

Virginia Child Support Guidelines Review Panel

Background & Issues Based on 2016 Federal Final Rule

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Virginia Child Support Guidelines Review Panel
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The Beginning

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



Basis of Guidelines

Federal law allows states to choose guideline model but every method must:

1. Be based on specific descriptive and numeric criteria
2. Take all earnings and income of the noncustodial parent into consideration
3. Provide for 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

Percentage of Obligor Income

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



Melson Formula

- 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



Income Shares

- Children are entitled to same level of expenditures they would have received if parents lived together and combined finances.
- Economic basis is measurement of how much families spend to raise children.
- Virginia, like most states, uses the Income Shares Model.

Principles of Income Shares

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

Principles of Income Shares

Guidelines **should**:

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

Membership

Recent Panels

Federal Final Rule Requirements

Panel's Charge

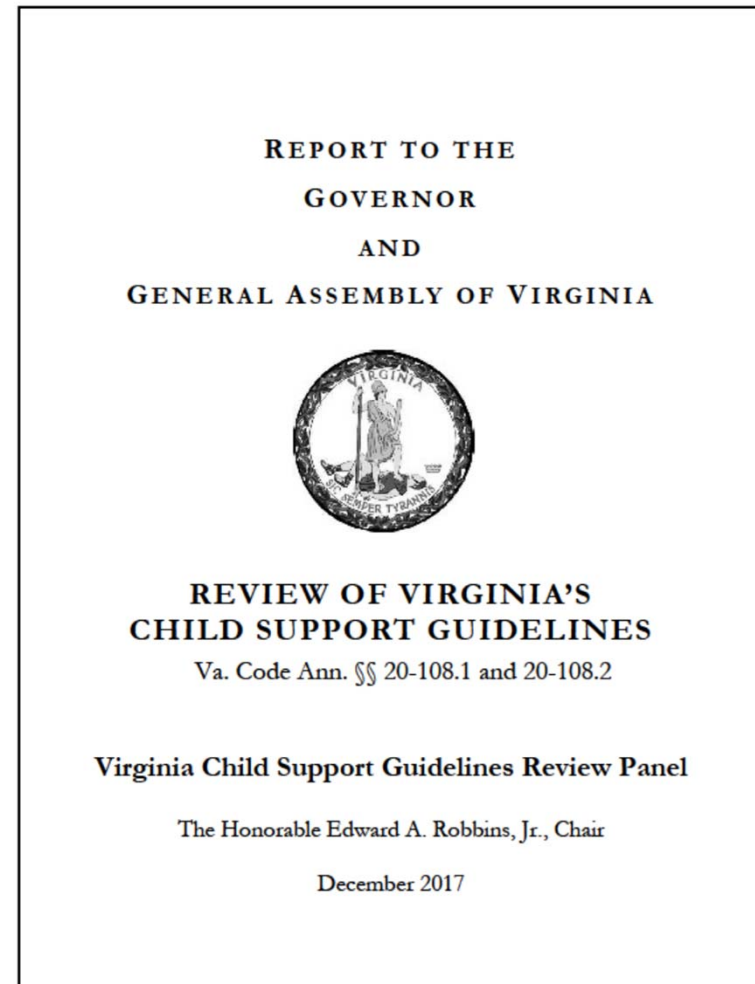
- Both federal and Virginia law require that child support guidelines be reviewed every four years.
- The Panel must:
 - Determine adequacy of guidelines for calculating appropriate child support obligations
 - Consider current research and data on costs and expenditures necessary to rear children, along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

Panel Membership

- 4 legislators
- 1 juvenile & domestic relations court representative
- 1 circuit court representative
- 1 DCSE representative
- 3 Virginia State Bar members
- 2 custodial parents
- 2 noncustodial parents
- 1 child advocate

Panel Report

- Each Panel must submit its recommendations in a report to the Governor and General Assembly.
- This Panel's report is due at the end of 2021.



Recent Statutory Changes Based on Panel Recommendations



2013 Panel

- Updated *Schedule of Monthly Basic Child Support Obligations* based on current economic data
- Removed \$250 per child per year in unreimbursed medical expenses
- Added new statutory language regarding presumptive statutory minimum

2017 Panel

- Provided statutory guidance for calculating obligations in mixed custody cases
- Required that guidelines worksheet relied upon to determine obligation be attached to all child support orders



New Requirements: 2016 Federal Rule

Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs

- Revised federal regulations governing the child support program nationwide



Administration for Children & Families
Office of Child Support Enforcement

Final Rule: Purpose

- Increase number of parents supporting their children
- Set accurate obligations based on actual ability to pay
- Increase consistent, on-time payments
- Reduce accumulation of unpaid, uncollectible arrears



What Led to the Final Rule?

- As far back as the late 1990s, national child support professionals began to recognize:
 - Establishing obligations based on ability to pay results in higher compliance and increased parental communication
 - Setting realistic orders improves chances that parents will continue to pay over time
 - Obligations based on imputed income are often not related to parents' ability to pay and do not result in compliance

What Led to the Final Rule?



The majority of past-due child support is owed by a small percentage of obligors:

- 11% of obligors owe 54% of arrears
- $\frac{3}{4}$ of those obligors had no reported income or had income less than \$10,000 per year

What Led to the Final Rule?

- Nationally, an estimated 60% of parents who don't pay are limited by:
 - Income
 - Education level
 - High rate of institutionalization
 - Intermittent employment history
- Enforcement tools may affect payment compliance of higher income obligors but are unlikely to generate payments from parents who have no ability to pay

Final Rule: New **Guidelines** Requirements

- Must be implemented by states by the end of 2022
- Will need to be included in this Panel's report to the General Assembly

2022

Final Rule: New **Guidelines** Requirements

Guidelines must:

1. Provide that obligations are based on noncustodial parent's (NCP) earnings, income, and other evidence of ability to pay
2. Consider:
 - a. All of NCP's earnings and income
 - b. NCP's basic subsistence needs
(States have discretion to also consider custodial parent's (CP's) earnings and income and/or CP's and children's basic subsistence needs)



Final Rule: New **Guidelines** Requirements

- c. If imputation is authorized, consider NCP's specific circumstances including:

Age	Assets
Availability of employers willing to hire parent	Criminal record & other employment barriers
Educational attainment	Employment & earnings history
Health	Job skills
Literacy	Local job market
Prevailing community earnings level	Record of seeking work
Residence	Other relevant background factors



Final Rule: New **Guidelines** Requirements

3. Incorporate low-income adjustment
4. Address how parents will provide for health care through private or public coverage and/or cash medical support
5. Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying obligations

Final Rule: New **Panel** Requirements

- Must be in place by the end of 2026
- Expand and specify types of data Panels must consider in reviewing guidelines

2026

Final Rule: New **Panel** Requirements

- 1) Consider economic data including:
 - Labor market data by occupation and skill level for state and local job markets
 - Impact of guidelines policies and amounts on CPs and NCPs with family income <200% of federal poverty level
 - Factors that influence employment rates among NCPs and compliance with current support orders

Final Rule: New **Panel** Requirements

2) Analyze case data on:

- Rates of default and imputed orders and orders determined using low-income adjustment
- Comparison of payments on orders by case characteristics, including whether order was
 - Entered by default
 - Based on imputed income
 - Set using low-income adjustment

Final Rule: New **Panel** Requirements

- 3) Provide a meaningful opportunity for public input, including input from low-income NCPs and CPs and their representatives





Discussion & Next Steps

Other Ideas for Panel Consideration?

Panel Website

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

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



Q & A

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