



DISCUSSION OF PENDING ISSUES

OCTOBER 5, 2016 | RICHMOND, VIRGINIA

VIRGINIA CHILD SUPPORT GUIDELINES REVIEW PANEL

PENDING ISSUES

- Attaching guidelines worksheets to all orders
- Accounting for later-born children
- Adding deviation factors
 - Age of children
 - Cost of living in various parts of the state



ATTACHING GUIDELINES WORKSHEETS

Old DCSE worksheet form

- Discussion at last meeting of old DCSE form with columns for both presumptive and deviated obligation calculations
- Panel staff located form but it is not helpful
 - Does not include presumptive and deviated calculations
 - Developed in 1992 to address cases where party had other children

DEPARTMENT OF SOCIAL SERVICES
DIVISION OF CHILD SUPPORT ENFORCEMENT

OBLIGATION WORKSHEET
SOLE / SPLIT CUSTODY

DATE _____

DISTRICT OFFICE _____

CP _____

AP _____

DCSE # _____

SSN _____

SSN _____

	COLUMN A		COLUMN B	
	CP	AP	CP	AP
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	+	_____	+	_____
11.	+	_____	-	_____
12.	+	_____	+	_____
13.	_____	_____	_____	_____
14.	_____ %	_____ %	_____ %	_____ %
15.	_____	_____	_____	_____
16.	_____	_____	_____	_____
17.	_____	_____	_____	_____

NOTE: Column A is always completed. Column B is completed only in cases where either the CP and/or AP have legal dependents other than the ones in this case whom they are legally obligated to support.

- Number of children for whom support is sought in this case.
- Number of other children for whom either CP or AP are legally responsible (do not include children listed in #1 above)
- Monthly gross income (including any spousal support received)
- Amount of spousal support paid by either CP or AP to the other party in this case
- Adjusted gross income for spousal support
- Adjustment for children of other families (apply each parent's income to guidelines for number of children shown on line 2)
- Adjusted gross income for multiple families
- Combined monthly adjusted income (add incomes of CP and AP)
- Monthly basic child support obligation (apply combined incomes to support guidelines)
- Monthly amount permitted for extraordinary medical and dental expenses
- Monthly amount paid for employment related child care expenses
- Monthly amount paid for health insurance coverage expenses for this child(ren)
- Total monthly child support
- Percent obligation of each party
- Monthly child support obligation of each party
- Deduction of AP portion of health insurance coverage expense (from line 12)
- Monthly support obligation of AP

COMMENTS: _____

Split Custody Cases:

\$ _____ greater obligation DCSE # _____
 \$ _____ lesser obligation DCSE # _____
 \$ _____ obligation to be paid by parent owing greater obligation to parent owing lesser obligation.

ATTACHING GUIDELINES WORKSHEETS

Supreme Court Form DC-639

- Can be attached to orders when there is a deviation from presumptive amount
- Use is not required
- Court uses form to indicate reason for deviation
- Does not include calculation

**CHILD SUPPORT GUIDELINES EXCEPTION
SUPPLEMENT TO ORDER FOR SUPPORT**

Case No.

Commonwealth of Virginia VA. CODE § 20-108.1

(Check and complete the applicable provisions.)

- a. Actual monetary SUPPORT FOR OTHER family members or former family members, Va. Code § 20-108.1 (B)(1)
- b. Arrangements regarding CUSTODY of the children, including the cost of visitation travel, Va. Code § 20-108.1 (B)(2)
- c. SUPPORT AGREEMENT by the parties
- d. INCOME IMPUTED to a party who is voluntarily unemployed or voluntarily underemployed, provided that income may not be imputed to a custodial parent when a child is not in school, child care services are not available and the cost of such child care services are not included in the computation and provided further, that any consideration of imputed income based on a change in a party's employment shall be evaluated with consideration of the good faith and reasonableness of employment decisions made by the party, including to attend and complete an educational or vocational program likely to maintain or increase the party's earning potential, Va. Code § 20-108.1(B)(3)
- e. Any CHILD CARE COSTS incurred on behalf of the child or children due to the attendance of a custodial parent in an educational or vocational program likely to maintain or increase the party's earning potential, Va. Code § 20-108.1(B)(4)
- f. DEBTS of either party arising during the marriage for the BENEFIT OF THE CHILD, Va. Code § 20.108.1(B)(5)
- g. Direct payments ordered by the court for maintaining life insurance coverage, education expenses, or other COURT-ORDERED DIRECT PAYMENTS for the benefit of the child, Va. Code § 20-108.1(B)(6)
- h. EXTRAORDINARY CAPITAL GAINS such as capital gains resulting from the sale of the marital abode, Va. Code § 20-108.1(B)(7)
- i. Any SPECIAL NEEDS OF A CHILD resulting from any physical, emotional, or medical condition, Va. Code § 20-108.1(B)(8)
- j. The INDEPENDENT FINANCIAL RESOURCES of the CHILD or children, Va. Code § 20-108.1(B)(9)
- k. The STANDARD OF LIVING for the child or children established during the marriage, Va. Code § 20-108.1(B)(10)
- l. The earning capacity, obligations, financial RESOURCES AND SPECIAL NEEDS OF EACH PARENT, Va. Code § 20-108.1(B)(11)
- m. The PROVISIONS made with regard to the MARITAL PROPERTY under Va. Code § 20-107.3 where said property earns income or has income-earning potential, Va. Code § 20-108.1(B)(12)
- n. Tax consequences to the parties including claims for exemptions, child tax credit, and child care credit for dependent children, Va. Code § 20-108.1(B)(13)
- o. Limited by PLEADINGS
- p. A written agreement, stipulation, consent, order, or decree between the parties which includes the amount of child support, Va. Code § 20-108.1(B)(14)
- q. Such OTHER FACTORS as are necessary to consider the equities for the parents and children (Va. Code § 20-108.1 (B)(15) – describe briefly)

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ATTACHING GUIDELINES WORKSHEETS

Suggestion:

The Panel could recommend in its 2017 report to the General Assembly that legislation be proposed to require attachment of worksheets to all orders



ATTACHING GUIDELINES WORKSHEETS

Panel would provide draft statutory language

- Track mediation statute language?

...In cases in which the dispute involves support for the minor children of the parties, an order incorporating a written agreement shall also include the child support guidelines worksheet and, if applicable, the written reasons for any deviation from the guidelines. The child support guidelines worksheet shall be attached to the order. (Va. Code Ann. § 8.01-581.25)

ATTACHING GUIDELINES WORKSHEETS



- Include other language to require that
 - All worksheets be attached?
 - In complex cases, many calculations may be done
 - Only final presumptive and (if used) deviated calculations be attached?
- The Supreme Court Forms Committee would revise worksheet forms if necessary

ACCOUNTING FOR LATER-BORN CHILDREN

Issues:

- Should a new family reduce the obligation for a child from the 1st family?
- Should 2nd family be considered at all since 2nd spouse's income is not included in calculation for child from 1st family?
- Since there are many single parents with no 2nd spouse, should guidelines consider overall household income?

ACCOUNTING FOR LATER-BORN CHILDREN

Public policy considerations:

- Virginia's statutory scheme is based on the best interests of the child
- A "first children come first" policy penalizes later-born children
- Children are not to be penalized for parents' choices
- In Virginia, a new child is not by itself a basis for modification, but if a parent asks for modification based on a different change in circumstances, the court must start with presumptive guidelines and give credit for later-born children

ACCOUNTING FOR LATER-BORN CHILDREN

- Most states do not allow for a modification solely because additional children have been born after the children in the case in question.
- In the vast majority of states and the District of Columbia, an adjustment is applied to either parent regardless of gender, custody status, or whether the parent is the obligor or obligee.



ACCOUNTING FOR LATER-BORN CHILDREN

The most common formula used in other states, including Virginia, is a theoretical support award calculated for the additional children (e.g., children in the home of the parent) from the schedule.




CHILD SUPPORT GUIDELINES WORKSHEET

Commonwealth of Virginia Va. Code § 20-108.2

Case No. _____

_____ (Party A) v. _____ (Party B) _____ DATE _____

	<u>PARTY A</u>	<u>PARTY B</u>
1. Monthly Gross Income (see instructions on reverse)	\$ _____	\$ _____
2. Adjustments for spousal support payments (see instructions on reverse)	\$ _____	\$ _____
3. Adjustments for support of child(ren) (see instructions on reverse) 	\$ _____	\$ _____
4. Deductions from Monthly Gross Income allowable by law (see instructions on reverse)	\$ _____	\$ _____
5. a. Available monthly income	\$ _____	\$ _____
b. Combined monthly available income		
(combine both available monthly income figures from line 5.a.)		\$

Line 3 — When a party is paying child support payments pursuant to an existing court or administrative order or written agreement for a child or children who are not the subject of the proceeding, subtract this amount from gross income. When a party has a child or children who are not the subject of the proceeding in their household or primary physical custody, subtract the amount as shown on the schedule of Monthly Basic Child Support Obligations that represents that party’s support obligation for that child or children based solely on the party’s income as the total income available. If these provisions are inapplicable, insert “none” in the appropriate column(s). There is only a presumption that these amounts will be deducted from gross income.

ACCOUNTING FOR LATER-BORN CHILDREN

- Some states use only one parent's income (i.e., the income of the parent with the additional children).
- **Colorado** and the **District of Columbia** take 75% of the standard adjustment because empirical evidence finds that that percentage equalizes income between the sets of children.



ACCOUNTING FOR LATER-BORN CHILDREN

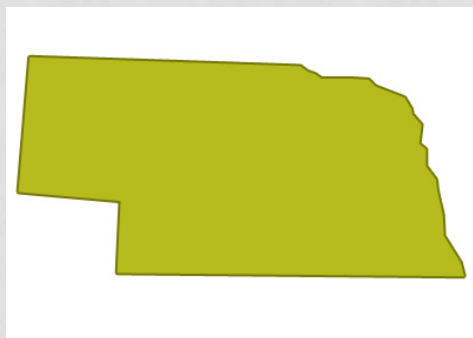
Iowa uses a percentage method, available to both parents, depending on the number of children:

# of Children	% of Parent's Gross Monthly Income	Maximum Monthly Amount
1	8%	\$800/month
2	12%	\$1200/month
3	14%	\$1400/month
4	15%	\$1500/month
5+	16%	\$1600/month

Amounts formerly related to IRS tax exemption amounts; they were recently increased in response to public comments that IRS-based amounts were inadequate.

ACCOUNTING FOR LATER-BORN CHILDREN

- **Kansas** uses a “multiple family application” but will not use it if the application of the adjustment reduces income below poverty.



- **Nebraska** provides that a credit may be given for biological or adopted children for whom the obligor provides regular support, although this credit is not available to the obligee.

ACCOUNTING FOR LATER-BORN CHILDREN

- In **Pennsylvania**, when an obligor's total basic child support obligations exceed 50% of monthly net income, the court may consider a proportional reduction of the obligations.
- Goal is to treat each child equitably with neither first nor last family receiving preference.
- Statute specifically prohibits dividing guideline amounts for all children among the households.



ACCOUNTING FOR LATER-BORN CHILDREN

- **Washington** utilizes a “whole family formula” which considers both parents’ incomes, the incomes of any current spouses, and all of each parent’s children.



COMPLEX CASES

- At its last meeting, the Panel suggested drafting a letter to the Family Bar Coalition asking the group to consider addressing guidance for complex issues, such as later-born children and other intricate multi-family situations
- Draft letter provided to Panel:
 - Approve?
 - Approve with changes?
 - Do not approve?

DEVIATION FACTORS

AGE OF CHILDREN

Do older children cost more than younger children?

Economic data is mixed:

- Betson's study finds no statistical difference in cost
- U.S. Dept. of Agriculture (USDA) data indicates that, in general, expenditures on older children are more than expenditures on younger children
- USDA reports expenditures for 6 age brackets:

0-2	3-5	6-8	9-11	12-14	15-17
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DEVIATION FACTORS AGE OF CHILDREN

General conclusions from USDA data:

- 6-8 year olds are the least expensive



- Children younger than 6 are more expensive due to higher childcare and education expenses

- Children older than 8 are more expensive due to higher food and healthcare expenses



DEVIATION FACTORS

AGE OF CHILDREN

When childcare, healthcare, and education are not considered (because they are excluded from the guidelines schedule), USDA data indicates:

- Expenditures on 15-17 year olds are 15-26% higher than expenditures on 0-2 year olds (increase varies based on low-, middle-, or high-income families)
- Expenditures increase about 1-10% between each age bracket
 - Except teenagers - there is very little difference in expenditures on 12-14 year olds vs. 15-17 year olds

DEVIATION FACTORS

AGE OF CHILDREN

- The USDA provides a *Cost of Raising a Child Calculator* (http://www.cnpp.usda.gov/tools/CRC_Calculator/)
- Costs vary based on:
 - Age of child
 - Region of the country (Virginia is in the Southern region)
 - Parents' income
 - Using 2 parents' combined incomes, costs are calculated at 3 annual income levels:
 - Less than \$62,010
 - \$62,010 - \$107,360
 - More than \$107,360

TWO PARENTS' ANNUAL COSTS FOR ONE CHILD

AGE	Parents' Combined Income	U.S. Southern Region – Urban/Suburban							
		Housing	Food	Transportation	Clothes	Health Care	Child Care & Education	Other	Total
<1	< \$62,010	\$3,500	\$1,513	\$1,438	\$813	\$788	\$2,675	\$388	\$11,113
	\$62,010-107,360	\$4,600	\$1,825	\$2,125	\$963	\$1,063	\$3,650	\$988	\$15,213
	> 107,360	\$8,325	\$2,475	\$3,250	\$1,325	\$1,238	\$6,613	\$2,125	\$25,350
4	< \$62,010	\$3,500	\$1,650	\$1,513	\$638	\$738	\$2,450	\$650	\$11,138
	\$62,010-107,360	\$4,600	\$1,950	\$2,200	\$775	\$1,000	\$3,425	\$1,238	\$15,188
	> 107,360	\$8,325	\$2,600	\$3,325	\$1,113	\$1,175	\$6,375	\$2,388	\$25,300
7	< \$62,010	\$3,500	\$2,238	\$1,675	\$725	\$825	\$1,013	\$675	\$10,650
	\$62,010-107,360	\$4,600	\$2,750	\$2,363	\$863	\$1,175	\$1,988	\$1,263	\$15,000
	> 107,360	\$8,325	\$3,425	\$3,488	\$1,213	\$1,363	\$4,950	\$2,413	\$25,175
10	< \$62,010	\$3,500	\$1,588	\$1,688	\$738	\$888	\$1,588	\$663	\$11,650
	\$62,010-107,360	\$4,600	\$3,138	\$2,363	\$900	\$1,263	\$2,563	\$1,263	\$16,088
	> 107,360	\$8,325	\$3,888	\$3,500	\$1,263	\$1,450	\$5,525	\$2,400	\$26,350
16	< \$62,010	\$3,500	\$2,800	\$2,050	\$938	\$1,263	\$1,125	\$600	\$12,275
	\$62,010-107,360	\$4,600	\$3,375	\$2,725	\$1,163	\$1,663	\$2,900	\$1,200	\$17,625
	> 107,360	\$8,325	\$4,163	\$3,850	\$1,638	\$1,925	\$8,275	\$2,338	\$30,513

DEVIATION FACTORS

AGE OF CHILDREN

According to the calculator, the difference between costs for a child under the age of 1 and a 16-year-old child vary widely based on income levels:

Combined Income	Annual Costs		% Increase
	< 1 year old	16 year old	
Low	\$11,113	\$12,275	10.5%
Middle	\$15,213	\$17,625	15.9%
High	\$25,350	\$30,513	20.4%

DEVIATION FACTORS: AGE OF CHILDREN

Mr. Diehl's suggestions if the Panel decides to recommend a deviation factor for age of children:

- Create new deviation factor number 15 (current 15 would become 16) in Va. Code § 20-108.1
- Proposed draft language:
The age of the children and reasonable needs of the children for such age.

DEVIATION FACTORS: COST OF LIVING IN VARIOUS AREAS OF STATE



The Panel requested further information regarding having a variance in the guideline schedule based on the cost of living in various parts of Virginia.

DEVIATION FACTORS

COST OF LIVING IN VARIOUS AREAS OF STATE

Federal law requires a single set of child support guidelines that applies statewide:

45 CFR § 302.56. Guidelines for setting child support awards.

(a) Effective October 13, 1989, as a condition of approval of its State plan, the State shall establish **one set of guidelines** by law or by judicial or administrative action for setting and modifying child support award amounts within the State.

DEVIATION FACTORS

COST OF LIVING IN VARIOUS AREAS OF STATE

- In Virginia, as in many states, housing costs vary regionally
- Counties and cities with higher incomes also have higher housing costs
- Higher incomes in a region:
 - Compensate for the region's higher housing costs
 - Have higher child support obligations based on guidelines schedule
- Regardless of income, renters and homeowners spend about the same percentage of income on housing

DEVIATION FACTORS

COST OF LIVING IN VARIOUS AREAS OF STATE

Renters (Lowest/Mid/Highest)	Median Income: Married Couples w/Children	Median Monthly Rent	Rent as % of Income
Roanoke City	\$64,383	\$647	26.1%
Chesapeake City	\$93,454	\$1,144	32.2%
Arlington County	\$170,352	\$1,673	26.1%

Homeowners (Lowest/Mid/Highest)	Median Income: Married Couples w/Children	Median Monthly Mortgage	Mortgage as % of Income
Roanoke City	\$64,383	\$1,114	25.6%
Virginia Beach	\$90,586	\$1,802	26.4%
Loudoun County	\$142,684	\$2,785	25.0%

DEVIATION FACTORS

COST OF LIVING IN VARIOUS AREAS OF STATE

- No state adjusts for regional differences in cost of living within the state.
- Kansas is the only state to adjust for **interstate** differences in cost of living by weighing the parent's available income for child support by a ratio:

Average Kansas wage : Average wage
of state where parent resides

DEVIATION FACTORS

COST OF LIVING IN VARIOUS AREAS OF STATE

Other considerations:

- Whose location would be used as basis for calculation – custodial parent's or noncustodial parent's (i.e., CP lives in Roanoke and NCP lives in Arlington)?
- How would shared custody that occurs in different regions of the state be addressed?
- Factoring location-specific numbers into calculation would be complex

FURTHER DISCUSSION

