Washington	\$600 combined net	\$25
Wyoming	\$500 net	\$50

6.4. High income cases

The California guideline contains a provision allowing for deviation from the guideline amount if "[t]he parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children."²⁴⁹ There is no definition of extraordinarily high income.²⁵⁰

Other states have various provisions concerning the application of the guideline in high income cases. Many states provide that the court exercise discretion when the amount of income involved exceeds a specified amount. In some states the guideline further states that the court should not make an order less than the amount specified for that high income amount. These provisions are specified in the following table:

See Table 6-2

Other states have varying provisions concerning high income cases. Some states have no provision at all concerning a cap or an upper end to

²⁴⁹ Family Code section 4057(b)(4).

²⁵⁰ The Advisory Committee Draft report on Child Support Guidelines, issued by the Advisory Committee on Family Law in January, 1992 but never considered by the Judicial Council, due to a change in law requiring the report, suggested an upper income level of \$17,000 combined net income per month (\$204,000 annually).

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

**Table 6-2
State Provisions on High Income Payors**

State	High Income Threshold (Annual)	Order must be not less than order at threshold level
Alaska	\$60,000 adjusted	Yes
Arizona	\$90,000 combined gross	Yes
Colorado	\$120,000 combined gross	No
Connecticut	\$78,000 combined net	Yes
District of Columbia	\$75,000 gross	Yes
Florida	\$50,000 combined net	No
Georgia	\$75,000 gross	No
Guam ²⁵¹	\$90,000 combined gross	No
Idaho	\$70,000 combined gross	No
Iowa	\$36,000 net	Yes
Kansas	\$100,800 combined gross	Yes
Kentucky	\$120,000 combined gross	No
Louisiana	\$120,000 combined gross	Yes
Maine	\$126,600 combined gross	Yes
Massachusetts	\$100,000 combined gross or \$75,000 payor gross	Yes
Maryland	\$120,000 combined gross	No
Montana	\$39,500	Yes

²⁵¹ Chart goes up to that amount; no discussion about what to do above that amount.

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**Table 6-2 (Continued)
State Provisions on High Income Payors**

State	High Income Threshold (Annual)	Order must be not less than order at threshold level
Nebraska	\$96,000	Yes
New Jersey	\$52,000 combined net	Yes
North Carolina	\$120,000 combined gross	Yes
North Dakota	\$120,000 net	No
Ohio	\$120,000 gross	Yes
Oklahoma	\$120,000 combined gross	Yes
Oregon ²⁵²	\$120,000 gross	Yes
Pennsylvania	\$96,000 combined net	No
Rhode Island	\$120,000 combined gross	No
South Carolina	\$120,000 combined gross	No
Tennessee	\$75,000 net	No
Texas	\$48,000 net	Yes
Utah	\$120,000 combined	Yes
Washington	\$60,000 combined net	Yes
West Virginia	\$72,000 net or \$96,000 combined net	No

the guideline²⁵³ Other states contain no provision but have a guideline table that only goes up to a specified dollar amount of income.²⁵⁴

²⁵² Use amount for \$120,000 unless need demonstrated.

²⁵³ Delaware, Illinois, Michigan, Puerto Rico, Virgin Islands, and Wisconsin.

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

The provisions of other states include:

- **Alabama:** Court to exercise discretion; no amount stated.
- **Arkansas:** Use percentages if more than \$60,000 net.
- **Hawaii:** Use discretion when computation results in a figure "higher than the reasonable needs of the children."
- **Indiana:** If combined income more than \$104,000, use "the mathematical progression of the guidelines."
- **Minnesota:** Caps order at \$48,000 net income level.
- **Mississippi:** Discretion if more than \$50,000 income.
- **Nevada:** Order not to exceed \$500 per month per child without findings of reasons.
- **New Mexico:** Use percentages when combined gross exceeds \$99,600.
- **Wyoming:** Caps order at \$36,000 net income level.

6.5. Use of gross or net income

The California guideline bases the order amount on the net income of the parties.²⁵⁵ Some other states also use net income, while some use gross income. In the discussion in this section, net income refers to income after a deduction for federal and state income taxes while gross income refers to income without a deduction for these taxes. A state is considered to be using gross income if it uses a standard deduction for income taxes in all cases of like income because it does not provide for the variation in income taxes that occurs among the population. It should be noted that states vary widely in the other items of deduction from income allowed. This section does not discuss those differences.

²⁵⁴ Missouri (\$120,000 combined), New Hampshire (\$124,908 combined net; table uses percentages and not dollar figures so arguably guideline at higher income uses same percentage as at \$124,908), New York (\$200,000), South Dakota (\$48,000), Vermont (\$138,900), and Virginia (\$120,000).

²⁵⁵ Family Code section 4055.

Section 6. Comparison of Selected Guideline Provisions with Provisions in Other States

Thirty states use gross income while 22 use net income. The following table summarizes which states use which form of income.

Table 6-3 Use of Gross or Net Income			
Net Income		Gross Income	
Alaska	Arkansas	Alabama	Arizona
Connecticut	Delaware	Colorado	D.C.
Florida	Illinois	Georgia	Guam
Iowa	Michigan	Hawaii	Idaho
Minnesota	Mississippi	Indiana	Kansas
Nebraska	New Jersey	Kentucky	Louisiana
North Dakota	Pennsylvania	Maine	Maryland
Puerto Rico	South Dakota	Missouri	Montana
Tennessee	Texas	Nevada	New Hampshire
Virgin Islands	Washington	New Mexico	New York
West Virginia	Wyoming	North Carolina	Ohio
		Oklahoma	Oregon
		Rhode Island	South Carolina
		Utah	Vermont
		Virginia	Wisconsin

Section 7. Studies on Spending Patterns Relating to Children ("Cost of Raising Children")

7.1. Discussion of the meaning of "Cost of Raising Children"

Family Code section 4054(b) requires that Judicial Council review of the guideline "shall include economic data on the cost of raising children." This provision is based on 45 Code of Federal Regulations section 302.56(h), which requires the state's review of its guidelines to "consider economic data on the cost of raising children"

It would appear, though, that the term "cost of raising children" is a form of shorthand for "estimates on spending patterns on children." Indeed, the publication issued by the Department of Health and Human Services is called "Estimates of Expenditures on Children and Child Support Guidelines."

The use of estimates of expenditure patterns, rather than the cost of raising children, is more than a difference in wording. To some people, the term "cost of raising children" means that there is one amount that it costs to raise a child, with certain differences depending on special medical or education needs of a child, and a savings when certain costs can be spread over two or more children. The Agnos Child Support Standards Act, in establishing a minimum amount of child support based on the AFDC needs standard for a child, could be interpreted as reflecting that view. But that act also recognized:

The mandatory minimum child support award established pursuant to this chapter is intended to assure adequate basic living expenses, including food, shelter, and clothing, for the supported children. The court shall not assume that any other costs related to the rearing of children are provided within the mandatory minimum award.²⁵⁶

The Agnos Act further notes that when a court sets a higher level of child support it "shall be guided by . . . the legislative intent that children share in their parents' standard of living."²⁵⁷

²⁵⁶ Former Civil Code section 4723.

²⁵⁷ Former Civil Code section 4724(a). This intent is now expressed in two provisions of the Family Code. "A parent's first and principle obligation is to support his or her minor children according to the parent's circumstances and station in life." (Family Code section 4053(a).) "Children should share in the standard of living of both parents." (Family Code section 4053(f).)

Section 7. Studies on Spending Patterns Relating to Children ("Cost of Raising Children")

Accordingly, this report reviews studies on spending patterns related to children rather than the more narrow issue of the cost of raising children.

7.2. Review of studies on spending patterns²⁵⁸

7.2.1. Introduction

Section 128 of the Family Support Act requires the Secretary of Health and Human Services to contract for a study of expenditures on children and submit a report on the results of the study. The study was conducted by Professor David Betson of the University of Notre Dame based on analysis of the 1980-1986 Consumer Expenditure Survey (CEX) ("Notre Dame study").

The Department of Health and Human Services released a report discussing the Notre Dame study. The report also compared the 1980-1986 CEX findings to findings from earlier CEX data, and reviewed the results of other relevant studies. Finally, the report discussed the limitations and implications of these data for development of child support guidelines.

This part summarizes the information in the report, "Estimates of Expenditures on Children and Child Support Guidelines," compiled by the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, in October 1990. The various estimators of expenditures discussed in the report are briefly explained, and their strengths and weaknesses summarized. Certain tables from the report are reproduced. Comparisons between the Notre Dame study and other studies are discussed. Other studies summarized in the report are also mentioned.

The Notre Dame study analyzed patterns of expenditures on children in two-parent and single-parent families. The expenditure data were drawn from the CEX for 1980-1986. The CEX is designed to be a nationally

²⁵⁸ This material was originally written for the 1992 report to the Legislature that was required by then Civil Code section 4720.1. It was written by Catherine Albiston, then a graduate legal assistant working in the Administrative Office of the Courts and assigned to the Child Support Guidelines Project. Ms. Albiston is now an attorney and a graduate doctoral student in the Jurisprudence and Social Policy Program at the University of California, Berkeley.

Section 7. Studies on Spending Patterns Relating to Children ("Cost of Raising Children")

representative sample of the civilian noninstitutional population; data on expenditures are collected from approximately 5,000 families per quarter. Approximately 90 to 95 percent of all family expenditures are covered, including large expenditures (cars or major appliances), expenses incurred on a regular basis (rent), and estimates of average expenditures on food and other items.

7.2.2. Expenditures on children

7.2.2.1. The concept being measured

The data from the report are stated as the percentage of family expenditures attributable to children. Expenditures on children are a proportion of total family expenditures (the family budget). The budget consists of the remaining available funds after taxes and savings are subtracted from income. It should be noted that child support orders are normally based on family income rather than family expenditures. Net income includes savings while the family budget (expenditures) does not.

7.2.2.2. Data from the Notre Dame study

The Notre Dame study considered the effect of family size, ages of the children, available budget, and different estimation techniques on the percentage of family expenditures attributable to children. These data are summarized in tables 1 and 2.²⁵⁹ The table footnotes indicate which factors are considered in each estimate.

The Notre Dame study evaluated five different methods of estimation, which are summarized and discussed below in the order in which they appear in the tables.

7.2.2.2.1. Engel estimators

The Engel estimators use the percentage of expenditures devoted to food as the indication of family well-being. (One estimator uses only food at home and the other considers total food.) If the percentages of expenditures devoted to food are equal in two families, then the families are considered equally well off. Expenditures for children are estimated by comparing families with and without children that devote the same percentage of expenditures to food. Expenditures on a single child are

²⁵⁹ Attached at pages 163-164.

Section 7. Studies on Spending Patterns Relating to Children ("Cost of Raising Children")

the difference between total expenditures for the one-child couple and the childless couple.

This method of measurement assumes that consumption decisions are "independent" -- that is, the decision to purchase one commodity would not affect the consumer's propensity to purchase other commodities. For example, if consumption decisions were independent, buying a house would not affect a family's propensity to eat out on Friday nights. This assumption may be problematic, as it is easy to see why buying a house may cause some families to eat inexpensive meals at home rather than going out to eat.

7.2.2.2.2. Iso-prop estimators

Iso-prop estimators operate in the same manner as the Engel estimators but use other commodities in addition to food, or a combination of commodities, as their comparison point. ("Iso-prop" is shorthand for iso-proportional, or "equal proportions.") The iso-prop estimators consider expenditures on shelter, clothing, food (at home and away), transportation, and medical expenses.

7.2.2.2.3. Rothbarth estimators

The Rothbarth method measures expenditures on children by assessing the impact of children on their parents' consumption. This method is similar to the Engel estimators. One estimator measures expenditures on observable adult goods of alcohol, tobacco, and adult clothing, and one measures expenditures on adult clothing only. These measures also assume independence in the consumption decision-making process.

7.2.2.2.4. The Barten-Gorman estimator

The Barten-Gorman estimator is an example of a utility maximization measure. This method does not assume independence of consumption decisions, thus allowing for the possibility that adults substitute different goods in response to the presence of children in the household. For example, after they have children, adults may rent home videos as a substitute for going to the movies. As a result, one problem with this estimator is how to measure the substitution behavior of adults when estimating expenditures.

7.2.2.2.5. The per capita estimator

With this estimator, per capita expenditures on children are presented for comparison. This measure is calculated by dividing total family

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expenditures by the number of family members, and attributing an equal proportion of expenditures to each family member.

7.2.3. Findings from the Notre Dame study

7.2.3.1. Upper and lower bounds of estimates

The Engel estimators, used by Thomas Espenshade in his pioneering study "Investing in Children," tend to overestimate expenditures. This method assumes that children consume nonfood and food commodities in equal proportions. For example, if children account for one-third of the expenditures on food, they would also account for one-third of expenditures on nonfood commodities. Expenditures for children, however, probably are food-intensive; that is, the percentage of food items consumed by children exceeds the percentage of nonfood items they consume. If this is true, then the Engel estimators overestimate expenditures on children because estimates are based on consumption of food.

The Rothbarth estimators, on the other hand, tend to underestimate expenditures. Adult goods in the CEX are defined narrowly (tobacco and alcohol), and expenditure on adult goods may not be responsive to the presence of children. Other "shared" goods (e.g., entertainment) not accounted for by the Rothbarth estimators, however, may be affected by the presence of children. If expenditures on "adult goods" remain stable while expenditures on other goods adjust for the presence of children, these estimators will indicate that relatively low levels of additional income are needed to restore the level of adult expenditures prior to the presence of children. As a result, this method will conclude that children are relatively inexpensive. Expenditures on adult goods are unresponsive to the presence of children not because children are inexpensive, however, but because substitution behavior keeps expenditures on adult goods at similar levels for families with and without children.

The report concludes that the Engel estimators are likely to overestimate expenditures on children and the Rothbarth estimators are likely to underestimate such expenditures

7.2.3.2. Effect of the number of children

Expenditures per child do not increase in proportion to their numbers. Expenditures on two children are estimated to be between 1.40 and 1.73 times as much as expenditures for one child; expenditures on three children are estimated to be between 1.56 and 2.24 times as much as

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expenditures for one child. The greater the number of children, however, the greater the percentage of expenditures attributable to the children.

7.2.3.3. Effect of the age of the child

The percentage of the budget spent on a child increases with the age of the child. Expenditures on older children are estimated to be greater than expenditures on younger children, for both one- and two-parent families.

7.2.3.4. Effect of one-parent households

Children in one-parent families account for a higher percentage of total expenditures than children in similar two-parent families. Two children in a two-parent family account for 27 to 50 percent of total expenditures, while two children in a one-parent family account for 52 to 78 percent of total family expenditures. While the percentage of expenditures on children may be higher in one-parent families, the actual level of expenditures is probably less than in two-parent families because the single-parent household on average has a smaller budget.

7.2.3.5. Effect of the budget level

Expenditures on children vary with the level of total family expenditures (the budget). Among two-parent families, low-budget (low-income) families spend a higher percentage of their total budget on children than do families with larger budgets. For the most part, a similar pattern emerges for one-parent families.

7.2.3.6. Effect of shelter costs in one-parent families

The iso-prop that is most broadly defined (food at home, shelter, clothing, and health care) produces the lowest of the three iso-prop estimates, while the most narrowly defined iso-prop (food at home and shelter) produces the highest of the three estimates. This pattern indicates that the expenditures for children in one-parent families are shelter-intensive. The narrowly defined iso-prop measure produces a higher estimate of expenditures because in one-parent families, food and shelter expenditures are more responsive to the presence of children than those measures in combination with health care and clothing.

7.2.3.7.. Limitations of the CEX study

The CEX data have several limitations:

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- **The sample sizes were small. Although the survey itself was large, the subgroups of interest (e.g., single parents with children in their household) were considerably smaller. The estimates were less precise for smaller samples.**
- **Limited information was collected on child care expenses. The information collected did not distinguish between necessary and discretionary child care.**
- **No information was collected about what proportion of the family's expenditures on health care are attributable to children.**

7.2.3.8. Limitations of the Notre Dame study

The Notre Dame study has several limitations:

- **The data combined single-parent families where the custodial parent was divorced, separated, or never married.**
- **Expenditure data were collected by household. Therefore, the estimates for one-parent families considered the custodial parent's household only, disregarding expenditures of the noncustodial parent. The only expenditure of the noncustodial parent considered was child support payments to the extent they were received and expended by the custodial parent.**
- **The study did not address the opportunity costs associated with children (e.g., one parent stays home to care for the children). Women may be more likely to absorb these costs than men, both before and after divorce. Before divorce, women are more likely than men to be the parent to stay home and care for the children. After divorce, although many women enter the paid work-force or increase their working hours, those women may absorb the increased cost of child care, a situation not reflected in the Notre Dame expenditure estimates.**

7.2.4. Comparison with other studies

Several previous studies used the methods above as well as additional methods to estimate expenditures on children. These studies were based on the 1972-1973 Consumer Expenditure Survey. In addition, the Family Economics Research Group (U.S. Department of Agriculture) (FERG) produced biannual estimates of expenditures on children. The FERG estimates discussed below are based on the 1987 Consumer Expenditure Survey.

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Comparisons of these previous studies and the Notre Dame data are summarized in tables 3 and 4.²⁶⁰ Descriptions of the additional estimators follow. Both the tables and the descriptions are taken from the report.

7.2.4.1. Family Economics Research Group (FERG) estimator

The FERG estimator considers the major categories of expenses that most families incur and attributes some of these expenses to children and adults on a per capita basis and others on a marginal cost basis. Per capita expenses are assigned equally to each family member. Marginal cost assignment of expenses attempts to determine the incremental expenditures families make on behalf of their children. For example, a single child in a couple's home does not account for one-third of the family's food consumption (per capita allocation). Marginal cost measures estimate the incremental cost of adding a child to the household.

Per capita expenses include housing and transportation. Expenditures on children's clothing, education, and child care are assigned on an equal basis to each child in the household. Food and health care expenses are allocated based on individual member shares using findings from the National Food Consumption Survey, conducted by the U.S. Department of Agriculture, and the National Medical Care Utilization and Expenditure Survey, conducted by the U.S. Department of Health and Human Services.

7.2.4.2. Prais-Houthakker estimator

The Prais-Houthakker estimator assumes that the percent of expenditures attributable to a particular family member is not constant across broad categories of goods. This estimator uses a per capita measure of family spending on each major commodity group, adjusted using a relative expenditure scale. The relative expenditure scale recognizes that a given family member does not consume the same proportion of each type of good. For example, expenditures for a teenage boy may be food-intensive, whereas for a teenage girl expenditures may be clothing-intensive. The relative expenditure scale itself, however, must be estimated.

For most types of expenses, the addition of a child will reduce the adjusted per capita expenditures made on behalf of the other family members. Expenditures on the new child are then determined by adding up all of these reductions in the per capita expenditures of the other

²⁶⁰ Attached at pages 165-174.

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family members. Because there is not enough information to make reliable estimates of both the relative expenditure scales and expenditures on children, this technique is unreliable.

7.2.4.3. Utility maximization estimators

Utility maximization estimators assume a particular mathematical relationship between expenditures on each category of good and the level of well-being within the family. Once this mathematical relationship is specified, it is possible to determine how much expenditures would have to increase to hold well-being constant after the addition of a child.

Problems with the measure include accounting for nonlinear relationships between expenditures and well-being, and choosing the method for estimating relative expenditure levels by the age and gender composition of the family.

Table 5²⁶¹ summarizes estimation techniques and comments on their limitations.

7.2.5. Information from studies not using the CEX

7.2.5.1. Economies of scale in the official poverty threshold

One reason for the decline in the economic well-being of dissolving families is the loss of economies of scale when one household splits into two. Economies of scale are reflected in the official poverty threshold. In 1989, maintaining two adults and two children at the poverty level required \$966 more per person per year when they comprised two families rather than one.

1989 POVERTY THRESHOLDS:

Two adults, two children:	\$12,575	
One adult, two children:		\$ 9,990
One adult:		\$ 6,451
TOTAL:	\$12,575	\$16,441

Loss of economies of scale = \$3,866 or \$966 per person.

²⁶¹ Attached at pages 175-176.

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7.2.5.1. The Survey of Income and Program Participation

The Survey of Income and Program Participation (SIPP) is a longitudinal study designed to provide detailed data on the demographic and economic characteristics of individuals and households in the United States. Based on a nationally representative sample of households from the civilian non-institutional population, SIPP tracks panels of individuals and their households for approximately two and one-half years.

In the study of the 1984 SIPP panel, Suzanne Bianchi and Edith McArthur analyzed the short-term effects of a father's departure from the household on the economic well-being of children. In general, the analysis indicated that the immediate effects on children who remain with their mother after their father departs were reductions in family income, per-capita income, and income in relation to needs, and that these reductions tend to persist over time. In addition, households with children who resided only with their mother had less than one-half the income of households with children in stable two-parent families.

Children who make the transition into single-parent households were less well-off to begin with than children in stable two-parent households. Children living in families in which the father entered or left the household during the sample period experienced the greatest relative increase and decrease to their economic well-being. But even before the departure of the fathers, families in which the father was present at the beginning of the panel period and subsequently departed were worse off than stable two-parent families. These findings indicate that economic hardship for children whose fathers leave the household is due to two factors: first, the loss of income earned by the absent parent, and second, the relative poverty of these families compared to two-parent families, even before the father left the household.

7.2.5.3. The Panel Study of Income Dynamics

The Panel Study of Income Dynamics (PSID) is a large-scale longitudinal survey specifically developed to examine the factors contributing to changes in the economic well-being of families over time. The PSID is a nationally representative sample survey of approximately 5,000 American families who were surveyed for the first time in 1968 and who have been interviewed every year since.

7.2.5.3.1. Weiss study

In his analysis of PSID data, Robert Weiss found that while women with the highest pre-divorce income levels continued to have higher income

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than other post-divorce women, divorce was a leveling experience among women, narrowing the difference in income between those in the highest and lowest post-divorce income categories.

After tracking women's income for five years after their divorce, Weiss found that women who did not remarry rarely recovered from the initial post-divorce reduction in income. He concluded that the critical difference between the married and single poor was that on average, the married poor move out of poverty, while the single poor remain there.

Compared to their married counterparts, mothers in single-parent families were much more likely to have earnings. Whereas one-half of married mothers in each of the three income groups had earnings, almost two-thirds of low-income and over 90 percent of high-income divorced or separated mothers had earnings. For divorced and separated mothers, these earnings constituted almost two-thirds of total household income for the low-income group, three-quarters for the middle-income group, and about two-thirds for the high-income group.

Child support and alimony were received by just over one-third of the low-income group, about one-half of the middle-income group, and almost three-quarters of the high-income group of women in the first year after marital disruption. Among households receiving child support or alimony payments, these transfers constituted between 20 and 40 percent of their total household income (the lowest proportion for the lowest income group and the highest proportion for the highest income group). Over a five-year period following marital disruption, child support and alimony declined as a proportion of total income for the middle and higher income groups, but remained the same proportion of income for the lowest income group.

7.2.5.3.2. The Duncan and Hoffman study

Greg Duncan and Saul Hoffman used the PSID data to consider the economic effects of marital dissolution, taking into account the effects of remarriage. They found that long-term divorce or separation reduced the economic well-being of women. Among women in the sample who did not remarry, family income initially fell to approximately 70 percent of its pre-divorce level, and remained low for the six-year observation period. While women who remarried were pooled with those who did not, however, family income rose to 81 percent of the pre-divorce level, and economic well-being improved over the observation period.

The authors found that divorce was associated with an increase in poverty among women, and a reduction of poverty among men. The majority of

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women received no spousal or child support, and among those who did, the level and incidence of these two forms of transfer income declined over time.

7.2.5.3.3. The Stirling study

Kate Stirling used the PSID data to analyze the longer-term effects of divorce. She analyzed only those women who had been married at least three years and tracked them for at least five years after divorce. For these families, average family income fell by 46 percent during the first two years following divorce. During the next three years, family income generally remained unchanged. She also found that over time the proportion of family income derived from the woman's own income increased. Transfer income, however, still contributed 16 percent of the total family income after five years.

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8.1. The Williams Report - National

In 1987, the Advisory Panel on Child Support Guidelines issued a report on child support guidelines. The report contained three parts. Part I consisted of the Advisory Panel recommendations and is discussed, in part, elsewhere in this report in section 3.1. Part II, which was a final project report, and part III, materials for implementation of the development of child support guidelines, were authored by Robert G. Williams of Policy Studies, Inc., Denver Colorado. The work was prepared under a grant from the Office of Child Support Enforcement to the National Center for State Courts.

The report contained materials on the then-existing federal requirements for guidelines and the procedures for implementing them. The report then discussed at some length the economic evidence on child rearing expenditures; a similar discussion can be found in section 7 of this report.

In discussing the development of a guideline, the report listed and discussed a number of factors that should be considered by any guideline development effort:

- Should gross or net income be used?
- What items should constitute income?
- What deduction should be made from gross income (if a net income base is used)?
- Should income be attributed to an underemployed or unemployed parent?
- What consideration should be given to the custodial parent's income?
- What should be the effect of day care expenses?
- How should other natural or adopted child of the payor be treated?
- What should be the effect of income of the current spouse or partner of a parent?
- What should be the effect on the guideline amount of custody and visitation arrangements?
- Should the payor have a self-support reserve and what should be the amount of the reserve?
- How should medical expenses be treated?
- What is the effect of geographic variations in the cost of living?²⁶²

²⁶² It should be noted that the federal regulations now prohibit geographic variations within a state.

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The report makes a recommendation that an income shares approach be used for child support guidelines. Williams presents a table showing which factors are considered by each of the five child support models:²⁶³

Table 8-1 Factors Considered by Child Support Models					
	Income Shares	Delaware - Melson	Wisconsin	Washington	Cassettey
Income base	Either	Net	Gross	Net	Net
Provision for income attribution	Yes	Yes	Partial	No	No
Obligor self-support reserve	Yes	Yes	No	Yes	Yes
Separate provision for child care expenses	Yes	Yes	No	Yes	No
Separate provision for extraordinary medical expenses	Yes	Yes	No	No	No
Adjustment for shared physical custody	Yes	Yes	Yes	Yes	Yes
Does current spouse income reduce obligation	No	Yes	No	No	Yes
Do other dependents reduce obligation	Yes	Yes	Yes	Yes	Yes

²⁶³ Report at p. II-91. The Wisconsin guideline is presented as a fixed percentage of income standard while the Washington guideline is denominated as a variable percentage of income standard.

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In his discussion of the various forms of guidelines, Williams considers five fact patterns and computes a hypothetical child support order based on the five different approaches. He then presents this data in table form that is reproduced here:

	Income Shares	Delaware Melson	Wisconsin	Washington	Casserty
Basic	\$455	\$379	\$400	\$374	\$363
Low income	\$269	\$284	\$225	\$251	\$216
High income	\$871	\$782	\$1,146	\$773	\$1,465
Joint custody	\$147	\$116	\$111	\$82	\$306
Second family	\$388	\$356	\$350	\$364	\$63

The report concludes with copies of some then existing guidelines.

8.2. The National Center Study

In 1990 the National Center for State Courts issued a report summarizing the child support guidelines in effect in all 50 states and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. This report is entitled *A Summary of Child Support Guidelines* by Janice T. Munsterman, Claire B. Grimm, and Thomas A. Henderson with the assistance of H. Clifton Grandy and Richard J. Semiatin. The report was prepared by the National Center pursuant to a grant from the Office of Child Support Enforcement.

The report,²⁶⁴ based on guidelines in effect as of February 1, 1990, presented a two-page summary sheet on each state's guideline and compared the various guidelines on the following issues:

²⁶⁴ This was the second summary prepared by the National Center. The original summary was based on guidelines in effect on February 1,

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- **The model used for each guideline, whether income shares, percentage of income, or Delaware-Melson.²⁶⁵**
- **The method of adopting guidelines showing 20 states doing so by statute, 24 by court rule, and 11 by administrative rule.²⁶⁶**
- **The definition of income, focusing on three issues: (1) what kind of income is considered; (2) whether gross, adjusted gross, or net income is used; and (3) the manner in which very high and very low income is treated.**
- **Consideration of "unusual" circumstances, including extraordinary expenses, visitation, shared and split custody, and multiple families.**
- **Treatment of medical insurance.**
- **Treatment of stipulated amounts of child support.**

The report noted that a significant amount of change had occurred in the two years since the earlier report:

In two years, state child support guidelines have become an established and sophisticated approach to a difficult and emotionally charged resource allocation decision. In February 1988, when the first survey of guidelines was completed, seven states either did not have guidelines or were unable to provide a copy to the NCSC. Many others were limited in the range of issues addressed. ...

The guidelines provided to NCSC in 1990 were very different. Guidelines were available from all 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Most of them were far more sophisticated documents,

1988. As the second summary report noted, 43 states revised or refined their guidelines in the time period between the two surveys.

²⁶⁵ See discussion in section 3.1 of this report.

²⁶⁶ The report considered a state as adopting its guideline by court rule even if the rule was adopted pursuant to a statutory delegation of authority. Several states have been involved in litigation concerning whether legislation mandating the adoption of a guideline by court rule violates separation of powers. It should be noted that this issue is unlikely to arise in California due to the language of the Article VI, section 6 of the California Constitution, which provides that the Judicial Council "perform other functions as prescribed by statute."

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addressing a range of issues regarding how income would be calculated and one or more special circumstances which were to be taken into account.²⁶⁷

The findings of this report are now more than three years old. As the report itself noted, "[t]he development of guidelines is not complete."²⁶⁸ A new compendium of guidelines is presently under preparation by the National Center. As a consequence, the data in the 1990 report are not summarized in this report.

8.3. The Williams Report - California

In 1990, Robert Williams of Policy Studies Inc. prepared an Analysis of California's Child Support Guidelines pursuant to a grant from the Judicial Council's Office of Family Court Services. The report surveyed the then existing five child support guidelines in use in California in comparison to each other, in comparison to other child support guidelines, and in relation to national evidence on child-rearing expenditures.

In discussing the shared custody adjustment which was then part of several guidelines, and which continues in the current guideline, the report noted, "The shared custody adjustment used in several of the county guidelines raises a variety of issues, of which the most significant may be the lack of recognition of duplicated costs which seem to characterize these types of custody arrangements."²⁶⁹

In further discussion of the issue, the report noted:

In many (if not most) cases, a parent exercising visitation with a child for 20 percent of the time incurs significant expenses for food, transportation, entertainment, and possibly housing, utilities, home furnishing, clothing, and other costs. There is a strong argument that ignoring such costs is unrealistic, and therefore inequitable to the obligor. One reason other states have failed to include such an adjustment, however, is the absence of information about the relationship between visitation and child rearing costs. If a credit is given for normal visitation costs, the issue is how much that credit should be.

²⁶⁷ Report at page 36.

²⁶⁸ Id., at p. 37.

²⁶⁹ Report at p. ii.

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The Judicial Council/Santa Clara guideline addresses this issue by apportioning the total child support obligation between the parents in proportion to the time each parent has physical custody of the child²⁷⁰

The report then notes that the adjustment for 20 percent visitation causes an impact of at least 20 percent and up to 40 percent of the support order. In cases where the obligee has no income, the reduction for visitation is 20 percent, increasing to 30 percent when the obligee has half the income of the obligor, and reaching 40 percent when the parents have the same level of income. The report concludes on this subject:

The drawback of the visitation adjustment in the Judicial Council/Santa Clara guideline is that . . . it may not adequately address the probability that exercising visitation tends to increase the total costs of child-rearing in a split household situation because many costs are duplicated (such as housing, utilities, home furnishing, transportation). . . . There can be no doubt that the visitation adjustment in the Santa Clara/Judicial Council guideline responds to a real issue: that obligors incur significant expenses in normal visitation situations. But the magnitude of the credit raises the question of whether the adjustment in its present form overcompensates for the financial impact.²⁷¹

It should be noted that the current legislative guideline appears to agree with Williams in that it increases the total amount to be allocated to children in cases of increased shared custody (by setting actual K to be $(1 + H\%)$ times K).

8.4. The Women's Legal Defense Fund Report

One of the often quoted studies on child support guidelines is that produced by the Women's Legal Defense Fund. It should be noted, however, that the final report of the study has yet to be issued. Nonetheless, enough information about the study has been revealed over the course of the last several years to allow substantial insight into the potential findings of the report. It should be noted, however, that there has been some criticism to about methodology used in this report, as well as to the methodology of the Joint Custody Association Report mentioned in section 8.5 of this report.

The methodology of the report uses 12 different fact situations, designed with the help of an economist, to represent the 12 most common scenarios found using census data. Whether the fact situations

²⁷⁰ Report at p. 79.

²⁷¹ Report at pp. 82-83.

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accomplish this goal, though, has been one of the more criticized aspects of the report. The study then sent the 12 fact situations to several different individuals (attorneys, judges, or child support specialists) in each state, with a request that these individuals then compute a child support guideline order for each fact situation. The states are then ranked in comparison to each other based on a comparison of their hypothetical orders.

The fact situations can also be divided into low, middle, and high income cases, and other classifications can be made with some of the situations. The full significance of the scenarios, however, awaits the final publication of the study. A later report to the Legislature will consider the full results of this study, once it has been released.

In the interim, a summary of the various rankings discussed for California guidelines will be included. This summary is based on speeches by the study's author (Diane Dodson of the Women's Legal Defense Fund) and conversations with her.

The initial report was that California ranked 49th out of the 50 states. This ranking, though, was based on use of discretionary county guidelines under the Agnos Child Support Standards Act. Because the persons in California who filled out the questionnaires for the study were from Sacramento and Fresno, the guidelines in these two counties were used. This resulted in a lower ranking for California than might have been the case had attorneys from other counties responded. (The questionnaire was also sent to an attorney in Los Angeles and one in San Francisco, both of whom declined to complete the questionnaire due to other time commitments.)

Subsequently, in a speech given at the 1990 Bodenheimer Lecture at the University of California, Davis, King School of Law, Ms. Dodson noted that California's ranking under the first version of rule 1274 would have been 4th out of 50. Under the version of rule 1274 that actually went into effect, the ranking was 44th out of 50. There is no publicly available data backing up these statements although the final report is expected to contain a discussion of this issue.

Finally, the author of the report has indicated, informally, that California's guidelines, under Senate Bill Nos. 370 and 1614, would place the state in fourth place nationally, after Massachusetts, the District of Columbia, and Connecticut. This ranking is supposedly based on an average of the 12 hypotheticals. Again, there is no publicly available data supporting this statement. When the report is released, it should also contain information showing how California ranks in the various

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individual hypotheticals as well as the average of all cases. This information will be included in a future report to the Legislature.

8.5. The Joint Custody Association Report

In April 1993, the Joint Custody Association²⁷² released a report on child support levels, comparing results in California to results in other states, both under rule 1274 and under Senate Bill Nos. 370 and 1614. This report noted that California was tenth in support levels under rule 1274 and probably higher since seven of the nine states that had higher levels of support did not increase support to accommodate child care. It noted further that California had the highest rate of all states under Senate Bills 370 and 1614.

This report has been very controversial. One criticism has been based on the method of reaching the numbers used for comparison. The study used six hypotheticals in two sets. In the first set of hypotheticals the amount of custody for the noncustodial parent was set at 20%. In the second set the amount was theoretically set at 20% but the custodial parent was on AFDC and, thus, under the then existing provision of the guideline, the amount of custody for the noncustodial parent was set at zero and the amount of income for the custodial parent was set at zero. Each set of three hypotheticals had a low income, a middle income and a high income hypothetical. The income in each case is given in the following table:

²⁷² The policy of the Joint Custody Association, as printed in most of their newsletters, is: "To encourage payment of child support, first, the system should examine and implement those practices which are already demonstrating comparative success at achieving more nearly-voluntary payment of child support. Only thereupon, after implementing the procedures that have elicited payment, should the system proceed to impose the punitive enforcement and collection procedures that require tax-supported bureaucracies to extract payment. But, those enforcement measures need to be equitable, cost-effective, reasonable and financially feasible.

"We do not assist obligated parents to avoid support altogether. We do believe in monitoring the collection system to assure that it is rational and not the tool of the vindictive, however."

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Type of Hypothetical	Noncustodial Parent's Income	Custodial Parent's Income
Low income	\$1,000	\$0
Middle income	\$3,000	\$1,500
High income	\$10,000	\$3,000

There is no discussion of how the various hypotheticals were selected. Most of the criticism aimed at the report is based on the supposed unrealistic hypotheticals, and on the basis that the six figures are simply averaged without consideration for the relative distribution of these hypotheticals among the general population.

The report also makes several specific assumptions:

- For states that use gross income to calculate child support, 30 percent was added to the net income figures to get gross income figures.²⁷³
- The report noted that several states have a high income cap on the guidelines or use judicial discretion at higher income levels.²⁷⁴ The report does not indicate how the high income calculations were made in those states with such treatment.
- The report noted that child care is not an addition to child support or is a discretionary addition in 22 states. It added that since child care is an addition in California, the California results would be even higher compared to these states.

Numbers were calculated²⁷⁵ for each of the six hypotheticals for each state and the six figures were averaged to obtain a figure for each state. The guidelines for other states were obtained from the National Center for

²⁷³ As is stated in section 6.5 of this report, the definitions of gross and net income vary widely among the states.

²⁷⁴ See discussion in section 6.4 of this report.

²⁷⁵ The calculations were reportedly made by the law offices of Craig A. Candelore of San Diego. The study is sometimes referred to as the Candelore study.

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State Courts.²⁷⁶ Some of the criticism leveled at the report is based on errors in calculation in four states.²⁷⁷

8.6. Institute for Research on Poverty Discussion Paper

Maureen A. Pirog-Good, Associate Professor of the School of Public and Environmental Affairs, Indiana University-Bloomington, presented a paper as part of a child support workshop in February 1993. She had sent four factual scenarios to various states for calculation of the child support order in each case.²⁷⁸ She had also conducted a similar investigation in 1991 and reported comparative data from both studies.

²⁷⁶ See discussion in section 6 where the difficulties in the age of the guidelines available in the National Center for State Courts compendium is discussed.

²⁷⁷ These states with alleged errors in calculation are Connecticut (ranked seventh in the Joint Custody Association Study), the District of Columbia (ranked thirteenth in the study), Massachusetts (ranked third in the study), and Wisconsin (ranked fifth in the study). It should be noted that three of these states (Connecticut, the District of Columbia, and Massachusetts) are reported to be ranked above California in the Women's Legal Defense Fund study.

²⁷⁸ The scenario is: "Mother and Father are divorced. Father lives alone. Mother and the parties' two children, ages 7 and 13, live together. Father pays union dues of \$30 per month and the health insurance for the two children at \$25 per month. Mother incurs monthly employment related child care expenses of \$150. There are no extenuating factors to be added or considered for this unit. The gross monthly combined income for the family is as follows:

Case A - Combined income: \$1,200

Father: \$720 Mother: \$480

Case B - Combined income: \$2,500

Father: \$1,500 Mother: \$1,000

Case C - Combined income: \$4,400

Father: \$2,640 Mother: \$1,760

Case D - Combined income: \$10,500

Father: \$6,300 Mother: \$4,200

Section 8. Other Studies on Guidelines

In some states she sent the scenarios to several different individuals in each state for a calculation.²⁷⁹ Of those states which had multiple responses to the same scenario, 74% had at least one discrepancy between the multiple responses. The median discrepancy was 5 to 8 percent of the medium support amount and the average discrepancy was 15 to 18 percent of the average support amount. The report notes that flat percent states had the lowest discrepancies for most cases, with varying percentage states the larger discrepancies and income shares states the highest discrepancies in general. In part this may be due to the more complicated nature of the income shares guideline.

The information in the report is summarized here in two tables which appear on the following pages. The first table shows how the computations in the four scenarios under the California guideline relate to the computations in all other states. The second table shows how the computations compare in relation to other income share states.²⁸⁰

²⁷⁹ The California Administrative Office of the Courts was one of the places the scenarios were sent for calculation under the California guideline.

²⁸⁰ In these two tables, the total number of states reporting for each scenario varied from year to year and from scenario to scenario. This resulted from the fact that for some states, there was no actual guideline order made because the amount of the order was subject to court discretion.

Section 8. Other Studies on Guidelines

**Table 8-4
Relationship of California Guideline to All States**

Scenario	California Order Amount	Rank	Min.	Max.	Mean	Median
A (1991)	241	23/46	25	327	210	75
A (1993)	261	16/47	15	327	203	80
B (1991)	395	29/50	282	523	400	410
B (1993)	467	5/50	253	516	394	411
C (1991)	594	32/49	455	887	612	614
C (1993)	594	31/49	391	851	603	612
D (1991)	1069	17/24	616	1607	1127	1079
D (1993)	1517	4/37	582	1607	1126	1090

Section 8. Other Studies on Guidelines

Table 8-5 Relationship of California Guideline to Other Income Shares States						
Scenario	California Order Amount	Rank	Min.	Max.	Mean	Median
A (1991)	241	23/33	25	327	246	259
A (1993)	261	16/31	25	327	237	261
B (1991)	395	25/32	328	523	424	431
B (1993)	467	5/33	264	516	422	432
C (1991)	594	24/32	505	887	631	629
C (1993)	594	25/32	442	851	621	621
D (1991)	1069	5/14	616	1464	1037	1023
D (1993)	1517	2/22	582	1590	1107	1075

Section 9. Conclusion and Recommendations

9.1. Simplified child support modification

The provisions concerning simplified child support modification are discussed in section 2.2. It should be noted that there is a partially parallel provision for simplified spousal support modification, tied to a different measuring method.

There have been informal indications from the federal Office of Child Support Enforcement that the simplified child support modification provisions in California are considered to be an alternative form of guideline and thus they violate the requirement that each state have a single child support guideline. The provisions are little used, based on the early survey conducted by the council and the experience of most family law bench officers. Both these reasons would seem to call for a repeal of the statute.

9.2. Moratorium on general changes

As indicated in section 2, the last few years have brought significant change in the child support guideline provisions used in California. There is still a lot of misinformation about the provisions in effect and a lack of understanding among all but the most experienced family law practitioners and bench officers.

Two of the purposes of a guideline are to promote stability within the child support system and to encourage agreements among parents concerning child support. These purposes are ill served by a guideline in constant change. Significant benefit would occur from a moratorium of at least several years on any major changes to the child support guideline.

9.3. More complete study on the operation of the guideline

The data collected concerning child support orders, discussed in section 5, is some of the first data available on the operation of the child support guideline. More complete data, perhaps focused on specific issues of concern to the family law community, would be of great assistance to those making policy determinations about child support.

Good studies are resource intensive. Studies of the operation of the court system either impose a burden on the courts themselves to serve as the data collection vehicle, or require expenditures by the researchers doing the data collection. While local generation of data is more cost effective, a method needs to be developed in this era of resource-starved courts to

Section 9. Conclusion and Recommendations

ensure that data collection does not result in a burden on the courts. The Family and Juvenile Court Law Standing Advisory plans to study this subject and make further recommendations as appropriate.

9.4. Findings required

As indicated in section 5, the collection of data was hampered by the lack of appropriate documents containing the factual determinations made by bench officers in child support proceedings. The need for statistical data must be balanced, however, against the workload imposed on the courts to generate the data. This issue becomes more significant when the burden being imposed falls on the person who determines the facts in the case.

As part of the study mentioned in section 9.3, the advisory committee plans to review and make further recommendations concerning the appropriate balance between the written expression of judicial fact-finding and the need of the system to process the cases brought before it.²⁸¹

9.5. Hardship deduction

As discussed in section 3.8, the handling of financial hardships of either parent, particularly relating to the needs of other children, is a difficult question. There are many ways these issues can be handled and the policy considerations are significant.²⁸²

The lack of clarity in the present handling of the hardship deduction for other children is beyond dispute. The software programs divide over the appropriate method of handling the legislative language. It would be helpful if a clear rule could be developed, with appropriate consideration of the various policy questions, to help bring some additional surety to child support. The advisory committee would be willing to assist in this process.

²⁸¹ See also the discussion in section 3.6.

²⁸² See section 6.2 for a summary discussion of how these issues are treated in other states.

Section 9. Conclusion and Recommendations

9.6. Low income cases

The current guideline gives little special consideration to low income cases except for a slight modification to the percentage of income used for child support at these levels.²⁸³ There are a variety of ways that low income cases can be handled and it would be helpful to have a detailed study made of the various options and the policy considerations inherent in each option. The methods used by the various states, and the results of these methods, would be helpful information. Among the methods to be considered is a lowered percentage at low income levels, a minimum level of child support to be ordered, and the use of a self-support reserve when computing child support.

9.7. High income cases

The current California guideline simply indicates that very high income is a rebuttal factor. The amount of income that is considered "very high" is not defined. This may result in unequal treatment of people with very high income.

The guideline might be improved by setting an upper limit for application of the guideline formula. For child support in cases where the income exceeds that amount, the court would be free to exercise discretion, subject to the requirement that the amount of support would not be less than the amount that would have been ordered at the upper limit amount of income.

The use of discretion at the high income levels would permit the court to fashion more creative orders to better carry out the best interests of the child. This could include the establishment of trust funds for educational or vocational purpose in lieu of support amounts above a particular level.

The establishment of a definite level at which the discretion of the court would be substituted for a formula amount of support would also assist in the resolution of child support disputes. A previous proposal of the Judicial Council suggested a level of \$204,000 annual net combined income, which is \$17,000 net combined income per month. This level appears appropriate.

²⁸³ See discussion in section 6.3.

Section 9. Conclusion and Recommendations

9.8. Simplified income and expense declaration

The primary factual document used by the court in determining child support is the income and expense declaration of each party.²⁸⁴ The information sought by this form is comprehensive and it is designed to be used in a variety of situations involving a marriage dissolution or child support. As a consequence the form may be unnecessarily complex for the "average" child support hearing. The advisory committee plans to study whether a simplified income and expense declaration would be helpful to the many litigants appearing in child support matters without an attorney. Depending on the results of this study, a simplified form or other instructional material may be developed.

9.9. "Default" visitation amount

As shown in section 5.4, the great majority of child support cases involve visitation orders ranging between 15 and 25 percent. The child support formula requires a specific amount of visitation to be used in each case. If the amount of visitation were considered to be 20 percent in all cases except where the actual amount exceeded 25 percent, or was below 15 percent, a set of tables could be developed to aid in the calculation of child support. This "presumption" could also lessen disputes between parents over relatively small amounts of visitation, either as part of the child support proceeding or the child custody proceeding.²⁸⁵

9.10. Earning capacity alternative

California's guideline contains a simple provision permitting the court to consider earning capacity in lieu of a parent's income.²⁸⁶ Many states have provisions specifying factors for the court to consider in determining whether to use earning capacity instead of income. It would be helpful if the factors used in other states, as well as the case law provisions developed in California, were studied and the guideline revised

²⁸⁴ See discussion of this form and its attachments in sections 4.2.9 through 4.2.12.

²⁸⁵ One result of the formula established by Senate Bill No. 370 was to lessen the effect on the guideline of a relatively small change in the amount of visitation.

²⁸⁶ Family Code section 4058(b).

Section 9. Conclusion and Recommendations

to provide greater guidance to judges and litigants in the consideration of this issue.

9.11. Cases with more than three children

In section 5.3 it was noted that the great majority (over 95 percent of the cases studied for this report) of child support matters involved three or fewer children. The child support guideline provides a formula approach for up to ten children. In part this is a legacy from the Agnos Child Support Standards Act Formula which also permitted consideration of up to ten children.

The use of the formula for support for more than three children has at least three undesirable effects:

- It makes the determination of child support more complex;
- It inhibits the development of tables to assist the litigants in determining the child support amount; and
- It can result in an inappropriately high order.

It would be helpful to carefully study whether the guideline should provide a formula approach for up to three children only. If there are more than three children, the amount of support ordered could be no less than the amount for three children, but the court would have discretion to order any amount in excess of this minimum.

Appendix A. List of Potential Additional Study Matters

- 1. Whether the age increase factor table is still valid (section 3.1)**
- 2. Whether the income shares approach to guidelines is appropriate for California (section 3.1)**
- 3. Whether the deductions allowed for business expenses should be revised (section 3.3)**
- 4. Whether overtime should be considered as part of income and under what circumstances (section 3.3)**
- 5. How fluctuating income should be handled under the guideline (section 3.3)**
- 6. How health insurance costs and coverage can best be handled (section 3.9)**
- 7. Which information about child support orders would be particularly helpful to the Legislature (section 5.1.)**

Chapter 7

DISCRETIONARY CHILD SUPPORT SCHEDULE

Civil Code section 4724(b), added by the Agnos Child Support Standards Act ("Agnos Act"), required that the Judicial Council adopt, by July 1, 1986, a schedule for setting child support above the minimum level also mandated by the act. The schedule is to be used by any court that has not adopted its own schedule.¹

The Federal Child Support Amendments of 1984 provide that each state must establish guidelines for child support awards as a condition to approval of its state plan under Title IV-D of the Social Security Act (child support collection) and receipt of federal funding for its AFDC (Tit. IV-A) and child support collection programs. The guidelines may be established either by statute, administrative action or judicial action, and must be made available to judges who determine child support. The guidelines need not be binding. They must be adopted by October 1, 1987.²

These developments are part of a growing national trend towards greater standardization of child and spousal support awards which seeks to use schedules or guidelines as a means toward this goal. (E.g., Civ. Code, § 4720(b): "The current method of setting child support awards has led to substantial variation in these awards among families with similar circumstances and resources.")

Pursuant to the requirements of section 4724(b), comments were solicited on what factors should be considered in developing California's schedule. (Copies of the request were sent to the lay and legal

press.) In addition to suggesting factors to be considered, several of the comments received suggested that the council should (1) consider initially adopting a schedule based on the existing county schedules and (2) begin a two year study to evaluate the council's schedule and others in use. The study would consider the following:

1. How well each schedule is accepted by the bench, bar and litigants.
2. The reasons courts depart from the schedule and the effect of the departures on the overall amount of child support awarded.
3. Whether the schedule promotes the setting of child support awards that meet the cost of raising the child and that are actually paid.
4. Whether the schedule results either in more agreement on the amount of child support or in shorter contested hearings.
5. What factors are used by the various schedules.
6. Which factors used in setting child support are considered most relevant by judges, attorneys and litigants.

On March 3, 1986, a request for further comment was circulated on the specific proposal that the Judicial Council consider adopting one of the schedules now in use, pending a full study of the effect of child support schedules under the Agnos Act. The proposal received much support. Many of those responding suggested the adoption of specific existing schedules.

I. CURRENT SCHEDULES AND COMMENTS

The schedule most often recommended for council adoption was the so-called "new Santa Clara guidelines."³ It was recommended to the Santa Clara Superior Court by the Family Law Section of the Santa Clara County Bar Association based on a study made by a committee to revise the old Santa Clara County schedule.⁴ The new Santa Clara guidelines have been adopted in a number of other counties including Alameda, Contra Costa, Imperial, Marin, Nevada, Placer, San Bernardino, San Francisco, San Mateo, Santa Cruz, Sonoma, Sutter and Ventura.

The new Santa Clara guidelines were supported by a number of attorneys and judges who have

worked with them, although they are subject to some criticism. Those supporting the guidelines include two family law commissioners and seven attorneys. The Standing Committee on Support—North of the Family Law Section of the State Bar recommended the adoption of the new Santa Clara guidelines.

Those who responded gave several reasons for supporting the new Santa Clara guidelines, including that its figures are reasonably close to the true cost of child-rearing, that it promotes uniformity, and that it aids on pro-rata sharing of transportation, child care, and medical and dental expenses.

Some of those responding criticized the new Santa Clara guidelines as being too high, and urged the council not to adopt these guidelines.

Lenore Weitzman, Professor of Sociology at Stanford University and author of the book *The Divorce Revolution*, criticized the amounts on the Santa Clara schedule from another perspective. She stated the total for child and spousal support is adequate but that too often spousal support is either not awarded or is awarded for too short a period. This results in an award which is too low. She urged the council to adopt a modification of the Santa Clara guidelines specifying as child support the guideline amount for spousal and child support combined.

The other major schedule in use was first adopted by the Sacramento Superior Court and is known as the Sacramento Schedule. It applies the percentage

factor from the Agnos Act (18 percent for one child, 27 percent for two children, etc.) to the combined income of both parents. If the resulting amount is not above the current welfare minimum for that number of children, that amount of support is allocated between the parents according to their income. If the amount is greater than the welfare minimum, the average of that amount and the welfare minimum is allocated among the parties.

The Sacramento Schedule is used also in Tulare and Yolo Counties. Its use was advocated by one attorney who responded to the March 3 invitation to comment.

The old Santa Clara guidelines are used by several counties, including Fresno, Kern (in a modified form), and Stanislaus. No response was received in favor of or in opposition to this schedule.

II. CALIFORNIA COMMISSION ON CHILD SUPPORT

In April 1983, Governor George Deukmejian established the Commission on Child Support Development and Enforcement. The commission held a number of meetings and, in January 1985, issued a final report covering a variety of child support issues, including schedules.

The commission recommended adoption of the Minnesota schedule, which uses a percentage of only the noncustodial parent's net income in determining an amount to be paid. The commission urged the adoption of this schedule because of five factors:

1. It is easy to understand and use.
2. The ability to pay is balanced against the needs of the child.
3. It is effective and accepted in actual use.
4. Priority is placed on the first family.
5. It does not penalize the children of the custo-

dial parent for that parent's decision to work.

The commission recognized the conflict between its position and that taken by the then recently passed Agnos Act, as follows:

The Commission acknowledges the recent passage of the Agnos child support bill, AB 1527. This bill was examined very thoroughly by the Subcommittee on Uniform Schedule of Child Support. The Commission recognizes the long, hard efforts it took to pass this bill, and the intent of its author to bring some degree of equity and sanity to the way in which support awards are determined in this state.

Due to the Commission's firm dedication to support enforcement and the fact it was not limited to compromises, the Commission strongly recommends its own schedule of child support as a further step in the right direction.⁵

III. SCHEDULES IN OTHER STATES

A number of other schedules are in use in various other states.⁶ As discussed in one of the reports on child support schedules,⁷ there does not appear to be one clearly correct schedule which works in all cases and all locations. The task of creating a schedule consists of weighing conflicting goals and demands and attempting to forge a workable solution.

The Delaware Family Court uses a formula, known as the Nelson formula, which allocates income based on the following criteria:

1. Parents are entitled to keep sufficient income for most basic needs and to facilitate continued employment.
2. Children are entitled to any amounts over that amount until their basic needs are met.
3. When there is sufficient income to cover the basic needs of parents and dependents, children are entitled to share in the additional income.

Wisconsin uses a percentage of income standard in determining child support. Support is set at a specified percent of the noncustodial parent's gross income (17 percent for one child; 25 percent for two; 29 percent for three; 31 percent for four; and 34 percent for five or more).

Washington has a set of guidelines based on the net income of the parents and the number and ages of the children. The guidelines also consider split custody arrangements and child care expenses.

Colorado has adopted a schedule based on the so-called Income Shares Model under which the child should receive the same proportion of parental income that he or she would have received if the parents lived together. The schedule comes with several worksheets as well as instructions.

IV. FACTORS CONSIDERED BY SCHEDULES

Based on the comments received, it would appear that, among the variety of schedules in use today, the new Santa Clara guidelines have the most support among those who responded to the request for comment. As shown by the comments, however, there is some fairly strong criticism of that schedule. The Judicial Council's adoption, on an interim basis, of the formula used in the Santa Clara guidelines, was taken with appropriate adjustments, based on comments suggesting factors that should be considered in reaching a decision on a child support award. The guideline can be found at the end of this chapter.

It may be useful to distinguish between the various factors that go into the formulation of the scheduled amounts (e.g., income of the parties, amount of custodial time), and the factors which may, in appropriate cases, result in an adjustment of the tentative formula amount (e.g., other children and special needs of the child). The following discussion examines these factors and the comments that were received concerning them, discussing first those used in formulating the schedule amount. Following the discussion of each factor, the course of action taken is noted and cross-referenced to the guidelines where appropriate.

While all schedules use some of these factors, there is debate as to how each should be used. There is also disagreement on the specific effect each factor should have. In many cases, a schedule may note that a judge might wish to consider the effect of a particular factor, although it is not reflected in the scheduled formula.

Income of parties

All schedules consider the income of one or both of the parents in setting a child support figure. There are many differences in what income is considered, and these differences are reflected in the comments received on how income should be handled.

One commissioner suggested that earning capacity rather than income should be considered. The new Santa Clara guidelines do permit ignoring elective decreases of income in modification requests. A comment was added to the guideline that earning capacity should be considered in appropriate cases. (See guideline, section 6.c.(2).)

Some schedules⁸ consider only the income of the noncustodial parent in determining the amount of child support. This view was urged by the California Child Support Commission and supported by one attorney. Proponents of this view suggest that the custodial parent (and the children) should not be penalized with a lower support award because the custodial parent is working. Whatever the merits of this view, it would appear to be contrary to the philosophy of the Agnos Act which states that it is

the obligation of both parents to support a child and both parents' income should be considered. (See guideline, section 3.)

Child care expenses have also been considered. One attorney urged that the guideline permit a full deduction from the custodial parent's net income of the costs of child care or that the child care costs be allocated between the parents in proportion to income. This is the position taken by the new Santa Clara guidelines. (See guideline, section 8.a.)

Several of the schedules use the gross income of the parties rather than their net income. Both the Agnos Act and the new Santa Clara guidelines use the net income of the parties in determining the amount of support. The Agnos Act specifies a limited number of deductions and states these are the only deductions allowed. Other deductions, e.g., child care, are permitted by the new Santa Clara guidelines. The adopted guideline uses net income with specified deductions. (See guideline, section 6.)

One attorney suggests that the net income figure for each parent reflect a deduction for taxes only in the amount that parent must actually pay rather than the more typical situation of permitting each parent a deduction for taxes based on filing status and number of legitimate exemptions. In most cases the actual net income is reflected by filing status and number of exemptions although in cases of self-employed persons and persons with either substantial tax shelters or tax exempt income an adjustment would appear appropriate. (See guideline, section 7.)

Several attorneys suggested that an increase be made to the income of self-employed individuals to reflect such company-paid benefits as insurance, vehicles, and meals. These factors are noted in the guidelines and are expanded to include such benefits whether provided to a self-employed individual or an employee. The full range of benefits included is left to the discretion of the judge in the individual case. (See guideline, section 6.c.(1).)

The final comment made on income involves cases of seasonal employment which results in widely fluctuating income. This is also treated in a note to the guidelines, with the application left to the discretion of the judge. (See guideline, section 12.)

Costs of raising a child

Many of the schedules state they base the amount of support on the actual amounts spent on children by parents.⁹ This is the position taken by the adopted guideline section 5, as derived from the new Santa Clara guidelines. There have been many studies done on the costs of raising children.¹⁰

Application of the various studies to child support schedules has been criticized because the studies do not take account of cost variations for split households:

*The allocation of the family's resources among its members is changed when the divorce occurs. There are two households instead of one, and more of the family's income must be spent on two shelters than was previously spent on one. As a result, the money available for the personal consumption of each of the individuals in the family, including the children, is necessarily reduced.*¹¹

Another writer on this subject urges that the courts must also consider the additional costs to the custodial parent:

*Account must be taken, for example, of the additional child care costs that are incurred when children live with one adult. . . . [D]ay care expenses alone can exhaust child support awards . . . [C]ustodial parents have two sources of increased service needs. First, chores formerly performed by the noncustodial parent must now be handled in some other fashion. Second, the caretaker herself will have less time and energy to devote to household tasks if she now works longer hours outside the home.*¹²

Three attorneys urged that any schedule consider the costs of maintaining two households, and one attorney urged against the consideration of this factor. The attorney who designed the new Santa Clara guidelines, reported that he accepts the view that there is no good information on the cost of two-home families, although some evidence suggests that the amount spent on children remains the same in most low- and middle-income families.

It would appear that presently there is insufficient data to determine whether this factor should be included in the schedule. The guidelines, therefore, mention this factor and permit judges to take it into account in appropriate cases. (See guideline, section 10.)

Time spent with each parent

The new Santa Clara guidelines use the time spent with each parent as a factor in determining the amount of child support paid. They allocate a total figure for support based on the combined income of both parents, with contribution from each parent based on that parent's net income. Child support paid is allocated to each parent based on the time the child spends with that parent. The schedule amounts are based on a presumption that the child spends 20 percent of his or her time with the noncustodial parent and require adjustment if the actual time varies from this by 10 percent in either direction.¹³

The use of this factor in a guideline was specifically endorsed by several attorneys, and is incorporated in the adopted guideline (section 1).

Age of child

In 1984, the council, pursuant to a legislative mandate, adopted an Age Increase Factor to be used in child support awards.¹⁴ Discussion with many

family law practitioners and judges indicates that the table is used infrequently.

The age of the child is not considered by any support schedule in common use in California although it is used in some other states, notably Washington.¹⁵ The data concerning age-related changes in the cost of raising a child suffers from the same deficiency as the other data on the cost of raising a child, in that conclusions must be extrapolated from studies of intact families.

Age as a factor in setting child support is one of the factors most commented upon in the schedule. One commissioner, seven attorneys, and a divorced mother with custody of two children urged that an age component be included in the guideline. The Age Increase Factor table reflects a conclusion that, generally speaking, child related expenses increase as the child grows older. The adopted guideline expressly urges consideration of the Age Increase Factor (section 11).

New partners

The new Santa Clara Schedule provides that an "elective increase" in the payor's expenses will not generally be considered as grounds for reduction of support. Elective increases include "expenses in connection with a new marriage or live-in companion."¹⁶ On the other hand, "[t]he income of a new spouse or live-in companion will be considered to the extent permitted by current statutes and case law."¹⁷

The Agnos Act permits consideration of a new partner's income "to the extent that the obligated parent's basic living expenses are met by the spouse or other person, thus increasing the parent's disposable income and therefore his or her ability to pay more than the mandatory minimum child support award established by this chapter."¹⁸

The general view, nationwide, is that while step-parent income is not considered in establishing the level of child support payments, "some states have made provision for considering the effect of shared expenses, thereby increasing the child support obligation of the parent who has remarried or is cohabiting."¹⁹ The consideration of income made available from new partners is generally supported in California law.²⁰

One attorney wrote that the community property interest of the current spouse in the paying parent's net monthly income, and vice versa, should be considered in any schedule along with the support obligation to a current spouse. Another attorney suggested that any schedule should have a consistent method of handling the income of new spouses, live-ins and similar arrangements.

The current treatment of the income of and support obligation to new partners appears to be highly variable. The new Santa Clara guidelines, in modification cases, provide some broad overview of how to handle this matter.²¹ The adopted guidelines

permit consideration of income and expense attributable to a new partner or child. (See guideline, section 6.c.(3).) Refinement of this issue will await further study of the practice under the schedules which became effective on July 1, 1985.

New children

Some states have taken the position that creation of new children is a voluntary act and therefore the pre-existing children should take priority in establishing a support obligation.²² This view is not generally held in California. The Agnos Act itself recognizes the obligation to other children²³ and the new Santa Clara guidelines recognize this as well.²⁴ Two attorneys urged that any schedule at least note the obligation of either parent to support other children.

There appears to be considerable debate about how best to equalize the child support when children or multiple relationships are involved. This matter is currently a matter of both legislative and judicial debate and would appear to be best solved in those arenas. (See guideline, section 6.c.(3).)

Cost of living

The schedules currently in use in California were designed for use in a particular county although at least the new Santa Clara guidelines were presumably based on nationwide data about the amount of money spent on raising children. Seven attorneys suggested that any schedule take account of the difference in the cost of living between counties. This view is supported by the *Guideliner*, a publication of the California Family Law Report, which suggests that differences in cost of living can be determined using factors such as income or housing cost.

The view taken by the *Guideliner* is that cost of

living is normally reflected by per capita income. If this is so, a schedule which based a child support award on a percentage of the income of the parties would accurately reflect the cost of living without the need for adjustment from county to county so long as the parents lived in the same county.

If the paying parent lives in a county where the cost of living (and income) is lower than the county in which the child lives, recognizing the child's cost of living by ordering the paying parent to pay a greater percentage of his or her income than would be the case if the paying parent lived in the same county as the child can work a substantial hardship on that parent. If the paying parent lives in a county where the cost of living (and income) is higher than the county in which the child lives, ordering the paying parent to pay based on his or her higher income can be viewed as either a windfall to the child or permitting the child to share in the standard of living of both parents. The question of the effect of the cost of living on child support awards is a complex issue which should be left to the discretion of the judge in each case. There may be a discernable pattern which can be reduced to a rule based on a future study of actions taken under the new schedules.

Other factors

Some commentators suggested that other factors be included in the guideline. The factor most often mentioned is special need of the child, whether medical, psychological, or educational. (See guideline, section 9.) It was also suggested that the cost of transportation for visitation should be included in the guidelines and that the greater burden of such transportation should be imposed upon any parent moving from the local area.²⁵ (See guideline, section 8.(b).)

V. PROBLEMS WITH FULL COMPLIANCE WITH AGNOS ACT

The Agnos Act requires that the amount awarded pursuant to a discretionary child support schedule be not less than the minimum amount set by that act.²⁶ This can best be accomplished by providing that where the amount specified by the schedule is lower than the amount specified by the Agnos Act, the amount specified by the Agnos Act shall be awarded. While the new Santa Clara guidelines attempt to delineate areas where the amount of

support awarded is less than the amount of the Agnos Act, this is not always possible because of the difference in treatment of certain items of income and expense. For example, the new Santa Clara guidelines permit deduction of job-related expenses from income in appropriate cases,²⁷ while the Agnos Act does not permit this in determining minimum support.

VI. FORMAT OF SCHEDULE

Several suggestions were made that the guideline adopted by the council consist not of specific numbers but of a range for each set of income levels. The advantage of having a range rather than a specific number is that it allows a judge to adjust the various individual factors involved in a particular case without having to state reasons. While it is true that the

same result could be accomplished by setting a specific figure at what would be the low end of the range, this might result in an award which is too low if a judge did not use an amount higher than the scheduled amount in most cases.

It would appear that stating a guideline in terms of a range rather than a specific number would

result in a fairer child support award without the added burden on trial court judges requiring them to state reasons whenever the award is on the lower end of "average." A fair range would appear to be 15 percent above or below the figure which would otherwise be obtained using the new Santa Clara guidelines. This would provide needed flexibility for trial judges while preserving the relative certainty of a guideline.

The new Santa Clara guidelines are generally expressed as a number of tables showing an amount for child support (and an amount for spousal support) for a variety of different income combinations and number of children. The tables were derived from a formula which itself was derived from the

raw data.

Many different sources are currently available which display the actual amounts for child support using the Santa Clara guidelines. Some of these sources are either free or low cost (e.g., the Santa Clara Superior Court rules and the Placer Superior Court rules) while others are more expensive and more extensive (e.g., the *Guideliner*). The council's guideline is available in the form of a mathematical formula with appropriate cross-reference to the Santa Clara guideline tables. (This cross reference appears as section 3 of the adopted guideline.) In addition, a booklet is available from the Administrative Office of the Courts expressing the child support formula in tabular format.

VII. NEED FOR FURTHER STUDY

As mentioned in the introduction to this report, the schedule adopted by the council should be considered interim. Beginning July 1, 1986, all courts are required to use either their own or the council's discretionary child support guidelines when setting an amount for child support. Previously there was no such requirement.

It would appear appropriate for the Judicial Council to conduct a further study of the use of discretionary schedules in setting child support. The study might result in recommended changes in the child support schedule.

Division VI is added to the Appendix to the California Rules of Court, effective July 1, 1986, to read:

DIVISION VI DISCRETIONARY CHILD SUPPORT (Civil Code, § 4724(b))

1. [Formula] Pursuant to Civil Code section 4724(b), a guideline for discretionary child support awards above the mandatory minimum of the Agnos Child Support Standards Act may be determined as follows:

$$CS = TCS \pm .15 (TCS)$$

$$TCS = K (HN - (H\%) (TN))$$

2. [Definitions]

(a) The components of the formula are:

CS = child support range

TCS = tentative child support

K = adjustment factor for different levels of income

H% = percentage of time high earner has children (use decimal, e.g., 20% = .20)

HN = high earner's net monthly income

TN = total net monthly income of parties

(b) To compute net income, see subdivisions 6 and 7.

(c) "K" changes as combined income increases as follows:

<i>Total Net Income Per Month</i>	<i>K</i>
\$0-1,667	K = .26
\$1,668-4,999	K = .2 + 100/TN
\$5,000-10,000	K = .16 + 300/TN
Over \$10,000	K = .12 + 700/TN

(d) If the child support range is negative, the custodial parent pays.

(e) For more than one child, multiply TCS by:

2 children	1.5
3 children	2
4 children	2.25
5 children	2.5
6 children	2.625
7 children	2.75

3. [Santa Clara guidelines] Any schedule based on the child support guidelines in effect in Santa Clara County on July 1, 1986, should yield the same tentative child support obtained by the formula.

4. [Use of Agnos minimum] In the event the amount of support calculated by this formula is less than the minimum amount mandated by the Agnos Child Support Standards Act, the amount mandated by that act shall be used.

5. [Factors considered] The formula is based on studies of the costs of raising children. The factors considered are the combined net income of the parties, the amount required to support the child, and the time the child spends with each parent.

6. [Net income defined] Net monthly income is determined by making appropriate deductions and adjustments to gross income, as follows:

(a) The following deductions shall be made:

(1) Social Security (FICA) and State Disability Insurance (SDI) actually deducted from salary or paid by a self-employed person; these deductions should be averaged on an annual basis.

(2) Federal and state income tax withholding, or estimated tax payments, to the

extent they represent actual or potential income tax liability.

- (3) Mandatory retirement contributions in lieu of Social Security.
- (b) The following deductions are within the court's discretion:
 - (1) Mandatory retirement contributions in addition to Social Security. (Voluntary retirement contributions should not normally be deducted from gross income.)
 - (2) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.
- (c) The following adjustments to gross income are within the court's discretion:
 - (1) Employee benefits or self-employment benefits maybe included in net income, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.
 - (2) Earning capacity may be considered in place of actual income.
 - (3) The court may consider, to the extent permitted by law, the income earned by new partners of either parent and the expenses related to the new partner or to other children of that parent.

7. [Income tax consequences] The formula does not consider that support payments can, and often do, result in changes in income taxes paid. The court may consider these and any other factors reflecting the true tax status of either party.

8. [Additional support amounts: expenses related to child support]

- (a) Child care costs related to employment or reasonable necessary education or training for employment skills should be shared in accordance with the net income of the parties.
- (b) Travel expense for visitation should be shared in accordance with the net income of the parties, unless this creates an unreasonable hardship on one parent.
- (c) Health care and health insurance costs for children should be shared in accordance with the net income of the parties, or, when appropriate, may be credited to the payor's obligation for child support.

9. [Special needs] The court may order additional support amounts subject to the paying parent's ability to pay, for the special educational, medical, or other needs of a child.

10. [Additional costs] When appropriate, the court should consider the added cost of maintaining two households. The court should also consider the added cost on the custodial parent resulting from having work done by a paid third party that is normally done by the parents in a two-parent household.

11. [Age increase factor] The court should consider the age of the child in relation to the amount of support awarded (see the Age Increase Factor Table (California Rules of Court, Appendix, Division V)).

12. [Seasonal or fluctuating income] The court may adjust the child support award as appropriate to accommodate seasonal or fluctuating income of either parent.

¹ Civil Code section 4724 (a) reads in part: "In setting a higher level of child support, the court shall be guided by the criteria set forth in . . . state and local guidelines. . . ." Section 4724 (d) provides: "In setting a level of child support below the applicable level in the discretionary guideline in use in a county the court shall state its reasons, on the record, citing the documentation of any underlying facts and circumstances for the award."

² Public Law 98-378 amending Title IV-D of the Social Security Act. The applicable statutory requirement may be found in section 467 of the act and implementing regulations in 45 C.F.R. section 302.56.

³ The Santa Clara Superior Court has also adopted some informal guides for the use of the new Santa Clara guidelines, called "Rules of Thumb."

⁴ The original charge of that committee was to consider the issues of shared custody and maintaining second houses.

⁵ Report of the California Commission on Child Support Development and Enforcement, p. 65.

⁶ Several good overviews of the schedules of other states exist. See, e.g., Thompson and Paikin, *Formulas and Guidelines for Support*, (1985) 36 Juv. and Fam. Ct. J. 33; Williams, *Child Support and the Costs of Rearing Children: Using Formulas to Set Adequate Awards*, (1985) 36 Juv. and Fam. Ct. J. 41; and Williams, *Development of Guidelines for Establishing and Updating Child Support Orders: Interim Report*, June 7, 1985, Institute for Court Management (hereafter Williams, Guidelines).

⁷ Williams, Guidelines, *passim*, esp. pp. 100-104.

⁸ E.g., Minnesota and Wisconsin.

⁹ See, e.g., Santa Clara Superior Court rule 17, Appendix A: "The Schedule is based on studies done on the costs of raising children (percentage of net income)."

¹⁰ A bibliography of much of the literature prior to the late 1970's can be found in Eden, *Estimating Child and Spousal Support*, (1977) Western Book Journal Press. The classic later study is Espenshade, *Investing in Children: New Estimates of Parental Expenditures*, (1984) Urban Institute Press. The later literature is analyzed in Williams, Guidelines, *supra*.

¹¹ Eden, *op. cit. supra* at pp. 4-5.

¹² Bruch, *Developing Standards for Child Support Payments: A Critique of Current Practices*, (1982) 16 U.C. Davis L.Rev. 49, 54-55.

¹³ See Santa Clara "Rules of Thumb," rule 3.

¹⁴ See Division V of the Appendix to the California Rules of Court.

¹⁵ Washington divides children into three age groups, below 6 years, 7-15 years, and over 15 years.

¹⁶ Santa Clara Superior Court rule 17 (1) (6) (b).

¹⁷ Santa Clara Superior Court rule 17 (1) (6) (d). See also "Rules of Thumb," rule 1a.

¹⁸ Civ. Code, § 4720 (e).

JUDICIAL COUNCIL OF CALIFORNIA

- ¹⁹ Williams, Guidelines, *supra*, pp. 46-47.
- ²⁰ See discussion in Bruch, *op. cit. supra* at p. 60.
- ²¹ Santa Clara Superior Court rule 17(1)(6)(d). See also "Rules of Thumb," rule 1, for original award and modification cases.
- ²² Williams, Guidelines, p. 43.
- ²³ The Act permits deduction from gross income of child support actually being paid (Civ. Code, § 4721(c)(5)) and permits consideration for a "hardship deduction of the costs of other dependents of the parent (Civ. Code, § 4723(b)).
- ²⁴ Santa Clara Superior Court rule 17(1)(6)(b)(1) and (2).
- ²⁵ See Santa Clara Superior Court rule 17(1)(4)(b)(b) providing for proration of the amount, travel expenses and "Rules of Thumb," rule 6.
- ²⁶ Civil Code section 4724.
- ²⁷ Santa Clara Superior Court rule 17(1)(2)(d).

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Mailing Address</i>):	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (<i>Name</i>):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
MARRIAGE OF PETITIONER: RESPONDENT:		CASE NUMBER:
PETITION FOR <input type="checkbox"/> Dissolution of Marriage <input type="checkbox"/> And Declaration Under Uniform <input type="checkbox"/> Legal Separation Child Custody Jurisdiction Act <input type="checkbox"/> Nullity of Marriage		

1. RESIDENCE (Dissolution only) Petitioner Respondent has been a resident of this state for at least six months and of this county for at least three months immediately preceding the filing of this Petition for Dissolution of Marriage.

2. STATISTICAL FACTS

- | | |
|---|--------------------------------------|
| a. Date of marriage: | b. Date of separation: |
| c. Period between marriage and separation | d. Petitioner's Social Security No.: |
| Years: Months: | f. Respondent's Social Security No.: |

3. DECLARATION REGARDING MINOR CHILDREN OF THIS MARRIAGE

- | | |
|--|---|
| a. <input type="checkbox"/> There are no minor children. | b. <input type="checkbox"/> The minor children are: |
| <u>Child's name</u> | <u>Birthdate</u> <u>Age</u> <u>Sex</u> |

c. IF THERE ARE MINOR CHILDREN, COMPLETE EITHER (1) OR (2)

- (1) Each child named in 3b is presently living with petitioner respondent in the following county (*specify*):

During the last five years each child has lived in no state other than California and with no person other than petitioner or respondent or both. Petitioner has not participated in any capacity in any litigation or proceeding in any state concerning custody of any minor child of this marriage. Petitioner has no information of any pending custody proceeding or of any person not a party to this proceeding who has physical custody or claims to have custody or visitation rights concerning any minor child of this marriage.

- (2) A completed Declaration Under Uniform Child Custody Jurisdiction Act is attached.

4. Petitioner requests confirmation as separate assets and obligations the items listed

- in Attachment 4 below:
Item

Confirm to

(Continued on reverse)

MARRIAGE OF <i>(last name, first name of parties):</i>	CASE NUMBER:
---	--------------

5. DECLARATION REGARDING COMMUNITY AND QUASI-COMMUNITY ASSETS AND OBLIGATIONS AS PRESENTLY KNOWN

- a. There are no such assets or obligations subject to disposition by the court in this proceeding.
- b. All such assets and obligations have been disposed of by written agreement.
- c. All such assets and obligations are listed in Attachment 5 below *(specify)*:

6. Petitioner requests

- | | |
|---|---|
| <ul style="list-style-type: none"> a. <input type="checkbox"/> Dissolution of the marriage based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> irreconcilable differences. CC 4506(1) (2) <input type="checkbox"/> incurable insanity. CC 4506(2) b. <input type="checkbox"/> Legal separation of the parties based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> irreconcilable differences. CC 4506(1) (2) <input type="checkbox"/> incurable insanity. CC 4506(2) c. <input type="checkbox"/> Nullity of void marriage based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> incestuous marriage. CC 4400 (2) <input type="checkbox"/> bigamous marriage. CC 4401 | <ul style="list-style-type: none"> d. <input type="checkbox"/> Nullity of voidable marriage based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> petitioner's age at time of marriage. CC 4425(a) (2) <input type="checkbox"/> prior existing marriage. CC 4425(b) (3) <input type="checkbox"/> unsound mind. CC 4425(c) (4) <input type="checkbox"/> fraud. CC 4425(d) (5) <input type="checkbox"/> force. CC 4425(e) (6) <input type="checkbox"/> physical incapacity. CC 4425(f) |
|---|---|

7. Petitioner requests the court grant the above relief and make injunctive (including restraining) and other orders as follows:

	Petitioner	Respondent	Joint	Other
a. Legal custody of children to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Physical custody of children to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Child visitation be granted to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> supervised as to <i>(specify)</i> :				
d. Spousal support payable by (wage assignment will be issued)	<input type="checkbox"/>	<input type="checkbox"/>		
e. Attorney fees and costs payable by	<input type="checkbox"/>	<input type="checkbox"/>		
f. <input type="checkbox"/> Terminate the court's jurisdiction (ability) to award spousal support to respondent.				
g. <input type="checkbox"/> Property rights be determined.				
h. <input type="checkbox"/> Wife's former name be restored <i>(specify)</i> :				
i. <input type="checkbox"/> Other <i>(specify)</i> :				

8. If there are minor children of this marriage, the court will make orders for the support of the children without further notice to either party. A wage assignment will be issued.

9. I have read the restraining orders on the back of the Summons, and I understand that they apply to me when this petition is filed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (SIGNATURE OF PETITIONER)

.....

 (SIGNATURE OF ATTORNEY FOR PETITIONER)

(TYPE OR PRINT NAME OF ATTORNEY)

NOTICE: Please review your will, insurance policies, retirement benefit plans, credit cards, other credit accounts and credit reports, and other matters you may want to change in view of the dissolution or annulment of your marriage, or your legal separation. However, some changes may require the agreement of your spouse or a court order (see section 412.21 of the Code of Civil Procedure).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Mailing Address):	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
MARRIAGE OF PETITIONER: RESPONDENT:		
RESPONSE <input type="checkbox"/> and REQUEST FOR <input type="checkbox"/> Dissolution of Marriage <input type="checkbox"/> And Declaration Under Uniform <input type="checkbox"/> Legal Separation Child Custody Jurisdiction Act <input type="checkbox"/> Nullity of Marriage		-CASE NUMBER:

1. RESIDENCE (Dissolution only) Petitioner Respondent has been a resident of this state for at least six months and of this county for at least three months immediately preceding the filing of this Petition for Dissolution of Marriage.

2. STATISTICAL FACTS

- | | |
|--|--------------------------------------|
| a. Date of marriage: | b. Date of separation: |
| c. Period between marriage and separation
Years: Months: | d. Petitioner's Social Security No.: |
| | e. Respondent's Social Security No.: |

3. DECLARATION REGARDING MINOR CHILDREN OF THIS MARRIAGE

- | | |
|--|---|
| a. <input type="checkbox"/> There are no minor children. | b. <input type="checkbox"/> The minor children are: |
| <u>Child's name</u> | <u>Birthdate</u> <u>Age</u> <u>Sex</u> |

c. IF THERE ARE MINOR CHILDREN, COMPLETE EITHER (1) OR (2)

- (1) Each child named in 3b is presently living with petitioner respondent in the following county (*specify*):
and during the last five years has lived in no state other than California and with no person other than petitioner or respondent or both. Respondent has not participated in any capacity in any litigation or proceeding in any state concerning custody of any minor child of this marriage. Respondent has no information of any pending custody proceeding or of any person not a party to this proceeding who has physical custody or claims to have custody or visitation rights concerning any minor child of this marriage.
- (2) A completed Declaration Under Uniform Custody of Minors Act is attached.

4. Respondent requests confirmation as separate assets and obligations the items listed in Attachment 4 below:
Item

Confirm to

(Continued on reverse)

MARRIAGE OF <i>(last name, first name of parties):</i>	CASE NUMBER:
---	--------------

5. DECLARATION REGARDING COMMUNITY AND QUASI-COMMUNITY ASSETS AND OBLIGATIONS AS PRESENTLY KNOWN

- a. There are no such assets or obligations subject to disposition by the court in this proceeding.
- b. All such assets and obligations have been disposed of by written agreement.
- c. All such assets and obligations are listed in Attachment 5 below:

6. Respondent contends there is a reasonable possibility of reconciliation.

7. Respondent denies the grounds set forth in item 6 of the petition.

8. Respondent requests

- | | |
|---|--|
| <ul style="list-style-type: none"> a. <input type="checkbox"/> Dissolution of the marriage based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> irreconcilable differences. CC 4506(1) (2) <input type="checkbox"/> incurable insanity. CC 4506(2) b. <input type="checkbox"/> Legal separation of the parties based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> irreconcilable differences. CC 4506(1) (2) <input type="checkbox"/> incurable insanity. CC 4506(2) c. <input type="checkbox"/> Nullity of void marriage based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> incestuous marriage. CC 4400 (2) <input type="checkbox"/> bigamous marriage. CC 4401 | <ul style="list-style-type: none"> d. <input type="checkbox"/> Nullity of voidable marriage based on <ul style="list-style-type: none"> (1) <input type="checkbox"/> respondent's age at time of marriage CC 4425(a) (2) <input type="checkbox"/> prior existing marriage. CC 4425(b) (3) <input type="checkbox"/> unsound mind. CC 4425(c) (4) <input type="checkbox"/> fraud. CC 4425(d) (5) <input type="checkbox"/> force. CC 4425(e) (6) <input type="checkbox"/> physical incapacity. CC 4425(f) |
|---|--|

9. Respondent requests the court grant the above relief and make injunctive (including restraining) and other orders as follows:

	Petitioner	Respondent	Joint	Other
a. Legal custody of children to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Physical custody of children to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Child visitation be granted to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> supervised as to <i>(specify)</i> :				
d. Spousal support payable by (wage assignment will be issued)	<input type="checkbox"/>	<input type="checkbox"/>		
e. Attorney fees and costs payable by	<input type="checkbox"/>	<input type="checkbox"/>		
f. <input type="checkbox"/> Terminate the court's jurisdiction (ability) to award spousal support to petitioner.				
g. <input type="checkbox"/> Property rights be determined.				
h. <input type="checkbox"/> Wife's former name be restored <i>(specify)</i> :				
i. <input type="checkbox"/> Other <i>(specify)</i> :				

10. If there are minor children of this marriage, the court will make orders for the support of the children without further notice to either party. A wage assignment order will be issued.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (SIGNATURE OF RESPONDENT)

.....
 (TYPE OR PRINT NAME OF ATTORNEY)

 (SIGNATURE OF ATTORNEY FOR RESPONDENT)

The original response must be filed in the court with proof of service of a copy on petitioner.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (<i>Name</i>):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
ORDER TO SHOW CAUSE FOR <input type="checkbox"/> MODIFICATION <input type="checkbox"/> Child Custody <input type="checkbox"/> Visitation <input type="checkbox"/> Injunctive Order <input type="checkbox"/> Child Support <input type="checkbox"/> Spousal Support <input type="checkbox"/> Other (<i>specify</i>): <input type="checkbox"/> Attorney Fees and Costs		CASE NUMBER:

1. TO (*name*):
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS TO GIVE ANY LEGAL REASON WHY THE RELIEF SOUGHT IN THE ATTACHED APPLICATION SHOULD NOT BE GRANTED. *If child custody or visitation is an issue in this proceeding, Civil Code section 4607 requires mediation before or concurrently with the hearing below.*

a. date:	time:	in <input type="checkbox"/> dept.:	<input type="checkbox"/> rm.:
----------	-------	------------------------------------	-------------------------------

b. Address of court same as noted above other (*specify*):

3. IT IS FURTHER ORDERED that a completed Application for Order and Supporting Declaration, a **blank** Responsive Declaration, and the following documents shall be served with this order:
 - (1) Completed Income and Expense Declaration and a **blank** Income and Expense Declaration
 - (2) Completed Property Declaration and a **blank** Property Declaration
 - (3) Points and authorities
 - (4) Other (*specify*):
 - a. Time for service hearing is shortened. Service shall be on or before (*date*):
 - b. You are ordered to comply with the temporary orders attached.
 - c. Other (*specify*):

Date: _____

JUDGE OF THE SUPERIOR COURT

Notice: If you have children from this relationship, the court is required to order payment of child support based on the income of both parents. The amount of child support can be large. It normally continues until the child is 18. You should supply the court with information about your finances. Otherwise the child support order will be based on the information supplied by the other parent.

You do not have to pay any fee to file responsive declarations in response to this order to show cause (including a completed Income and Expense Declaration that will show your finances). The original of the responsive declarations must be filed with the court and a copy served on the other party at least five court days before the hearing date.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR (<i>Name</i>):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
NOTICE OF MOTION <input type="checkbox"/> MODIFICATION <input type="checkbox"/> Child Custody <input type="checkbox"/> Visitation <input type="checkbox"/> Injunctive Order <input type="checkbox"/> Child Support <input type="checkbox"/> Spousal Support <input type="checkbox"/> Other (specify): <input type="checkbox"/> Attorney Fees and Costs		CASE NUMBER:

1. TO (*name*):
2. A hearing on this motion for the relief requested in the attached application will be held as follows:
If child custody or visitation is an issue in this proceeding, Civil Code section 4607 requires mediation before or concurrently with the hearing below.

a. date:	time:	in <input type="checkbox"/> dept.:	<input type="checkbox"/> rm.:
----------	-------	------------------------------------	-------------------------------

b. Address of court same as noted above other (*specify*):

3. Supporting attachments
 - a. Completed Application for Order and Supporting Declaration and a **blank** Responsive Declaration
 - b. Completed Income and Expense Declaration and a **blank** Income and Expense Declaration
 - c. Completed Property Declaration and a **blank** Property Declaration
 - d. Points and authorities
 - e. Other (*specify*):

Date:

..... (TYPE OR PRINT NAME) ▶ (SIGNATURE)

ORDER SHORTENING TIME

4. Time for service hearing is shortened. Service shall be on or before (*date*):

Date: _____ JUDGE OF THE SUPERIOR COURT

Notice: If you have children from this relationship, the court is required to order payment of child support based on the income of both parents. The amount of child support can be large. It normally continues until the child is 18. You should supply the court with information about your finances. Otherwise the child support order will be based on the information supplied by the other parent.

You do not have to pay any fee to file responsive declarations in response to this order to show cause (including a completed Income and Expense Declaration that will show your finances). The original of the responsive declarations must be filed with the court and a copy served on the other party at least five court days before the hearing date.

(See reverse for Proof of Service by Mail)

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

5. PROOF OF SERVICE BY MAIL

- a. I am over the age of 18, **not a party to this cause**, a resident or employed in the county where the mailing took place, and my residence or business address is:
- b. I served copies of the following papers by enclosing them in a sealed envelope with postage fully prepaid, depositing them in the United States mail as follows:

(1) Papers served:

- (a) A completed Application for Order and Supporting Declaration and a blank Responsive Declaration
- (b) Completed Income and Expense Declaration and a blank Income and Expense Declaration
- (c) Completed Property Declaration and a blank Property Declaration
- (d) Points and authorities
- (e) Other (*specify*):

(2) Manner of service:

- (a) Date of deposit:
- (b) Place of deposit (city and state):
- (c) Addressed as follows:

c. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

..... (TYPE OR PRINT NAME)  _____ (SIGNATURE OF DECLARANT)

MARRIAGE OF <i>(last name, first name of parties):</i>	CASE NUMBER.
---	--------------

(THIS IS NOT AN ORDER)

Petitioner Respondent Claimant requests the following orders be made:

1. CHILD CUSTODY To be ordered pending the hearing
 - a. Child (name and age)
 - b. Request custody to (name)
 - c. Modify existing order
(1) filed on *(date)*:
(2) ordering *(specify)*:

2. CHILD VISITATION To be ordered pending the hearing
 - a. Reasonable
 - b. Other *(specify)*:
 - c. Neither party shall remove the minor child or children of the parties

(1) from the State of California. (2) other *(specify)*:
 - d. Modify existing order
(1) filed on *(date)*:
(2) ordering *(specify)*:

3. CHILD SUPPORT *(A Wage and Earnings Assignment Order will be issued.)*
 - a. Child (name and age)
 - b. Monthly amount
(if not by guideline)
\$
 - c. Modify existing order
(1) filed on *(date)*:
(2) ordering *(specify)*:

4. SPOUSAL SUPPORT *(A Wage and Earnings Assignment Order will be issued.)*
 - a. Amount requested *(monthly)*: \$
 - b. Modify existing order
(1) filed on *(date)*:
(2) ordering *(specify)*:
 - c. Terminate existing order
(1) filed on *(date)*:
(2) ordering *(specify)*:

5. ATTORNEY FEES AND COSTS a. Fees: \$ b. Costs: \$
6. RESIDENCE EXCLUSION AND RELATED ORDERS To be ordered pending the hearing
 Petitioner Respondent must move out immediately and must not return to the family dwelling at
(address):
 taking only clothing and personal effects needed until the hearing.
7. STAY-AWAY ORDERS To be ordered pending the hearing
 - a. Petitioner Respondent must stay at least yards away from applicant and the following places:
 - (1) applicant's residence *(address optional)*:
 - (2) applicant's place of work *(address optional)*:
 - (3) the children's school *(address optional)*:
 - (4) other *(specify)*:
 - b. Contacts relating to pickup and delivery of children pursuant to a court order or a stipulation of the parties arrived at during mediation shall be permitted.
8. RESTRAINT ON PERSONAL CONDUCT To be ordered pending the hearing
 Petitioner Respondent
 - a. shall not molest, attack, strike, threaten, sexually assault, or otherwise disturb the peace of the other party
 and any person under the care, custody, and control of the other party.
 - b. shall not contact or telephone the other party.
 - c. except that peaceful contacts relating to minor children of the parties shall be permitted.

(Continued on reverse)

MARRIAGE OF (last name, first name of parties):

CASE NUMBER:

9. PROPERTY RESTRAINT To be ordered pending the hearing

- a. The petitioner respondent claimant be restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life. and applicant be notified at least five business days before any proposed extraordinary expenditures and an accounting of such be made to the court.
- b. Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability held for the benefit of the parties or their minor children.
- c. Neither party shall incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.

10. PROPERTY CONTROL To be ordered pending the hearing

- a. Petitioner Respondent be given the exclusive temporary use, possession, and control of the following property we own or are buying (specify):
- b. Petitioner Respondent be ordered to make the following payments on liens and encumbrances coming due while the order is in effect:

<u>Debt</u>	<u>Amount of payment</u>	<u>Pay to</u>
-------------	--------------------------	---------------

11. LAW ENFORCEMENT AGENCIES I request that copies of orders be given to the following law enforcement agencies having jurisdiction over the locations where violence is likely to occur:

<u>Law enforcement agency</u>	<u>Address</u>
-------------------------------	----------------

12. I request that time for service of the Order to Show Cause and accompanying papers be shortened so that they may be served no less than (specify number): days before the time set for the hearing. I need to have the order shortening time because of the facts specified in the attached declaration.

13. OTHER RELIEF (specify):

14. FACTS IN SUPPORT of relief requested and change of circumstances for any modification are (specify): contained in the attached declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME)


.....
(SIGNATURE OF APPLICANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
STIPULATION TO ESTABLISH OR MODIFY CHILD SUPPORT AND ORDER		CASE NUMBER:

1. a. Mother's net monthly disposable income: \$
Father's net monthly disposable income: \$
- OR-
- b. A printout of a computer calculation of the parents' financial circumstances is attached.
2. Percentage of time each parent has primary responsibility for the children: Mother % Father %
3. a. A hardship is being experienced by the mother for: \$ per month because of (specify):
- The hardship will last until (date):
- b. A hardship is being experienced by the father for: \$ per month because of (specify):
- The hardship will last until (date):
4. The amount of child support payable by (name): referred to as the "obligor" below,
as calculated under the guideline is: \$ per month.
5. We agree to guideline support.
6. The guideline amount should be rebutted because of the following:
- a. We agree to child support in the amount of: \$ per month; the agreement is in the best interest of the children; the needs of the children will be adequately met by the agreed amount; and application of the guideline would be unjust or inappropriate in this case.
- b. Other rebutting factors (specify):
7. Obligor shall pay child support as follows beginning (date):
- a. **BASIC CHILD SUPPORT**
- | <u>Child's name</u> | <u>Monthly amount</u> | <u>Payable to (name)</u> |
|---------------------|-----------------------|--------------------------|
|---------------------|-----------------------|--------------------------|

Total: \$ payable on the first of the month other (specify):

- b. In addition obligor shall pay the following:
- | | | |
|-----------------------------|---|------------|
| <input type="checkbox"/> \$ | per month for child care costs to (name): | on (date): |
| <input type="checkbox"/> \$ | per month for health care costs not deducted from gross income to (name): | on (date): |
| <input type="checkbox"/> \$ | per month for special educational or other needs of the children to (name): | on (date): |
| <input type="checkbox"/> | other (specify): | |

c. Total monthly child support payable by obligor shall be: \$
payable on the first of the month other (specify):

(Continued on reverse)

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

8. a. Health insurance shall be maintained by *(specify name)*:
- b. A health insurance coverage assignment shall issue if available through employment or other group plan or otherwise available at reasonable cost. Both parents are ordered to cooperate in the presentation, collection, and reimbursement of any medical claims.
- c. Any health expenses not paid by insurance shall be shared: Mother % Father %
9. a. A Wage and Earnings Assignment Order shall issue.
- b. We agree that service of the wage assignment be stayed because we have made the following alternative arrangements to ensure payment *(specify)*:
10. Travel expenses for visitation shall be shared: Mother % Father %
11. We agree that we shall promptly inform each other of any change of residence or employment, including the employer's name, address, and telephone number.
12. Other *(specify)*:

13. We agree that we are fully informed of our rights under the California child support guidelines.

14. We make this agreement freely without coercion or duress.

15. The right to support

- a. has not been assigned to any county and no application for public assistance is pending.
- b. has been assigned or an application for public assistance is pending in *(county name)*:

If you checked b, a district attorney of the county named must sign below, joining in this agreement.

Date:

.....
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DISTRICT ATTORNEY)

Notice: If the amount agreed to is less than the guideline amount, no change of circumstances need be shown to obtain a change in the support order to a higher amount.

Date:
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PETITIONER)

Date:
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF RESPONDENT)

Date:
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF ATTORNEY FOR PETITIONER)

Date:
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF ATTORNEY FOR RESPONDENT)

THE COURT ORDERS

16. a. The guideline child support amount in item 4 is rebutted by the factors stated in item 6.
- b. Items 7 through 12 are ordered. All child support payments shall continue until further order of the court, or until the child marries, dies, is emancipated, reaches age 19, or reaches age 18 and is not a full-time high school student, whichever occurs first. Except as modified by this stipulation, all provisions of any previous orders made in this action shall remain in effect.

Date: _____
JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i> :	TELEPHONE NO.:	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR <i>(Name)</i> :		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
NOTICE OF REQUEST TO CHANGE <input type="checkbox"/> CHILD SUPPORT ORDER (Civil Code, § 4700.1) <input type="checkbox"/> SPOUSAL SUPPORT ORDER (Civil Code, § 4801.9)		CASE NUMBER:

To *(name)*:

1. I am requesting the court to change
 - a. **child support** from the present total of *(specify current amount)*: \$ _____ to *(specify requested total amount)*: \$ _____ per month.
 - b. **spousal support** from the present amount of *(specify current amount)*: \$ _____ to *(specify requested amount)*: \$ _____ per month.
2. *(Check a or b or both)*
 - a. At least one year has passed since the last order for support was entered on *(date)*: _____ and the amount of
 - (1) the change in child support sought does not exceed 10 percent of the previous order for each year since it was made.
 - (2) the increase in spousal support sought does not exceed the increase in the California All Consumer Price Index since it was made.
 - b. This request is based on a significant decrease in my income as shown on the attached Income and Expense Declaration.

3. IF YOU OBJECT TO THIS REQUEST, YOU MUST FILE A WRITTEN OBJECTION AND ASK FOR A COURT HEARING WITHIN 30 DAYS.

Instructions and the necessary forms (Notice of Hearing and Notice of Opposition to Request to Change Support Order, Income and Expense Declaration, and Proof of Service (Simplified Support Modification)) are attached.

- a. If you have this matter set for hearing, you must bring a copy of your most recent federal and state income tax returns (whether individual or joint) to the hearing. See the Information Sheet for instructions if you don't have a copy of your tax return.
- b. You may be represented in court by an attorney. If you hire an attorney, the court will proceed under Civil Code section 4700 (if child support) or Civil Code section 4801 (if spousal support), and
 - (1) You must check box 8b in your Notice of Hearing and Notice of Opposition to Request to Change Support Order.
 - (2) I may hire an attorney and ask the court to order you to pay my attorney.
 - (3) I may ask the court to award an amount of child or spousal support different from the amount sought in this request.

4. a. **Child support**
I understand that I must file a court-stamped copy of this notice with the district attorney of the county where this proceeding was filed within five working days after I file this notice with the court.
- b. **Spousal support (check one)**
 - (1) The district attorney has previously sought to enforce the spousal support involved. I understand that I must file a court-stamped copy of this notice with the district attorney of the county where this proceeding was filed within five working days after I file this notice with the court.
 - (2) The district attorney has not previously sought to enforce the spousal support involved.

(Continued on reverse)

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

5. I am requesting issuance of a wage assignment showing the new amount to be withheld.

6. **Child support** (*check one*)
- a. I am receiving **public assistance** for the child or children listed in the proposed order.
 - b. I am not receiving **public assistance** for the child or children listed in the proposed order.
 - c. I intend to apply for **public assistance** for the child or children listed in the proposed order.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE)

— IMPORTANT WARNING —

Unless you file a written objection and ask the court for a hearing **within 30 calendar days** from the date of service of this form on you, this request to change the support order will **automatically** become a court order.

— Information Sheet —

New and Simplified Way to Change Child or Spousal Support

This notice is urgent. If you do not understand it, you must seek help.

Esta notificación es urgente. Si usted no las entiende, debe pedir ayuda.

New laws make it easier for a person to ask the court to raise or lower the amount paid for child or spousal support. Attorneys are not allowed at the court hearing. No court hearing is held if the parties agree on the requested change.

This new procedure can be used by a party only once a year for each type of support. The increase or decrease in child support can be only 10 percent a year and the increase in spousal support cannot be higher than the increase in the California All Consumer Price Index (see *Appendix A, attached at page 3*).

But, if a party needs the change because of a sudden big drop in earnings, the procedure can be used at any time and is not limited to any set amount.

How to Ask for a Change

1. Get copies of these forms:

Notice of Request to Change Support Order (No. 1285.30)

Notice of Hearing and Notice of Opposition to Request to Change Support Order (No. 1285.32)

Order Changing Support (Uncontested) (No. 1285.34)
Income and Expense Declaration (at least two copies) (No. 1285.50)

Proof of Service (Simplified Support Modification) (at least two copies) (No. 1285.38)

Information Sheet—How to Oppose a Request to Change Child or Spousal Support (No. 1285.32(A))

The county clerk's office can tell you where to get these forms.

2. Fill out and sign the form *Notice of Request to Change Support Order*. If there is an existing *Order Assigning Salary or Wages* in effect, you should check item number 5 on the *Notice of Request to Change Support Order*. This asks the court to make the *Order Assigning Salary or Wages* consistent with any new child or spousal support order.

NOTICE: Some clerks may refuse to file the forms unless they are typewritten.

3. Fill out the top part (before item 1) and item 2 of the form *Order Changing Support (Uncontested)*.

4. If you are asking to change the amount of child or spousal support because your income has dropped, you must also fill out and sign one copy of the form *Income and Expense Declaration*.

5. Have at least three copies made of these forms:

Notice of Request to Change Support Order

Order Changing Support (Uncontested)

Income and Expense Declaration (only if you filled it out)

File at the county clerk's office the originals of all forms you've filled out. Take all copies of the forms with you when you go to the clerk's office.

7. If you have not filed any other paper in the case or have not had any paper filed for you by an attorney, you must pay a *first appearance* fee to the county clerk when you file the papers. The amount of that fee varies from county to county and can be a substantial amount. If you are unable to pay the fee, ask the clerk for a form and information sheet on *Waiver of Fees*.

8. You must have the following papers *served* on the other party:

One copy of each form you filed with the clerk

One blank copy of the form *Notice of Hearing and Notice of Opposition to Request to Change Support Order*

One blank copy of the form *Income and Expense Declaration*

One blank copy of the form *Proof of Service (Simplified Support Modification)*

Information Sheet—How to Oppose a Request to Change Child or Spousal Support

You cannot serve the papers yourself. You must have someone else, who is at least 18 years of age:

- a. Deliver the papers in person to the other party.

OR

- b. Mail the papers by certified mail return receipt requested, postage prepaid, addressed to the last known address of the other party.

9. Have the person who serves the forms fill out and sign the *Proof of Service*.

10. File a copy of the *Notice of Request to Change Support Order* at the office of the district attorney of your county, if you are seeking a change in the amount of child support or if the district attorney has previously attempted to enforce the spousal support order. This must be done within five working days of the day you file the papers with the clerk. The filing may be done by anyone 18 years old or over, including you. Filing can be done either by personally delivering the papers to the office of the district attorney or by mailing the notice by first class mail. Have the person filing the notice complete and sign the *Certificate of Filing with District Attorney*.

11. File the original *Proof of Service* and, if required, *Certificate of Filing with District Attorney* at the county clerk's office.

Using an Attorney

If you use the new method described in this information sheet, neither you nor the other party may be represented in court by an attorney. You may, however, seek advice from an attorney. Seeking advice does not disqualify you from using this method.

(Continued)

Page 1 of 3

-Information Sheet (cont) -

If you choose to be represented in court by an attorney, all further proceedings based on the *Notice of Request to Change Support Order* will be under the other method of changing child or spousal support and not this new method. Your attorney must notify the other party that you are represented by an attorney.

Hearing

If the motion is opposed by the other party, a court hearing will be held.

COPY OF FEDERAL AND STATE TAX RETURNS

At the hearing you and the other party must give the judge a copy of your federal and state income tax returns for the last year, even if they were joint returns with a new spouse. You may examine each other's tax returns and ask questions about them.

If you cannot find a copy of your federal tax return, you must ask for a copy from the Internal Revenue Service. Contact your local office of the Internal Revenue Service and ask them for a copy of Form 4506 (Request for Copy of Tax Form). Fill out that form and send it with the necessary fee to the address specified on the form.

If you cannot find a copy of your state tax return, you must ask for a copy from the State Franchise Tax Board. Write to:

Franchise Tax Board
Data Storage
c/o R.I.D. Unit
Sacramento, CA 95867

Tell them your name, the year of the return, your social security number, and the address to which they should mail the return. Sign the letter in the same way as you signed your state tax return. Make a copy of the letter before you mail the original.

If you do not receive either the federal or state return by the date of the hearing you must give the judge a written statement that you have requested a copy of the return. The statement can be in the following language:

1. I cannot find a copy of my [*specify federal or state or both*] income tax return for [*year*].
2. I requested a copy of the return on [*date*] from the [*Franchise Tax Board, Internal Revenue Service, or both*].
3. The copy of the return has not yet been received.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: _____

Signature _____

INCOME AND EXPENSE DECLARATION (if not already done)

If you did not complete an *Income and Expense Declaration* when you filed your form *Notice of Request to Change Support*

Order, you must do the following:

1. Complete the *Income and Expense Declaration*.
2. Mail a copy of the *Income and Expense Declaration* to the other party at least five days before the hearing.
3. Prepare a declaration that you have mailed a copy to the other party. The declaration can be in the following language:

I sent a copy of the attached *Income and Expense Declaration* to the other party by first class mail, postage prepaid. The envelope was addressed to the other party as follows:

Name: _____

Address: _____

Date of mailing: _____

Place of mailing: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: _____

Signature _____

4. File the original signed copy of the *Income and Expense Declaration* and the declaration of mailing with the court at least *five days* before the hearing.

Court Order

If no opposition to your request is filed within 30 days after you have the other party served, the request will be decided by the judge without a hearing. If you have not received a copy of the signed order from the clerk after about 45 days from the date you filed your proof of service, contact the clerk's office. If you have requested a change in the amount of an existing *Order Assigning Salary or Wages*, you should also submit a modified *Order Assigning Salary or Wages* to the clerk for the judge to sign. After that order is signed it must be served on the employer of the other party.

If there is a court hearing and the court orders some or all of the change you asked for, you should fill out an *Order Changing Support (Contested—No Attorneys)* and give it to the clerk for the judge to sign. If you have requested a change in the amount of an existing *Order Assigning Salary or Wages*, you should also submit a modified *Order Assigning Salary or Wages* to the clerk for the judge to sign. After that order is signed it must be served on the employer of the other party.

A party may still use a motion to the court with a hearing, either by himself or herself or with an attorney. There is then no limit on the change in child or spousal support.

(Continued)

Page 2 of 3

Appendix A
INFORMATION SHEET
(Simplified Modification of Child or Spousal Support)

How to Calculate Increase in Spousal Support

To determine the potential increase in spousal support based on the increase in the yearly average of the California All Consumer Price Index:

1. Find the current value of the index by checking the amount opposite the current year (or the last year if the current year is not on this chart).
2. Multiple the current amount of spousal support by the current value of the index.
3. Find the value of the index for the year the spousal support order was last changed.
4. Take the value obtained in step 2 and divide it by the value obtained in step 3. This is the potential new spousal support amount.

Example

Assume spousal support of \$300 per month ordered in 1982.

1. Last year index value = 135
2. $\$300 \times 135 = 40500$
3. Index value for 1982 = 97.3
4. $40500 \div 97.3 = 416.24$

The new support order could be as high as \$416.24.

California All Consumer Price Index

Year	Value	Year	Value
1955	25.7	1973	43.0
1956	26.2	1974	47.4
1957	27.1	1975	52.3
1958	28.1	1976	55.6
1959	28.6	1977	59.5
1960	29.2	1978	64.4
1961	29.5	1979	71.3
1962	29.9	1980	82.4
1963	30.4	1981	91.4
1964	31.0	1982	97.3
1965	31.5	1983	98.9
1966	32.2	1984	103.8
1967	33.0	1985	108.6
1968	34.4	1986	112.0
1969	36.1	1987	116.6
1970	37.9	1988	121.9
1971	39.3	1989	128.0
1972	40.6	1990	135.0

NOTE: The figures used are based on the reweighted index
with 1982-1984 = 100.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i>	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR <i>(Name)</i>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:		
NOTICE OF HEARING AND NOTICE OF OPPOSITION TO REQUEST TO CHANGE SUPPORT ORDER (Civil Code, § 4700.1 or § 4801.9)		CASE NUMBER:

To (name):

1. I object to the request for an order changing child support order spousal support order existing wage assignment.

2. I wish to raise issues other than support: custody visitation other *(specify)*:

3. a. **Child support:** I agree that the amount of child support I receive be decreased to \$ _____
 I pay be increased to \$ _____ per month.

<u>Child's name</u>	<u>Age</u>	<u>Amount</u>	<u>Date payment due</u>
---------------------	------------	---------------	-------------------------

- b. **Spousal support:** I agree that the amount of spousal support I receive be decreased to \$ _____
 I pay be increased to \$ _____ per month.

4. a. **Child support:** I am requesting the court to change child support from the present total of *(specify current amount)*:
\$ _____ to *(specify requested total amount)*: \$ _____ per month.
- b. **Spousal support:** I am requesting the court to change spousal support from the present amount of *(specify current amount)*:
\$ _____ to *(specify requested amount)*: \$ _____ per month.
- c. At least one year has passed since the last order for support was entered on *(date)*:
and the amount of
 - (1) the change in child support sought does not exceed 10 percent of the previous order for each year since it was made.
 - (2) the increase in spousal support sought does not exceed the increase in the California All Consumer Price Index since it was made.
- d. This request is based on a significant decrease in my income as shown on the attached Income and Expense Declaration.

5. A hearing on the motion will be held as follows:

a. Date:	Time:	Dept.:	Room:
----------	-------	--------	-------

b. The address of the court is shown above is:

(Continued on reverse)

PETITIONER/PLAINTIFF:	CASE NUMBER
RESPONDENT/DEFENDANT:	

6. You must complete an Income and Expense Declaration, file it with the court, and mail a copy to me at least seven days before the hearing date specified in item 5. My completed Income and Expense Declaration is attached.
7. You must take to the hearing a copy of your most recent federal and state income tax returns (whether individual or joint).
8. a. I am representing myself.
b. I am represented by my attorney (*name*): _____, who has signed this form.
I understand that the court will proceed under Civil Code section 4700 for child support and section 4801 for spousal support.
c. I am requesting the court to order you to pay my attorney fees.



(SIGNATURE OF ATTORNEY FOR RESPONDING PARTY)

9. **Child support** (*check one*)

- a. I am receiving **public assistance** for the child or children listed in the proposed order.
b. I am not receiving **public assistance** for the child or children listed in the proposed order.
c. I intend to apply for **public assistance** for the child or children listed in the proposed order.

10. I am requesting issuance of a wage assignment showing the new amount to be withheld.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME)



(SIGNATURE)

— Information Sheet —

How to Oppose a Request to Change Child or Spousal Support

This notice is urgent. If you do not understand it, you must seek help.

Esta notificación es urgente. Si usted no las entiende, debe pedir ayuda.

[WARNING: If you wish to oppose the Request to Change Support Order you must take action within 30 calendar days from the date the request is served on you. This information sheet tells you what you have to do.]

A new law makes it easier for a party to ask the court to raise or lower the amount paid for child or spousal support. Under this new law, attorneys are not allowed at the court hearing. No court hearing is held if the parties agree on the requested change.

This new procedure can be used by a party only once a year. The increase or decrease in child support can be only ten percent a year and the increase in spousal support cannot be higher than the increase in the California All Consumer Price Index (see *Appendix A, attached at page 3*).

But, if the party needs the change because of a sudden big drop in earnings, the procedure can be used at any time and is not limited to any set amount.

What to Do

If you receive a *Notice of Request to Change Support Order* from the other party you have two choices:

1. If you agree with the change sought, you need do nothing. In about one month the court will order a change in the amount of support as shown in the proposed order attached to the request. A copy of the order as signed by the judge will be sent to you.
2. If you do not agree with the proposed change you must take action within 30 days of the date the *Notice of Request to Change Support Order* was served on you. Here is what you must do:

- a. Contact the county clerk's office by telephone or in person and ask for a date for a hearing on the request. The hearing date must be at least 20 days after you serve the *Notice of Hearing and Notice of Opposition to Request to Change Support Order* on the other party. (See instruction e.) When you ask for a hearing date be sure to allow for enough time to complete the service.

(Note that while you may obtain a hearing date by telephone, the filing of the papers, discussed in paragraph g, must be done by someone in person.)

- b. Complete and sign the form *Notice of Hearing and Notice of Opposition to Request to Change Support Order*. This form should have been given to you when you received the *Notice of Request to Change Support Order*. If you did not get this form, contact the county clerk's office for information about where to get a copy. You have several choices to make when filling out this form:

- (1) You may object to either the *Request to Change Support Order* or the request to change the *Order Assigning Salary or Wages* or both by checking the proper boxes in item 1 of the form.

- (2) You may agree to some but not all of the requests of the other party by filling out item 3.

- (3) You may ask the court to either decrease the amount of support you currently pay, or increase the amount of support you currently receive, by filling out item 4. (For more information please see *Information Sheet—New and Simplified Way to Change Child or Spousal Support*, which is available from the clerk's office.)

If you are seeking or agreeing to any change in the amount of the existing child or spousal support and there is an existing *Order Assigning Salary or Wages* for support in effect, be sure to check item 10 on the *Notice of Hearing and Notice of Opposition to Request to Change Support Order* so that the new support order will be the same as the new *Order Assigning Salary or Wages*.

NOTICE: Some clerks may refuse to file the forms unless they are typewritten.

- c. Complete and sign the *Income and Expense Declaration*. This form should have been given to you when you were given the *Notice of Request to Change Support Order*. If you did not get this form, contact the county clerk's office for information about where to get a copy.

- d. Make two copies of each form.

- e. You cannot serve the papers yourself. You must have someone else, who is at least 18 years old, either:

- (1) Deliver the papers in person to the other party.

OR

- (2) Mail the papers by certified mail return receipt requested, postage prepaid, addressed to the last known address of the other party.

- f. Have the person who serves the forms fill out and sign the *Proof of Service (Simplified Support Modification)*.

- g. File the original of the two forms completed by you with the county clerk's office. You must pay a *hearing fee* to the clerk. The amount of that fee varies from county to county and can be a substantial amount. If you are unable to pay the fee, ask the clerk for a form and information sheet on *Waiver of Fees*.

- h. If you have not previously filed any paper in the action and have not had any paper filed in the action for you by

(Continued)

Page 1 of 3

— Information Sheet (cont'd) —

an attorney, you must also pay a *first appearance fee* to the clerk when you file the papers. The amount of that fee varies from county to county and can be a substantial amount. If you are unable to pay the fee, ask the clerk for a form and information sheet on *Waiver of Fees*.

NOTE: The existing support order remains in effect and payments must be made according to its terms until any new order is made.

Using an Attorney

If the new method described in this information sheet is used, neither you nor the other party may be represented in court by an attorney. You may, however, seek advice from an attorney. Seeking advice does not disqualify you from using this method.

If you choose to be represented in court by an attorney, all further proceedings will be under the other method of changing support and not this new method. Your attorney must notify the other party that you are represented by an attorney.

If you are represented by an attorney, you must check box 8b of the *Notice of Hearing and Notice of Opposition to Request to Change Support Order* and have your attorney sign where indicated.

Hearing — Copy of Federal and State Tax Returns

At the hearing you and the other party must give the judge a copy of your federal and state income tax return for the last even if they were joint returns with a new spouse. You may give each other's tax returns and ask questions about them.

If you cannot find a copy of your federal tax return, you must ask for a copy from the Internal Revenue Service. Contact your local office of the Internal Revenue Service and ask them for a copy of Form 4506 (Request for Copy of Tax Form). Fill out that form and send it with the necessary fee to the address specified on the form.

If you cannot find a copy of your state tax return, you must ask for a copy from the State Franchise Tax Board. Write to:

Franchise Tax Board
Data Storage
c/o R.I.D. Unit
Sacramento, CA 95867

Tell them your name, the year of the return, your social security number, and the address to which they should mail the return. Sign the letter in the same way as you signed your tax return. Make a copy of the letter before you mail the original.

If you do not receive either the federal or state return by the date of the hearing you must give the judge a written statement that you have requested a copy of the return. The statement can be in the following language:

1. I cannot find a copy of my [specify federal or state or both] income tax return for [year].
2. I requested a copy of the return on [date] from the [Franchise Tax Board, Internal Revenue Service, or both].
3. The copy of the return has not yet been received.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: _____

Signature _____

Court Order

If the court does not give the other party any of the change in support that he or she asked for, you should fill out an *Order Changing Support (Contested—No Attorneys)* and give it to the clerk for the judge to sign. If the amount of support was changed by the order, and either you or the other party requested a change in the amount of an existing *Order Assigning Salary or Wages*, you should also submit a modified *Order Assigning Salary or Wages* to the clerk for the judge to sign. After that order is signed it must be served on the employer of the paying party.

A party may still use a motion to the court with a hearing and may have an attorney present if desired. There is then no limit on the change in child support.

(Continued)

Page 2 of 3

Appendix A
INFORMATION SHEET
(Simplified Modification of Child or Spousal Support)

How to Calculate Increase in Spousal Support

To determine the potential increase in spousal support based on the increase in the yearly average of the California All Consumer Price Index:

1. Find the current value of the index by checking the amount opposite the current year (or the last year if the current year is not on this chart).
2. Multiple the current amount of spousal support by the current value of the index.
3. Find the value of the index for the year the spousal support order was last changed.
4. Take the value obtained in step 2 and divide it by the value obtained in step 3. This is the potential new spousal support amount.

Example

Assume spousal support of \$300 per month ordered in 1982.

1. Last year index value = 135
2. $\$300 \times 135 = 40500$
3. Index value for 1982 = 97.3
4. $40500 \div 97.3 = 416.24$

The new support order could be as high as \$416.24.

California All Consumer Price Index

Year	Value	Year	Value
1955	25.7	1973	43.0
1956	26.2	1974	47.4
1957	27.1	1975	52.3
1958	28.1	1976	55.6
1959	28.6	1977	59.5
1960	29.2	1978	64.4
1961	29.5	1979	71.3
1962	29.9	1980	82.4
1963	30.4	1981	91.4
1964	31.0	1982	97.3
1965	31.5	1983	98.9
1966	32.2	1984	103.8
1967	33.0	1985	108.6
1968	34.4	1986	112.0
1969	36.1	1987	116.6
1970	37.9	1988	121.9
1971	39.3	1989	128.0
1972	40.6	1990	135.0

NOTE: The figures used are based on the reweighted index with 1982-1984 = 100.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR (<i>Name</i>):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
ORDER CHANGING SUPPORT (UNCONTESTED) (Civil Code, § 4700.1 or § 4801.9)		CASE NUMBER:

1. THE COURT FINDS

- a. No opposition was filed to the notice of request to change child spousal support order.
- b. **Child support:** No order changing child support was entered within the past 12 months and the amount of change in child support ordered does not exceed 10 percent of the previous order for each year since then.
- c. **Spousal support:** No order changing spousal support was entered within the past 12 months and the amount of change in spousal support ordered does not exceed the change in the California AJI Consumer Price Index since then.
- d. There has been a significant decrease in the income of the moving party.

2. IT IS ORDERED

- a. The child support order remain the same.
 - b. The spousal support order remain the same.
 - c. The amount of support of the minor children be changed as shown below beginning (*date*): _____
- | <u>Child's name</u> | <u>Age</u> | <u>Amount</u> | <u>Date payment due</u> | <u>Payable by (<i>name</i>)</u> |
|---------------------|------------|---------------|-------------------------|---------------------------------|
| | | | | |

d. The amount of spousal support be changed, beginning (*date*): _____, to (*amount*): \$ _____ per month, payable (*specify*):

- e. A wage assignment be issued on a separate order showing the new amount of support ordered.
- f. Child support payments shall continue until further order of the court, or until the child marries, dies, is emancipated, reaches 19, or reaches 18 and is not a full-time high school student residing with a parent, whichever occurs first.

- 3. a. The **child support** is payable to (*name and address*):

- b. The **spousal support** is payable to (*name and address*):

Date: _____

JUDGE OF THE SUPERIOR COURT

Notice: Each party must promptly notify the other party of any change in his or her address during the minority of the children or during the existence of a spousal support order.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i> :	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR <i>(Name)</i> :		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
ORDER CHANGING SUPPORT (CONTESTED – NO ATTORNEYS) (Civil Code, § 4700.1 or § 4801.9)		CASE NUMBER:

1. a. Date of hearing: _____ Dept.: _____ Room: _____ Judge: _____
b. Date of stipulation: _____
c. Petitioner or plaintiff present in court
d. Respondent or defendant present in court
2. THE COURT FINDS
- a. No opposition was made to the request to change child spousal support order.
b. **Child support:** No order changing child support was entered within the past 12 months and the amount of change in child support ordered does not exceed 10 percent of the previous order for each year since then.
c. **Spousal support:** No order changing spousal support was entered within the past 12 months and the amount of change in spousal support ordered does not exceed the change in the California All Consumer Price Index since then.
d. There has been a significant decrease in the income of the moving party.
e. Other: _____
3. IT IS ORDERED
- a. The child support order remain the same.
b. The spousal support order remain the same.
c. The amount of support of the minor children be changed as shown below beginning *(date)*: _____
- | <u>Child's name</u> | <u>Age</u> | <u>Amount</u> | <u>Date payment due</u> | <u>Payable by (name)</u> |
|---------------------|------------|---------------|-------------------------|--------------------------|
| | | | | |
- d. The amount of spousal support be changed, beginning *(date)*: _____, to *(amount)*: \$ _____ per month, payable *(specify)*: _____
e. A wage assignment be issued on a separate order showing the new amount of support ordered.
f. Child support payments shall continue until further order of the court, or until the child marries, dies, is emancipated, reaches 19, or reaches 18 and is not a full-time high school student residing with a parent, whichever occurs first.
4. a. The child support is payable to *(name and address)*: _____
b. The spousal support is payable to *(name and address)*: _____
5. Other orders: _____

Date: _____

JUDGE OF THE SUPERIOR COURT

Notice: Each party must promptly notify the other party of any change in his or her address during the minority of the children or during the existence of a spousal support order.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i> :	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR <i>(Name)</i> :		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
PROOF OF SERVICE (Simplified Support Modification)		CASE NUMBER:
<input type="checkbox"/> Personal Service <input type="checkbox"/> Certified Mail		

Service of the notice on the other party may be made by one of the following ways:

(1) Personally delivering these papers to the other party.

OR

(2) Mailing the papers by certified mail return receipt requested, postage prepaid, mailed to the last known address of the other party.

Anyone at least 18 years of age **EXCEPT ANY PARTY** may personally serve or mail the notice. Be sure whoever served the notice fills out and signs this proof of service. File this proof of service with the court as soon as the notice is served.

1. At the time of service I was at least 18 years of age and **not a party to this legal proceeding.**
2. I served copies of the following papers in the manner shown:
 - a. Papers served
 - (1) *(On behalf of moving party)*
 - (a) Notice of Request to Change Support Order, proposed Order Changing Support (Uncontested), Information Sheet – How to Oppose a Request to Change Child or Spousal Support, blank Notice of Hearing and Notice of Opposition to Request to Change Support Order, blank Income and Expense Declaration, blank Proof of Service
 - (b) Completed Income and Expense Declaration
 - (2) *(On behalf of opposing party)* Notice of Hearing and Notice of Opposition to Request to Change Support Order
 - b. Manner of service *(check either (1) or (2) below)*
 - (1) **Personal service.** I personally delivered these papers to the other party as follows:
 - (a) Name of other party:
 - (b) Address where served:
 - (c) Date served:
 - (d) Time served:
 - (2) **Certified mail return receipt requested.** I deposited these papers in the United States mail, in a sealed envelope with postage fully prepaid. I used certified mail and requested a return receipt. The envelope was addressed and mailed to the other party as follows:
 - (a) Name of other party:
 - (b) Address:
 - (c) Date of mailing:
 - (d) Place of mailing *(city and state)*:
 - (e) I am a resident of or employed in the county where the notice was mailed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE NOTICE) ▶ _____
 (SIGNATURE OF PERSON WHO SERVED THE NOTICE)

3. *Residence or business address of person who served the notice:*

4. *Phone number of person who served the notice:*

PARTY WITHOUT ATTORNEY (<i>My Name and Address</i>):	MY TELEPHONE NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:		
CERTIFICATE OF FILING WITH DISTRICT ATTORNEY		

The Notice of Request to Change Support Order must be filed with the district attorney of the county where the action is filed within five working days of filing the notice of request with the court if you are seeking a change in the amount of child support or if the district attorney has previously attempted to enforce the spousal support order. Filing may be done in one of the following ways:

(1) Personally delivering the notice to an employee of the district attorney.

OR

(2) Mailing the papers by first class mail, postage prepaid, to an office of the district attorney.

Anyone at least 18 years of age, including the person making the Request to Change Support Order, may file the notice with the district attorney. This certificate should be completed by the person who filed the notice with the district attorney and filed with the court as soon as the notice is filed with the district attorney.

1. At the time of service I was at least 18 years of age.
2. I filed the Notice of Request to Change Support Order with the district attorney as follows (*check either a or b below*):
 - a. **Personal delivery.** I personally delivered the notice to an employee of the district attorney at an office of the district attorney as follows:
 - (1) Name of employee:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:
 - b. **First class mail.** I deposited these papers in the United States mail, in a sealed envelope with postage fully prepaid. I used first class mail. The envelope was addressed and mailed as follows:
 - (1) Name:
 - (2) Address:
 - (3) Date of mailing:
 - (4) Place of mailing (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
 (TYPE OR PRINT NAME OF PERSON WHO FILED THE NOTICE) ▶ _____
 (SIGNATURE OF PERSON WHO FILED THE NOTICE)

3. *Address of person who filed the notice:*
4. *Phone number of person who filed the notice:*

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (<i>Name</i>):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
RESPONSIVE DECLARATION TO ORDER TO SHOW CAUSE OR NOTICE OF MOTION		CASE NUMBER:
HEARING DATE:	TIME:	DEPARTMENT OR ROOM:

1. CHILD CUSTODY
- a. I consent to the order requested.
- b. I do not consent to the order requested but I consent to the following order:
-
2. CHILD VISITATION
- a. I consent to the order requested.
- b. I do not consent to the order requested but I consent to the following order:
-
3. CHILD SUPPORT
- a. I consent to the order requested.
- c. I do not consent to the order requested, but I consent to the following order:
(1) Guideline (2) Other (*specify*):
- b. I consent to guideline support.
-
4. SPOUSAL SUPPORT
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:
-
5. ATTORNEY FEES AND COSTS
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:
-
6. RESIDENCE EXCLUSION
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:
-
7. STAY-AWAY ORDERS
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:

(Continued on reverse)

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

8. RESTRAINT ON PERSONAL CONDUCT
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:
-
9. PROPERTY RESTRAINT
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:
-
10. PROPERTY CONTROL
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:
-
11. OTHER RELIEF, AS REQUESTED IN ITEM 13 OF THE APPLICATION
- a. I consent to the order requested.
- c. I do not consent to the order requested.
- b. I consent to the following order:
-
12. SUPPORTING INFORMATION
- contained in the attached declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
 (TYPE OR PRINT NAME)

▶

(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (<i>Name</i>):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
INCOME AND EXPENSE DECLARATION		CASE NUMBER:

Step 1
Attachments to this summary

I have completed Income Expense Child Support Information forms.
(If child support is not an issue, do not complete the Child Support Information Form. If your only income is AFDC, do not complete the Income Information Form.)

Step 2
Answer all questions that apply to you

1. Are you receiving or have you applied for or do you intend to apply for welfare or AFDC?
 Receiving Applied for Intend to apply for No
2. What is your date of birth (*month/day/year*)?
3. What is your occupation?
4. Highest year of education completed:
5. Are you presently employed? Yes No
 - a. If yes: (1) Where do you work? (*name and address*):
 - (2) When did you start work there (*month/year*)?
 - b. If no: (1) When did you last work (*month/year*)?
 - (2) What were your gross monthly earnings?
6. What is your social security number:
7. What is the total number of minor children you are legally obligated to support?

Step 3
Monthly income information

8. Net monthly disposable income (*from line 16a of Income Information*): \$

9. Current net monthly disposable income (*if different from line 8, explain below or on Attachment 9*): \$

Step 4
Expense information

10. Total monthly expenses from line 2e of Expense Information: \$ _____

11. Total monthly expenses from line 3m of Expense Information (*if completed*): \$ _____

12. Amount of these expenses paid by others: \$ _____

Step 5
Other party's income

13. My estimate of the other party's gross monthly income is: \$ _____

Step 6
Date and sign this form

I declare under penalty of perjury under the laws of the State of California that the foregoing and the attached information forms are true and correct.

Date:

.....

(TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

Petitioner Respondent

Page one of _____

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: INCOME INFORMATION OF (name):	CASE NUMBER:
---	--------------

1. Total gross salary or wages, including commissions, bonuses, and overtime paid during the last 12 months: 1. \$ _____
2. All other money received during the last 12 months **except welfare, AFDC, SSI, spousal support from this marriage, or any child support.** *Specify sources below:*

_____	2a. \$ _____
<i>Include pensions, social security, disability, unemployment, military basic allowance for quarters (BAQ), spousal support from a different marriage, dividends, interest or royalty, trust income, and annuities.</i>	_____ 2b. \$ _____
<i>Include income from a business, rental properties, and reimbursement of job-related expenses.</i>	_____ 2c. \$ _____
▶ <i>Prepare and attach a schedule showing gross receipts less cash expenses for each business or rental property.</i>	_____ 2d. \$ _____
3. Add lines 1 through 2d 3. \$ _____

Divide line 3 by 12 and place result on line 4a.

	Average last 12 months:	Last month:
4. Gross income	4a. \$ _____	4b. \$ _____
5. State income tax	5a. \$ _____	5b. \$ _____
6. Federal income tax	6a. \$ _____	6b. \$ _____
7. Social Security and Hospital Tax ("FICA" and "MEDI") or self-employment tax, or the amount used to secure retirement or disability benefits	7a. \$ _____	7b. \$ _____
8. Health insurance for you and any children you are required to support ...	8a. \$ _____	8b. \$ _____
9. State disability insurance	9a. \$ _____	9b. \$ _____
10. Mandatory union dues	10a. \$ _____	10b. \$ _____
11. Mandatory retirement and pension fund contributions	11a. \$ _____	11b. \$ _____
<i>Do not include any deduction claimed in item 7.</i>		
12. Court-ordered child support, court-ordered spousal support, and voluntarily paid child support in an amount not more than the guideline amount, actually being paid for a relationship other than that involved in this proceeding:	12a. \$ _____	12b. \$ _____
13. Necessary job-related expenses (<i>attach explanation</i>)	13a. \$ _____	13b. \$ _____
14. Hardship deduction (Line 4d on Child Support Information Form)	14a. \$ _____	14b. \$ _____
15. Add lines 5 through 14. Total monthly deductions:	15a. \$ _____	15b. \$ _____
16. Subtract line 15 from line 4. Net monthly disposable income:	16a. \$ _____	16b. \$ _____

17. AFDC, welfare, spousal support from this marriage, and child support from other relationships received each month: 17. \$ _____
18. Cash and checking accounts: 18. \$ _____
19. Savings, credit union, certificates of deposit, and money market accounts: 19. \$ _____
20. Stocks, bonds, and other liquid assets: 20. \$ _____
21. All other property, real or personal (*specify below*): 21. \$ _____

▶ **Attach a copy of your three most recent pay stubs.** Page ____ of ____

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: EXPENSE INFORMATION OF (name):	CASE NUMBER:
--	--------------

1. a. List all persons living in your home whose expenses are included below and their income: <input type="checkbox"/> Continued on Attachment 1a.	<u>name</u> 1. 2. 3. 4.	<u>age</u>	<u>relationship</u>	<u>gross monthly income</u>
b. List all other persons living in your home and their income: <input type="checkbox"/> Continued on Attachment 1b.	1. 2. 3.			

MONTHLY EXPENSES

- 2. Required to be listed in all cases**
- | | |
|--|---|
| a. Residence payments
(1) <input type="checkbox"/> Rent or <input type="checkbox"/> mortgage \$ _____

(2) Taxes \$ _____

(3) Insurance \$ _____

(4) Maintenance \$ _____ | b. Unreimbursed medical and dental expenses \$ _____

c. Child care \$ _____

d. Children's education \$ _____

e. TOTAL ITEM 2 EXPENSES \$ _____ |
|--|---|
- 3. Required for spousal support or special needs**
- | | |
|---|---|
| a. Food at home and household supplies \$ _____

b. Food eating out \$ _____

c. Utilities \$ _____

d. Telephone \$ _____

e. Laundry and cleaning \$ _____

f. Clothing \$ _____
g. Insurance (life, accident, etc. Do not include auto, home, or health insurance) \$ _____ | h. Education (specify): \$ _____

i. Entertainment \$ _____
j. Transportation and auto expenses (insurance, gas, oil, repair) \$ _____
k. Installment payments (insert total and itemize below in item 4) \$ _____

l. Other (specify): \$ _____

m. TOTAL ITEM 3 EXPENSES \$ _____ |
|---|---|
- 4. ITEMIZATION OF INSTALLMENT PAYMENTS OR OTHER DEBTS** Continued on Attachment 4.

CREDITOR'S NAME	PAYMENT FOR	MONTHLY PAYMENT	BALANCE	DATE LAST PAYMENT MADE

- 5. ATTORNEY FEES**
- a. I have paid my attorney for fees and costs: \$ _____ The source of this money was:
- b. I have incurred to date the following fees and costs:
- c. My arrangement for attorney fees and costs is:
- d. Attorney fees have been requested.
- I confirm this information and fee arrangement.*

 (SIGNATURE OF ATTORNEY)

 (TYPE OR PRINT NAME OF ATTORNEY)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: CHILD SUPPORT INFORMATION OF (name):	CASE NUMBER:
--	--------------

THIS PAGE MUST BE COMPLETED IF CHILD SUPPORT IS AN ISSUE.

1. Health insurance for my children is is not available through my employer.
 - a. Monthly cost paid by me or on my behalf for the children *only* is: \$ _____
Do not include the amount paid or payable by your employer.
 - b. Name of carrier:
 - c. Address of carrier:
 - d. Policy or group policy number:

2. Approximate percentage of time each parent has primary physical responsibility for the children:

Mother	%	Father	%
--------	---	--------	---

3. The court is requested to order the following as additional child support:
 - a. Child care costs related to employment or to reasonably necessary education or training for employment skills
 - (1) Monthly amount presently paid by mother: \$ _____
 - (2) Monthly amount presently paid by father: \$ _____
 - b. Uninsured health care costs for the children (*for each cost state the purpose for which the cost was incurred and the estimated monthly, yearly, or lump sum amount paid by each parent*):

 - c. Educational or other special needs of the children (*for each cost state the purpose for which the cost was incurred and the estimated monthly, yearly, or lump sum amount paid by each parent*):

 - d. Travel expense for visitation
 - (1) Monthly amount presently paid by mother: \$ _____
 - (2) Monthly amount presently paid by father: \$ _____

4. The court is requested to allow the deductions identified below, which are justifiable expenses that have caused an extreme financial hardship.

	Amount paid per month	How many months will you need to make these payments
a. <input type="checkbox"/> Extraordinary health care expenses (<i>specify and attach any supporting documents</i>):	\$ _____	_____
b. <input type="checkbox"/> Uninsured catastrophic losses (<i>specify and attach supporting documents</i>):	\$ _____	_____
c. <input type="checkbox"/> Minimum basic living expenses of dependent minor children from other marriages or relationships who live with you (<i>specify names and ages of these children</i>):	\$ _____	_____
d. Total hardship deductions requested (<i>add lines a-c</i>):		\$ _____

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR (<i>Name</i>):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
MARRIAGE OF		
PETITIONER: RESPONDENT:		
APPLICATION AND ORDER FOR HEALTH INSURANCE COVERAGE		CASE NUMBER:

APPLICATION

1. On (*date*): _____, this court ordered obligor (*name*): _____ to provide health insurance coverage for the children named in the order below.
2. a. On (*date*): _____, which is at least 15 days before filing this application, I gave written notice to obligor of my intent to seek this order
 by certified mail by personal service.
- OR**
- b. Obligor has waived the requirement of written notice.
3. I ask the court to order the employer or other person providing health insurance coverage to enroll or maintain the children in any health insurance coverage available to the obligor.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME)



(SIGNATURE OF APPLICANT)

ORDER FOR HEALTH INSURANCE COVERAGE (ASSIGNMENT)

To employer or other person providing health insurance coverage for obligor (*name*):

Social Security Number (*if known*):

YOU ARE ORDERED TO

1. Begin or maintain health insurance coverage of:

<u>Name of child</u>	<u>Date of birth</u>	<u>Social Security No.</u>
----------------------	----------------------	----------------------------

You may deduct any premium or costs from the wages or earnings of obligor.

2. If the obligor works for you or if you provide health insurance coverage to obligor, give him or her a copy of this order within 10 days after you receive it.
3. If no health insurance coverage is available to the obligor, complete and sign the Declaration of No Health Insurance Coverage on the reverse and mail this form within 20 days to the attorney or person requesting the assignment.

Date:

(JUDGE OF THE SUPERIOR COURT)

(Continued on reverse)

MARRIAGE OF (last name, first name of parties):

CASE NUMBER:

DECLARATION OF NO HEALTH INSURANCE COVERAGE

No health insurance coverage is available to the obligor (name):
because (state reasons):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME AND TITLE)

▶ _____
(SIGNATURE OF EMPLOYER OR PERSON PROVIDING HEALTH INSURANCE)

MAIL A COPY OF THIS DECLARATION WITHIN 20 DAYS TO THE ATTORNEY OR PERSON SEEKING THIS ENROLLMENT
(SEE INSTRUCTION NO. 5, BELOW).

INSTRUCTIONS FOR EMPLOYER OR OTHER PERSON PROVIDING HEALTH INSURANCE

These instructions apply only to an Order for Health Insurance Coverage issued by a court.

1. If the obligor works for you or is covered by health insurance provided by you, you must give him or her a copy of this order within 10 days after you receive it.
2. Unless you receive a motion to quash the assignment, you must take steps to begin or maintain coverage of the specified children within 10 days after you receive this order. The coverage should begin at the earliest possible time consistent with group plan enrollment rules.
3. The obligor's existing health coverage shall be replaced only if the children are not provided benefits under the existing coverage where they reside.
4. If the obligor is not enrolled in a plan and there is a choice of several plans, you may enroll the children in any plan that will reasonably provide benefits or coverage where they live, unless the court has ordered coverage by a specific plan.
5. If no coverage is available, complete the Declaration of No Health Insurance Coverage at the top of this page and mail the declaration by first class mail to the attorney or person seeking the assignment within 20 days of your receipt of this order. Keep a copy of the form for your records.
6. If coverage is provided, you must supply evidence of coverage to both parents and any person having custody of the child.
7. Upon request of the parents or person having custody of the child, you must provide all forms and other documentation necessary for submitting claims to the insurance carrier to the extent you provide them to other covered individuals.
8. You must notify the applicant of the effective date of the coverage of the children.
9. You will be liable for any amounts incurred for health care services which would otherwise have been covered under the insurance policy if you willfully fail to comply with this order. You can also be held in contempt of court. California law forbids your firing or taking any disciplinary action against any employee because of this order.

EMPLOYEE INFORMATION

1. This order tells your employer or other person providing health insurance coverage to you to enroll or maintain the named children in a health insurance plan available to you and to deduct the appropriate premium or costs, if any, from your wages or other compensation.
2. You have 10 days to contest this order. Civil Code section 4726.1(e) tells you how.
3. Civil Code section 4726.1(k) tells you how and when to petition the court to end this assignment.

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
EMPLOYER'S HEALTH INSURANCE RETURN	

1. Name of absent parent employee:

2. Social security number:

3. Home address of absent parent employee:

Not known

4. The employee has *no* insurance policies for health care, vision care, or dental care through this employment.

5. The employee has the following insurance policies covering health care, vision care, and dental care:

<u>Company</u>	<u>Type of policy</u>	<u>Policy No.</u>	<u>Persons insured</u>
----------------	-----------------------	-------------------	------------------------

Date:

.....
(TYPE OR PRINT NAME OF EMPLOYER)



(SIGNATURE OF EMPLOYER)

Address:

Telephone No.:

6. Return this completed return to the following district attorney within 30 days (*name and address of district attorney*):

If any insurance coverage lapses, complete the notice below and return a copy to the same district attorney.

NOTICE OF LAPSE IN HEALTH INSURANCE

7. The health insurance listed on the Employer's Health Insurance Return above has

lapsed terminated FOR (*check one*):

a. all persons insured for the following reason (*specify*):

b. the following person (*name*):

for the following reason (*specify*):

Date:

.....
(TYPE OR PRINT NAME OF EMPLOYER)



(SIGNATURE OF EMPLOYER)

Address:

Telephone No.:

CHILD SUPPORT INFORMATION AND ORDER ATTACHMENT
Attachment to Findings and Order After Hearing

Place an "X" by each item that is based on a stipulation of the parties.

THE COURT USED THE FOLLOWING INFORMATION IN DETERMINING THE AMOUNT OF CHILD SUPPORT

- A printout of a computer calculation is attached for all required items not filled out below.
- 1. There is a prior support order for the children of this relationship. The most recent prior support order was for: \$ _____ total per month for *(number)*: _____ children, made on *(date)*: _____
- 2. **Income** Each parent's monthly income is as follows: Mother _____ Father _____
Net monthly disposable income before rebuttal factors: \$ _____ \$ _____
- 3. **Children of this relationship**
a. Number of children who are the subjects of the support order *(specify)*: _____
b. Approximate percentage of time spent with: Mother _____ % Father _____ %
- 4. **Agreed amount of support** The court finds by a preponderance of the evidence that a rebuttal factor exists; namely, that the parties stipulated to a support amount of: \$ _____ per month. The court finds the stipulated child support amount to be in the best interests of the child and that application of the formula would be unjust or inappropriate in this case. This change remains in effect until further order.

THE COURT ORDERS

- 5. A Wage and Earnings Assignment Order for child support shall issue.
- 6. Mother Father shall pay child support beginning *(date)*: _____ and continuing until further order of the court, or until the child marries, dies, is emancipated, reaches age 19, or reaches age 18 and is not a full-time high school student, whichever occurs first, as follows:
 - a. **Base child support**

(1) <u>Child's name</u>	<u>Monthly amount</u>	<u>Payable to (name)</u>
-------------------------	-----------------------	--------------------------
 - (2) Payable on the 1st of the month one-half on the 1st and one-half on the 15th of the month
 other *(specify)*: _____
 - b. **Additional child support**
 - (1) **Child care costs:**
 - (i) one-half of total _____ \$ _____ per month
 - (ii) payable by mother father to *(specify)*: _____
 - (2) **Other *(specify)*:** _____
 - (3) The total amount of additional support is: \$ _____ per month payable by mother father to *(specify)*: _____
 - (4) Payable on the 1st of the month one-half on the 1st and one-half on the 15th of the month
 other *(specify)*: _____
 - c. Total child support per month: \$ _____

7. Attached are Child Support Extended Information Attachment Child Support Extended Order Attachment Page _____ of _____

CHILD SUPPORT EXTENDED INFORMATION ATTACHMENT
Attachment to Child Support Information and Order Attachment

Place an "X" by each item that is based on a stipulation of the parties.

THE COURT USED THE FOLLOWING INFORMATION IN DETERMINING THE AMOUNT OF CHILD SUPPORT:

- 1. **Details of income** The details of each parent's monthly income and deductions and tax status are as follows:

	Mother	Father
a. Gross monthly income	\$ _____	\$ _____
b. Deductions from gross income (Civil Code section 4721 (1)-(6))	\$ _____	\$ _____
c. Hardship deductions from gross income (Civil Code section 4722)	\$ _____	\$ _____
d. Net monthly disposable income before rebuttal factors	\$ _____	\$ _____
e. Federal income tax filing status (single, married, married filing separately, head of household)	_____	_____
f. Number of federal income tax exemptions claimed	_____	_____

- 2. **Support calculation**
 - a. The guideline amount of child support calculated is: \$ _____
per month payable by mother father.
 - b. The court finds by a preponderance of the evidence that rebuttal factors exist. The rebuttal factors result in an increase decrease in child support. The revised amount of support is: \$ _____ per month.
The court finds the child support amount revised by these factors to be in the best interests of the child and that application of the formula would be unjust or inappropriate in this case. These changes remain in effect until further order until (date): _____

The factors are:

 - (1) The sale of the family residence is deferred under Civil Code section 4700.10 and the rental value of the family residence in which the children reside exceeds the mortgage payments, homeowners insurance, and property taxes by: \$ _____ per month. Child support is decreased by: \$ _____ per month.
 - (2) Mother's new spouse or nonmarital partner's income makes available for support from mother's income an additional amount of: \$ _____. Child support is increased decreased by: \$ _____ per month.
 - (3) Father's new spouse or nonmarital partner's income makes available for support from father's income an additional amount of: \$ _____. Child support is increased decreased by: \$ _____ per month.
 - (4) The parent paying support has extraordinarily high income and the amount determined under the guideline would exceed the needs of the child. Child support is decreased by: \$ _____ per month.
 - (5) The mother father is not contributing to the needs of the children at a level commensurate with that party's custodial time. Child support is increased decreased by: \$ _____ per month.
 - (6) Special circumstances exist in this case. Child support is increased decreased by: \$ _____ per month. The special circumstances are:
 - (i) The parents have different custody arrangements for different children.
 - (ii) The parents have substantially equal custody of the children and one parent has a much lower or high percentage of income used for housing than the other parent.
 - (iii) The child has special medical or other needs that require support greater than the formula amount. These needs are (specify): _____
 - (iv) Other (specify): _____

PETITIONER / PLAINTIFF:	CASE NUMBER:
RESPONDENT / DEFENDANT:	

CHILD SUPPORT EXTENDED ORDER ATTACHMENT
Attachment to Child Support Information and Order Attachment

Place an "X" by each item that is based on a stipulation of the parties.

THE COURT ORDERS

Additional child support *(See item 6b(2) on the Child Support Information and Order Attachment)*

- a. Reasonable uninsured health care costs for the children
 (1) one-half of total \$ _____ per month
 (2) payable by mother father to *(specify)*:

- b. Costs related to the educational or other special needs of the children
 (1) one-half of total \$ _____ per month
 (2) payable by mother father to *(specify)*:

- c. Travel expenses for visitation
 (1) one-half of total \$ _____ per month
 (2) payable by mother father to *(specify)*:

SPOUSAL OR FAMILY SUPPORT ORDER ATTACHMENT
Attachment to Findings and Order After Hearing

Place an "X" by each order that is based on a stipulation of the parties.

THE COURT FINDS

1. Net income (*Check at least one*):

a. The parties' monthly income and deductions are as follows:

Total gross monthly income	Total monthly deductions	Total hardship deductions	Net monthly disposable income
----------------------------------	--------------------------------	---------------------------------	-------------------------------------

Petitioner: on AFDC

Respondent: on AFDC

-OR-

b. A printout of a computer calculation of the parties' financial circumstances is attached.

c. Other findings (*specify*):

THE COURT ORDERS

2. a. Petitioner Respondent shall pay to petitioner respondent

as spousal family support

\$ _____ per month, beginning (*date*):

payable on the (*specify*): _____ day of each month

payable other (*specify*):

b. A wage assignment for the foregoing support shall issue.

3. The parties shall promptly inform each other of any change of employment, including the employer's name, address, and telephone number.

4. Other (*specify*):

TABLE 1

**Results From the Betson Study:
Percent of Expenditures Attributable to Children in Two-Parent Families^a**

	Engel		Iso-prop ^f			Rothbarth		Barten- Gorman ^f	Per Capita ^g
	1	2	1	2	3	1	2		
Number of Children: ^{b,c}									
One	33	30	16	13	9	25	23	11	33
Two	49	45	29	27	21	35	33	16	50
Three	59	55	41	41	34	39	37	21	60
Children's Ages (2 Children): ^{b,d}									
4 and 8	46	37	27	25	22	36	33	13	50
8 and 10	49	45	29	27	21	35	33	16	50
10 and 16	53	50	34	32	24	n/a	n/a	19	50
Family Expenditures (2 Children): ^e									
Low	49	46	34	33	28	36	36	13	50
Medium	49	45	29	27	21	35	33	16	50
High	49	45	27	23	17	35	31	17	50

- ^a See David M. Betson, "Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey," U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, September 1990. The measures of well-being used by each of the estimators are as follows: Engel(1) is percentage of expenditures devoted to food at home; Engel(2) is percentage of total expenditures devoted to food (at home and away); Iso-prop(1) is the percentage of total expenditures devoted to food at home, shelter, clothing, and health care; Iso-prop(2) is the percentage of total expenditures devoted to food at home, shelter, and clothing; Iso-prop(3) is the percentage of total expenditures devoted to food at home and shelter; Rothbarth(1) is expenditures on adult clothing, alcohol, and tobacco; Rothbarth(2) is expenditures on adult clothing.
- ^b Based on annual expenditures of \$30,000.
- ^c In families with: one child, the child is assumed to be 8 years old; two children, the children are assumed to be 8 and 10 years old; three children, the children are assumed to be 4, 8, and 13 years old.
- ^d The Rothbarth estimates for older children are unreliable because of a data problem in the CEX.
- ^e Based on two children (ages 8 and 10). The Betson study reported expenditure patterns for families with expenditures between \$5,000 and \$50,000 (in \$5,000 increments). Low expenditure families are defined to be those with annual expenditures of \$5,000, \$10,000, or \$15,000. Medium expenditure families are defined to be those with expenditures in the \$20,000 to \$40,000 range. High expenditure families are those with annual expenditures of \$45,000 or \$50,000. The figures reported in the table represent the average over this range.
- ^f Note that while the iso-prop and Barten-Gorman estimates are included in this table for the sake of completeness, Betson believes (and we concur) that these estimates should be discounted.
- ^g This column is included to indicate how the estimates compare to a per capita calculation.

TABLE 2

**Results From the Betson Study:
Percent of Expenditures Attributable to Children in One-Parent Families^a**

	Engel		Iso-prop ^f			Rothbarth		Barten-Gorman ^f	Per Capita ^g
	1	2	1	2	3	1	2		
Number of Children: ^{b,c}									
One	61	49	56	55	60	38	38	40	50
Two	78	66	69	68	74	53	55	50	67
Three	85	73	77	75	81	60	65	53	75
Children's Ages									
[2 children]: ^{b,d}									
4 and 8	76	61	67	66	73	51	56	52	67
8 and 10	78	66	69	68	74	53	55	50	67
10 and 16	78	68	70	69	74	n/a	n/a	57	67
Family Expenditures									
[2 children]: ^e									
Low	81	66	70	68	77	55	54	39	67
Medium	78	66	69	68	74	53	55	50	67
High	77	65	69	68	73	53	56	51	67

^a See David M. Betson, "Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey," U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, September 1990. The measures of well-being used by each of the estimators are as follows: Engel(1) is percentage of expenditures devoted to food at home; Engel(2) is percentage of total expenditures devoted to food (at home and away); Iso-prop(1) is the percentage of total expenditures devoted to food at home, shelter, clothing, and health care; Iso-prop(2) is the percentage of total expenditures devoted to food at home, shelter, and clothing; Iso-prop(3) is the percentage of total expenditures devoted to food at home and shelter; Rothbarth(1) is expenditures on adult clothing, alcohol, and tobacco; Rothbarth(2) is expenditures on adult clothing.

^b Based on annual expenditures of \$30,000.

^c In families with: one child, the child is assumed to be 8 years old; two children, the children are assumed to be 8 and 10 years old; three children, the children are assumed to be 4, 8, and 13 years old.

^d The Rothbarth estimates for older children are unreliable because of a data problem in the CEX.

^e Based on two children (ages 8 and 10). The Betson study reported expenditure patterns for families with expenditures between \$5,000 and \$50,000 (in \$5,000 increments). Low expenditure families are defined to be those with annual expenditures of \$5,000, \$10,000, or \$15,000. Medium expenditure families are defined to be those with expenditures in the \$20,000 to \$40,000 range. High expenditure families are those with annual expenditures of \$45,000 or \$50,000. The figures reported in the table represent the average over this range.

^f Note that while the iso-prop and Barten-Gorman estimates are included in this table for the sake of completeness, Betson believes (and we concur) that these estimates should be discounted.

^g This column is included to indicate how the estimates compare to a per capita calculation.

TABLE 3
PERCENT OF EXPENDITURES ATTRIBUTABLE TO TWO CHILDREN
IN AN AVERAGE-INCOME, TWO-PARENT FAMILY^a

	<u>FERG</u> <u>Method</u>	<u>Engel</u>	<u>Iso-prop</u>	<u>Rothbarth</u>	<u>Prais-</u> <u>Houthakker</u>	<u>Utility</u> <u>Max.</u>
Other Studies ^b	37	41	n/a	27	28	38
Betson Study ^c	n/a	45-49	21-29	33-35	n/a	16 [*]

- ^a See Appendix 1 at the end of the memo for notes explaining how these numbers were derived. The definition of "average income" (which is often not made explicit by the authors) varies from study to study. As a result, we have simply adopted each authors' definition of average income. For the Betson study, we have chosen an annual expenditure level of \$30,000 to represent the average family.
- ^b The Engel estimate was produced by Espenshade; the Rothbarth by Lazear and Michael; the Prais-Houthakker by Turchi; and the utility maximization by Olson.
- ^c Betson used several alternative measures of well-being to implement the Engel, iso-prop, and Rothbarth estimators. Consequently, there is a range of estimates produced by each of these procedures. Betson's utility maximization estimator was the Barten-Gorman. The iso-prop and Barten-Gorman estimates have been included for the sake of completeness; Betson believes (and we concur) that these estimates should be discounted.

TABLE 4
Percent of Expenditures Attributable to Children

Data:	1972-1973 CEX			1980-1987 CEX			1987 CEX		Per Capita ^f
	Engel	Rothbarth Lazar and Michael	Utility Maximization Olson	Prais Houthakker	Engel	Rothbarth Betson2 ^d	Utility Maximization Betson3 ^e	--	
Estimator:	Engel				Engel				
Study:	Espenshade			Turchi	Betson1 ^c			FERG	--
<u>Number of Children:</u> ^{a,b}									
One	24	16	22	n/a	33	25	11	22	33
Two	41	27	38	n/a	49	35	16	37	50
Three	n/a	35	50	n/a	59	39	21	43	60
<u>Children's Ages</u> <u>[2 children]:</u> ^{a,b}									
0, 8	n/a	n/a	n/a	19	46	36	13	n/a	50
0, 10	n/a	n/a	n/a	25	49	35	16	n/a	50
10, 17	n/a	n/a	n/a	32	53	n/a	19	n/a	50
<u>Number of Parents Living</u> <u>in House [2 children]:</u> ^b									
One	n/a	52	n/a	n/a	78	53	50	n/a	67
Two	41	27	38	28	49	35	16	.37	50
<u>Family Expenditures</u> <u>[2 children]:</u> ^a									
Low	n/a	n/a	n/a	33	49	36	13	40	50
Average	41	27	38	28	49	36	16	37	50
High	n/a	n/a	n/a	28	49	35	17	37	50

Note: See Appendix 2 for notes explaining how these numbers were derived.

^a Based on two-parent families.

^b Based on average-expenditure families.

^c Based on Betson's Engel(1) estimates, which are most directly comparable to Espenshade's estimates.

^d Based on Betson's Rothbarth(1) estimates, which are most directly comparable to Lazear and Michael's estimates. The estimates for older children are unreliable because of a data problem in the CEX.

^e Betson's utility maximization (Barten-Gorman) estimates are included in this table for the sake of completeness, Betson believes (and we concur) that these estimates should be discounted.

^f This column is included to indicate how the estimates compare to a per capita calculation.

APPENDIX 1

The purpose of this Appendix is to explain the derivation of the numbers in Table 3.

The FERG Method

The number reported in Table 3 is the FERG's estimate of average expenditures on 2 children, based on data from the 1987 CEX that has been updated to 1989 using the Consumer Price Index. The FERG reported that in 1989, average expenditures for a younger child in a family with 2 children at a middle income (before-tax income between \$28,300 and \$46,900) were \$6,340¹ (or \$114,150 over the course of 18 years, divided by 18). As a percentage of income, the range was 28 to 45 percent, for an average of 37 percent.

Engel Estimate (1972-1973)

This estimate is taken directly from Table 20 (page 66).²

Rothbarth Estimate (1972-1973)

This number is derived from estimates reported by Lazear and Michael.³ The authors estimate that an average household (with 2.2 children and 1.93 adults) spends \$38 per child for every \$100 spent per adult. In other words, a child is approximately equivalent to 0.38 adults (in terms of consumption expenditures). After adjusting Lazear and Michael's estimates to find the relationship between children's and adult's consumption in a two-parent household with 2.0 children, we calculate that \$37.50 is spent on children in such a household for every \$100 spent on adults. As a result, the percent of expenditures attributable to two children in a two-parent family is equal to 0.27. The calculation necessary to derive this percentage is outlined below:

1. Expenditures on two children (in terms of adult equivalents) = $2 \times 37.5 = 75$
2. Expenditures on two adults (in terms of adult equivalents) = $2 \times 100 = 200$
3. Total family expenditures (in terms of adult equivalents) = $75 + 200 = 275$

Therefore, expenditures on two children as a percentage of total family expenditures, is equal to 0.27 (which is $75/275$).

¹ This figure is 3 percent higher for the older of the two children.

² Thomas J. Espenshade, Investing in Children: New Estimates of Parental Expenditures, Washington D.C.: Urban Institute, 1984.

³ Edward P. Lazear and Robert T. Michael, Allocation of Income within the Household, Chicago: University of Chicago Press, 1988, p.86.

Prais-Houthakker Estimates (1972-1973)

This estimate is based on calculations reported by Turchi.⁴ As was the case with the Lazear and Michael estimates, Turchi's estimates are reported in terms of equivalence scales (the percentage of consumption expenditures that are attributable to a child relative to those that are attributable to an adult). Turchi reports equivalence scales by age and sex of the child. By taking the average value of the equivalence scales across children's ages and sexes, we find that Turchi's equivalence scale for children is .38.⁵ To translate this equivalence scale into the percentage of total family expenditures that are attributable to two children in a two-parent family, we followed the same procedure as was used for the Lazear and Michael estimates. A child equivalence scale of .38 corresponds to an estimate that 28 percent of total family expenditures are attributable to the family's children. $[(2 \times 38)/(2 \times 100 + 2 \times 38)]$.

Utility Maximization Estimate (1972-1973)⁶

This estimate is based on expenditures for two-children families, by age and sex reported by Olson.⁷ In order to make his figures roughly comparable to those of the other authors, we have chosen an average income family with a 12 year old boy and a 7 year old girl.⁸ Olson estimates that the expenditures attributable to the children in such a family are 29.8 percent of total (pre-tax) family income. As a result, the percent of expenditures attributable to children (as a percentage of total family consumption) is 38 percent. The calculation necessary to derive this latter percentage is outlined below:

1. Expenditures on two children = .298 X family income
2. Total family expenditures = .789 X family income⁹

⁴ Boone A. Turchi, Estimating the Cost of Children in the United States, Washington, D.C.: National Institute of Child Health and Human Development, June 1983, p.59.

⁵ Note that the estimated value of Turchi's equivalence scale is nearly identical to Lazear and Michael's.

⁶ As was mentioned in ^{the} report, Mathtech did a 1981 study using a utility maximization approach. Unfortunately, there were severe technical difficulties in the implementation of this approach, making it difficult for the computer estimation techniques to converge upon an estimate. As a result, Table 3 does not include a summary of the Mathtech results (which were quite limited in their scope).

⁷ Lawrence Olson, Costs of Children, Lexington: D.C. Heath, 1983, p.44.

⁸ Olson does not report detailed expenditure patterns by the age of the children. As a result, we were constrained to using the ages reported in the text.

⁹ This percentage, which was derived from Table B-26 of the 1989 Economic Report of the President, is very nearly constant over time.

Therefore, expenditures on two children is 38 percent of total family expenditures (.298/.789).

Engel Estimates (1980-1986)

These estimates are taken directly from Betson's study, Tables F-1 and F-3, using a family with a \$30,000 income. The lower estimate (45 percent) is based on Table F-3, in which Betson used the percentage of expenditures devoted to food (both at home and away from home) as the basis for evaluating family well-being. The higher estimate (49 percent) is based on Table F-1, in which Betson used the percentage of expenditures devoted only to food consumed at home as the basis for evaluating family well-being.

Iso-prop Estimates (1980-1986)

These estimates are taken directly from Betson's study, Tables F-5 and F-9, using a family with a \$30,000 income. The lower estimate (21 percent) is based on Table F-9, in which the iso-prop used as the basis for evaluating family well-being was the percentage of expenditures devoted to food at home and shelter. The higher estimate (29 percent) is based on Table F-5, in which the percentage of expenditures devoted to food at home, shelter, clothing, and health care was the basis for evaluating family well-being.¹⁰

Rothbarth Estimates (1980-1986)

These estimates are taken directly from Betson's study, Tables F-11 and F-13, using a family with a \$30,000 income. The lower estimate (33 percent) is based on Table F-13, in which the basis for evaluating well-being was the level of expenditures on adult clothing. The higher estimate (35 percent) is based on Table F-11, in which the level of expenditures on adult clothing, alcohol, and tobacco was used as the basis for evaluating well-being.

Utility Maximization (Barten-Gorman) Estimate (1980-1986)

This estimate was taken directly from Betson's study, Table F-15, using a family with a \$30,000 income.

¹⁰ A third iso-prop (the percentage of expenditures devoted to food at home, shelter, and clothing) produced an intermediate estimate of 27 percent (see Table F-7 in Betson).

APPENDIX 2

The purpose of this Appendix is to explain the derivation of the numbers in Table 4.

Espenshade

Number of Children:

These estimates are taken directly from Table 20 (page 66).¹

Children's Ages:

It is not possible to derive meaningful estimates of how expenditures on children as a percentage of total family expenditures vary with the ages of the children from Espenshade's study. Although Espenshade's standard-of-living equation (Table A-15) could, in theory, enable us to make the necessary calculations, the results would be highly unstable (because of a lack of stability in the underlying regression coefficient measuring the consumption impacts of children by their ages).

Number of Parents Living at Home:

Since Espenshade limits his sample to two-parent families, it is impossible to determine how his estimates vary with the number of parents living in the household.

Family Income:

Espenshade's standard-of-living equation (in Table A-15) does not control for income. As a result, it is impossible to calculate how expenditures vary with income.²

Lazear and Michael

Number of Children:

These numbers are based on estimates that Lazear and Michael present on page 86.³ They estimate that a typical family, with 2.0 children and 2.0 adults spends \$37.50 on children's consumption for every \$100 of adult consumption (see the discussion in Appendix 4.1). If an additional child is added, each child's consumption (relative to an adult's consumption) is estimated to fall by \$1.67 (to \$35.83). As a

¹ Thomas J. Espenshade, Investing in Children: New Estimates on Parental Expenditures, Washington, D.C.: Urban Institute Press, 1984.

² It should be noted that Espenshade produces estimates at three different socioeconomic status (SES) levels. These SES levels, however, are not synonymous with income levels.

³ Edward P. Lazear and Robert T. Michael, Allocation of Income within the Household, Chicago: University of Chicago Press, 1988.

result, the percent of expenditures attributable to three children in a two-parent family is equal to .35. The calculation necessary to derive this percentage is outlined below:

1. Expenditures on three children (in terms of adult equivalents) = $3 \times 35.83 = 107.49$
2. Expenditures on two adults (in terms of adult equivalents) = $2 \times 100 = 200$
3. Total family expenditures (in terms of adult equivalents) = $107.49 + 200 = 307.49$

Therefore, expenditures on three children as a percentage of total family expenditures, is equal to .35 ($107.49/307.49$).

Similarly, their calculations indicate that in a family with only one child, that child's consumption (relative to an adult's consumption) would be \$39.17. As a result, the percent of expenditures attributable to one child in a two-parent family is equal to .16. The calculation necessary to derive this percentage is outlined below:

1. Expenditures on one child (in terms of adult equivalents) = 39.17
2. Expenditures on two adults (in terms of adult equivalents) = $2 \times 100 = 200$
3. Total family expenditures (in terms of adult equivalents) = $39.17 + 200 = 239.17$

Therefore, expenditures on one child as a percentage of total family expenditures, is equal to .16 ($39.17/239.17$).

Children's Ages:

Lazear and Michael do not examine how expenditures vary with the ages of the children in the family.

Family Income:

While Lazear and Michael report regression results (page 96) on how expenditures vary with income, these results are not sufficiently detailed to make the calculations required for Table 4.⁴

Number of Parents Living at Home:

This number is also based on estimates that Lazear and Michael report on page 86.⁵ If income were held constant, and the number of adults in a household were reduced by one, Lazear and Michael estimate that expenditures per child (in adult equivalents) would rise from \$37.50 to \$53.90. As a result, the percent of expenditures attributable to two children in a one-parent family is equal to .52. The calculation necessary to derive this percentage is outlined below:

1. Expenditures on two children (in terms of adult equivalents) = $2 \times 53.90 = 107.8$
2. Expenditures on one adult (in terms of adult equivalents) = 100

⁴ Because of the mathematical properties of the estimator that Lazear and Michael use, the percentage change in expenditures that results from a decrease in income is constrained to be of equal magnitude (but the opposite sign) of the change in expenditures that results from an increase in income. This leads to unrealistic estimates of how expenditures attributable to children, as a percentage of total family expenditures, vary with income.

⁵ Lazear and Michael express some skepticism about the plausibility of their numbers.

3. Total family expenditures (in terms of adult equivalents) = $107.8 + 100 = 207.8$

Therefore, expenditures on two children as a percentage of total family expenditures, is equal to .52 ($107.8/207.8$).

Olson

The estimation method used by Olson does not allow us to identify (with an adequate degree of precision) how expenditures vary with the age of children, the number of parents living in the household, or the income of the household.⁶ He does, however, report (on page 3) how his estimates vary with the number of children; they are 1.69 as times as great for two children as one, and 2.24 times as great for three children as one.

Since Olson reports expenditures made on behalf of children as a percentage of income, these percentages must be translated into percentages of total expenditures. The procedure for doing so was described in Appendix 1. Since, according to this procedure, two children consumed 38 percent of total family expenditures, one child must then consume 22 percent of expenditures [$(1/1.69) \times .38$], and three children must consume 50 percent of total expenditures [$(2.24/1.69) \times .38$].

Turchi

Number of Children:

Turchi does not report any estimates of how expenditures vary with the number of children.

Children's Ages:

These numbers are based on estimates of equivalence scales by age and sex of the child, reported on page 59. The procedure for translating these equivalence scales (by age group) into the percentage of expenditures attributable to children (by age group), is identical to the procedure described for Turchi's estimates in Appendix 4.1.

Family Income:

These numbers are based on the equivalence scales for children in three socioeconomic status (SES) groups (high, medium, and low) that Turchi reports on page 59. While these SES groups do not correspond exactly to income groups, they are intended to be correlated with long-run earnings capacity. The same procedures were used to translate the equivalence scales into a percentage of expenditures attributable to children as those outlined in Appendix 1.

⁶ Olson reports how expenditures vary with the ages of two children, making it impossible to sort out the separate effects of the change in the age of each of the children. His regression results that report how expenditures vary with the number of parents living in the household and the income of the household are not sufficiently detailed to produce reliable estimates.

Number of Parents Living in the House:

While Turchi does report some evidence on expenditure patterns in one, as well as two-parent households, these estimates do not account for differences in income between the two household types. Therefore, it is impossible to determine how household type affects expenditures, independent of its effects on income.

Betson1

These numbers are taken directly from Tables F-1 and F-2 which report Betson's estimates from the Engel estimator (using percentage of expenditures devoted to food at home as the basis for measuring well-being). Except for the cases where family income is explicitly varied, income is assumed to be \$30,000 (both for one and two-parent families). The family income groupings are as follows: the low income grouping consists of families with income up to \$15,000, the middle group has income between \$20,000 and \$40,000, and the upper income group has income between \$45,000 and \$50,000. The numbers in the table represent an average over these ranges.

Betson2

These numbers are taken directly from Tables F-11 and F-12 which report Betson's estimates from the Rothbarth estimator (using the level of expenditures devoted to adult clothing, alcohol, and tobacco as the basis for measuring well-being). Except for the family income estimates, income is assumed to be \$30,000 (both for one and two-parent families). The family income groupings are as follows: the low income grouping consists of families with income up to \$15,000, the middle group has income between \$20,000 and \$40,000, and the upper income group has income between \$45,000 and \$50,000. The numbers in the table represent an average over these ranges.

One peculiarity of Betson's estimated expenditures is that they are very low for 10-17 year olds (9 percent). Betson believes (and we concur) that this extremely low estimate is not credible. It appears to reflect a data problem in the CEX.⁷ Consequently, we have not reported Betson's estimates for 10-17 year olds. Fortunately, this data problem does not affect Betson's other estimates of expenditures.⁸

⁷ Expenditures for clothing for 16-17 year old children is coded as adult clothing in the CEX, resulting in what appears to be a substantial downward bias in the estimated cost of children in this age group.

⁸ Since most of the estimates are based on the average child (who is younger than 16), the average estimates are unaffected by the data problem.

Betson3

These numbers are taken directly from Table F-15 which reports Betson's estimates from the Barten-Gorman estimator. Except for the cases where family income is explicitly varied, income is assumed to be \$30,000 (both for one and two-parent families). The family income groupings are as follows: the low income grouping consists of families with income up to \$15,000, the middle group has income between \$20,000 and \$40,000, and the upper income group has income between \$45,000 and \$50,000. The numbers in the table represent an average over these ranges.

FERG

These numbers were derived by Mark Lino, the author of the FERG study, and made available for inclusion through private correspondence.

TABLE 5

SUMMARY OF ALTERNATIVE ESTIMATION TECHNIQUES

<u>Estimator</u>	<u>Assumptions</u>	<u>Comments</u>
Per Capita	<ol style="list-style-type: none"> 1. Each family member receives the same proportion of family expenditures. 	This technique is based entirely on its underlying assumption that all goods are shared (divided) equally; no estimation techniques are used. It is likely to overstate true levels of expenditures on children.
FERG	<ol style="list-style-type: none"> 1. Identifiable child-related expenditures allocated among children and other categories of expenditures assigned to family members based on previous research findings of household member shares. 2. Assumes that some categories of expenditures should be assigned on a per capita basis. 	This estimator suffers, at least in part, from the same problems as the per capita estimator. It, too, is likely to overstate true levels of expenditures on children.
Engel	<ol style="list-style-type: none"> 1. Assumes that if two families spend an equal percentage of their total expenditures on food, then the families are equally well off. 2. Assumes "independence" of consumption decisions. This implies that the relationship between expenditures on food and "all other goods" is the same for families with and without children. 	This estimator is likely to over-estimate true levels of expenditures on children because children are likely to be "food-intensive."
Iso-Prop	<ol style="list-style-type: none"> 1. Based on the same assumptions as the Engel estimator, but uses a variety of categories of goods (e.g., food plus housing or food plus housing plus transportation) as the measure of well-being. 	The reliability of this class of estimator is not known. If the iso-prop that is chosen (such as food) is disproportionately consumed by children, the estimator will over-estimate true levels of expenditures on children. If the reverse is true, the estimator will under-estimate expenditures on children.
Rothbarth	<ol style="list-style-type: none"> 1. Assumes that if two families spend an equal amount on "observable adult goods," then the adults in the families are equally well off. 2. Assumes "independence" of consumption decisions. This implies that the relationship between expenditures on "observable adult goods" and "all other goods" is the same for families with and without children. 	This estimator is likely to underestimate levels of expenditures on children because it does not account for the possibility that the presence of children may cause adults to consume disproportionately large amounts of "observable adult goods."

TABLE 5 (Continued)

SUMMARY OF ALTERNATIVE ESTIMATION TECHNIQUES

<u>Estimator</u>	<u>Assumptions</u>	<u>Comments</u>
Prais-Houthakker	1. Assumes that a 'relative expenditure scale' can be estimated for each major category of expenditures and for each type of family member (based on age and gender).	There is not enough information available to 'identify' (i.e., reliably estimate) expenditures on children using this technique.
Utility Maximization	1. Assumes a particular mathematical relationship between expenditures (by category) and the level of well-being.	The reliability of this class of estimators is not known.
Barten-Gorman	1. Based on the assumptions of both the Prais-Houthakker and utility maximization estimators.	The very strong empirical assumptions required to implement this estimator indicate that it is likely to yield unstable estimates.