

**MEETING OF THE
VIRGINIA CHILD SUPPORT GUIDELINES REVIEW PANEL
SEPTEMBER 9, 2015
RICHMOND, VIRGINIA**

**VIRGINIA'S CHILD
SUPPORT GUIDELINES**

Alice G. Burlinson
Senior Assistant Attorney General
Director of Legal Operations—Headquarters
Division of Child Support Enforcement

THE BEGINNING

Virginia's child support guidelines were enacted in 1988 in response to federal requirements.

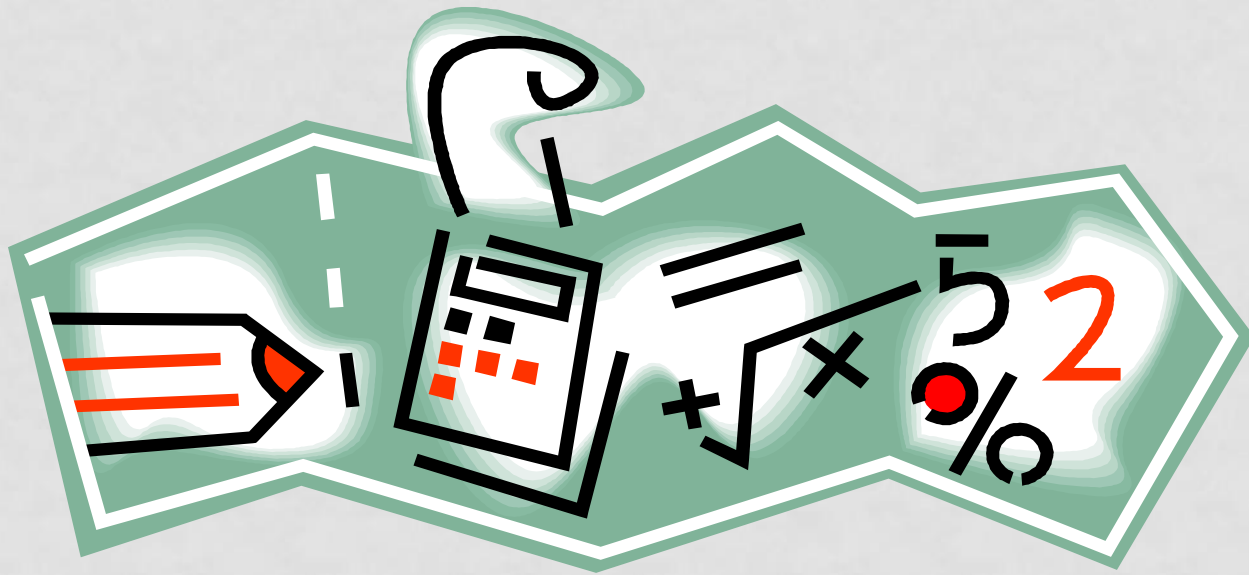


THE BEGINNING



The original obligation amounts used in the guidelines schedule were based on economic data from the 1970s.

FORMULATING GUIDELINES



BASIS OF GUIDELINES

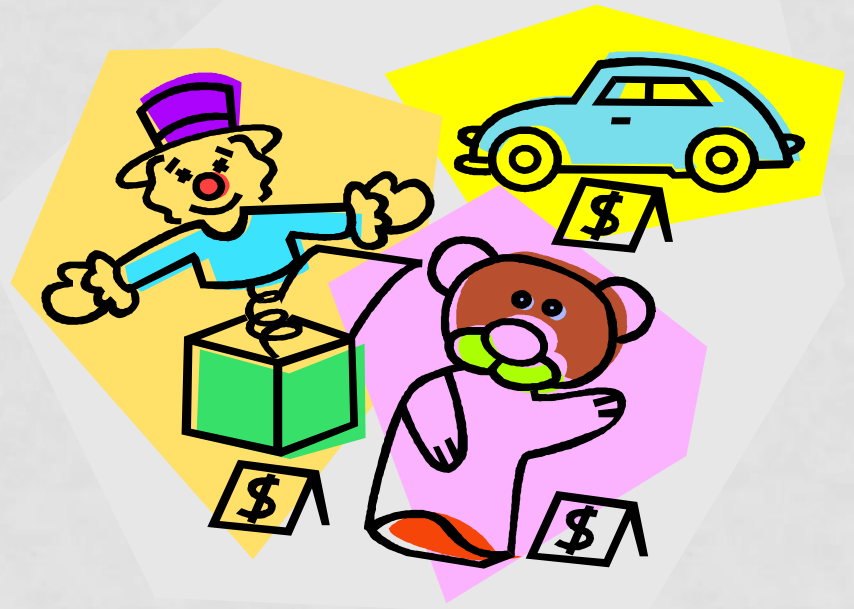
Federal law allows states to choose their guideline model, but every method must do three things:

1. Be based on specific descriptive and numeric criteria;
2. Take all earnings and income of the noncustodial parent into consideration;
3. Provide for the child's health care needs

ECONOMIC METHODOLOGIES

Several economists have developed estimates on child-rearing costs.

These estimates have been used to develop various child support guideline models.



GUIDELINES MODELS

3 Basic Models

Percentage of Obligor Income

Melson Formula

Income Shares



GUIDELINES MODELS: PERCENTAGE OF OBLIGOR INCOME

Bases child support award solely on noncustodial parent's income without taking custodial parent's income into account



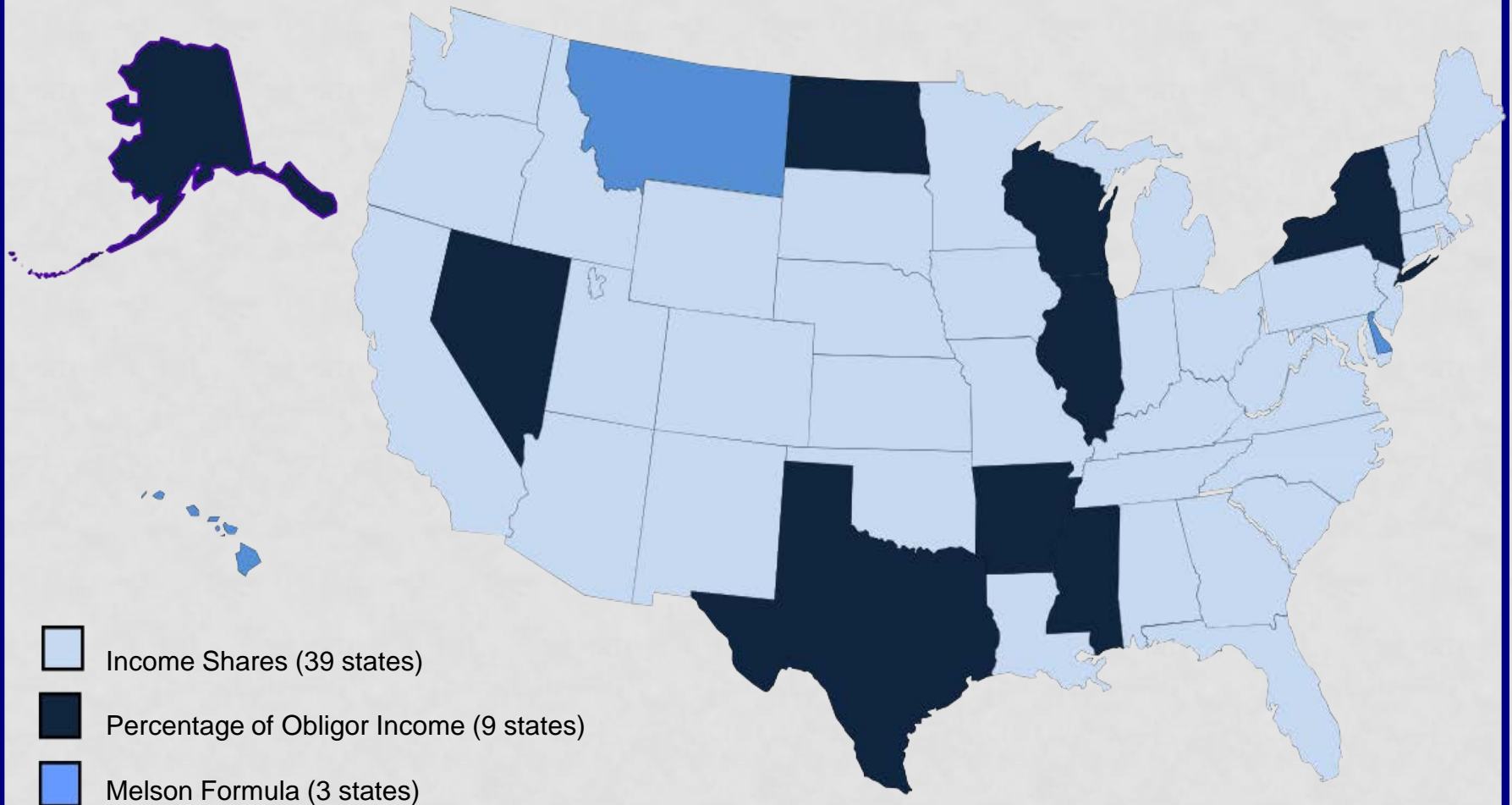
GUIDELINES MODELS: MELSON FORMULA

- Developed by Delaware judge
- Assumes
 - parents should be allowed to meet their own basic needs first
 - children should also have basic needs accounted for
 - parents should share income increases with children

GUIDELINES MODELS: INCOME SHARES

- Children are entitled to same level of expenditures they would have received if parents lived together and combined finances.
- Economic foundation is a measurement of how much families expend on child rearing.
- Measurements come from Consumer Expenditures Survey (CES) estimates of child-rearing expenditures.
- Virginia, like most states, uses the Income Shares Model.

State Usage of Child Support Guidelines Models



8 BASIC PRINCIPLES OF INCOME SHARES

1. Both parents share in financial support of their children; responsibility should be divided in proportion to their incomes.
2. Subsistence needs of both parents should be considered, but in virtually no case should obligation be set at \$0.
3. Child support must first cover a child's basic needs, but if either parent has a higher standard of living, child is entitled to share in higher standard.

PRINCIPLES OF INCOME SHARES



4. Each of a parent's children has the right to a share of that parent's income.

PRINCIPLES OF INCOME SHARES

Guidelines should:

5. Treat children of separated, divorced and never-married children equally.
6. Consider both parents' involvement in raising the child.



PRINCIPLES OF INCOME SHARES

Guidelines should **not**:

7. Assume custodial parent is the mother or the father.
8. Create an economic disincentive to work or remarry.

VIRGINIA'S CHILD SUPPORT GUIDELINES REVIEW PANEL

Purpose of the Panel

Membership

Work of Previous Panels



CHILD SUPPORT GUIDELINES REVIEW PANEL

- Both federal and Virginia law require that child support guidelines be reviewed every four years.
- The Panel must:
 - Determine adequacy of guidelines for calculating appropriate child support obligations
 - Consider current research and data on costs and expenditures necessary to rear children, along with any other resources deemed necessary

PANEL MEMBERSHIP

- 4 legislators
 - 3 members: House Committee for Courts of Justice
 - 1 member: Senate Committee for Courts of Justice
- 1 juvenile and domestic relations district court representative
- 1 circuit court representative
- 1 DCSE representative
- 3 Virginia State Bar members
- 2 custodial parents
- 2 noncustodial parents
- 1 child advocate

STATUTORY CHANGES BASED ON PAST PANELS' RECOMMENDATIONS



1995 PANEL

- Codified \$65 per month minimum obligation
- Allowed imputation of income in certain situations



1999 PANEL

- Allowed self-employed persons a reduction in gross income of 1/2 the self-employment tax (passed 2002)
- Allowed deduction for parent already supporting children not the subject of the proceeding (passed 2001)
- Removed requirement for adding recurring unreimbursed medical expenses to obligation
- Medical costs allocated according to income

1999 PANEL (cont'd)



- Clarified status of \$65 minimum monthly obligation
- Considered treatment of spousal support when determining child support
- Included dental care

2002 PANEL

- Disallowed including income from overtime or 2nd job taken for purpose of paying arrears (passed 2004)
- Custodial parent must pay first \$250 in unreimbursed medical expenses per year, but expenses over \$250 allocated according to income shares (passed 2004)

2002 PANEL (cont'd)

The Panel also recommended changes to the guideline amounts based on newer economic data, but legislation was not enacted at that time.



2005 & 2009 PANELS

- Clarified several deviation factors in § 20-108.1 (2005)
- Pre-TANF (Temporary Assistance to Needy Families) arrearages to be paid to family first (2009)



2013 PANEL

1. Updated *Schedule of Monthly Basic Child Support Obligations* based on current economic data (20-108.2(B)).
2. Removed \$250 per child per year in unreimbursed medical expenses (20-108.2(D)).
3. Added new statutory language regarding presumptive statutory minimum (20-108.2(B)).

UPDATING THE GUIDELINES SCHEDULE

- The Center for Policy Research (CPR) provided current economic research on the cost of raising children, guidelines expertise, and technical assistance.
- Child-rearing expenditures data came primarily from the Bureau of Labor Statistics' 2004-2009 Consumers Expenditures Survey.



UPDATING THE GUIDELINES SCHEDULE

- Changed lowest income range from \$0-\$599/month to 0-\$350/month.
- Raised statutory minimum obligation from \$65, regardless of number of children, to \$68 for 1 child, with increasing amounts based on number of children.
 - Changes produce modest increases in obligation amounts, with greater increases at very low and very high income levels.
- Expanded schedule to include incomes up to \$35,000/month, with formula for higher incomes.

UPDATING THE GUIDELINES SCHEDULE

Average Change in Schedule Amounts by Number of Children and
Income Range

Parents' Combined Monthly Gross Income	1 Child	2 Children	3 Children	4 Children	5 Children	6 Children
\$550 – \$5,000	\$43 (8.3%)	\$53 (8.8%)	\$36 (7.6%)	\$37 (9.0%)	\$53 (12.0%)	\$79 (15.7%)
\$5,050 - \$10,000	\$41 (5.1%)	\$8 (0.9%)	-\$87 (-4.8%)	-\$113 (-5.6%)	-\$109 (-4.9%)	-\$81 (-3.3%)
More than \$10,000	\$296 (21.3%)	\$301 (13.6%)	\$123 (4.2%)	\$88 (2.7%)	\$83 (2.3%)	\$124 (3.4%)
All incomes	\$226 (17.2%)	\$226 (11.1%)	\$81 (3.4%)	\$52 (2.3%)	\$51 (2.6%)	\$89 (4.0%)

UNREIMBURSED MEDICAL EXPENSES

- \$250 per child per year threshold for unreimbursed medical expenses was removed from 20-108.2(D).
- Before this change, custodial parents were responsible for the first \$250 of unreimbursed medical expenses. Both parents shared costs above \$250 on a *pro rata* basis.
- Now, both parents share all unreimbursed medical expenses from the first dollar on a *pro rata* basis.

PRESUMPTIVE STATUTORY MINIMUM

- Courts have authority to set obligations below the new statutory minimum obligation based on evidence presented at trial if
 - Obligor's gross income is = or < 150% of federal poverty level
 - Court hears evidence that obligor has no ability to pay minimum
 - Lower obligation does not seriously impair custodial parent's ability to provide adequate housing and other necessities for the child.

DEFERRED POLICY ISSUES

- The 2013 Panel surveyed stakeholders on several guidelines and policy issues
 - 289 respondents
 - 164 attorneys
 - 85 custodial or noncustodial parents



DEFERRED POLICY ISSUES

The Panel voted to pursue several policy issues based on feedback from stakeholders but later decided to:

- Focus on updating the guidelines schedule, the \$250 threshold, and authority to set obligations below the presumptive minimum
- Defer remaining policy issues to the next Panel

DEFERRED POLICY ISSUES

The Panel suggested pursuing:

1. Discretion to order effective date other than filing date on initial petition where custody changed
2. Ability to make modifications effective back to filing date instead of service date
3. Require notice that order remains in effect until modified or terminated by another order
4. Guidelines worksheet must be attached to all orders

DEFERRED POLICY ISSUES

The Panel suggesting seeking expert advice on whether to:

1. Change the 1.4 shared custody multiplier
2. Change the minimum number of days that constitutes shared custody
3. Include guidance for complex cases
4. Add healthcare and child care costs back into obligation if party is ordered to pay but does not

DEFERRED POLICY ISSUES



5. Consider higher cost of living in different parts of state as deviation or adjustment to guidelines

6. Consider disparity in cost of raising children of different ages and include age as a deviation factor



OTHER SUGGESTIONS?



PANEL WEBSITE

Contains:

- Panel membership and email link
- Meeting dates, agendas, materials and minutes
- 2013 Report to the Governor and General Assembly
- Economic research and data

http://dls.virginia.gov/interim_studies_child_support.html

CONTACT INFORMATION

Alice G. Burlinson

Senior Assistant Attorney General

Director of Legal Operations—Headquarters

Email: alice.burlinson@dss.virginia.gov

Phone: 540-776-2778