

# Arizona Child Support Guidelines Review Analysis of Case File Data

Submitted by:

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Points of view expressed in this document are those of the authors and do not necessarily represent the official position of the State, the Court or the Committee reviewing the guidelines.

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## INTRODUCTION

Arizona is currently reviewing its child support guidelines in accordance to State statute and Federal regulation.<sup>1</sup> As part of the federal requirement, states must 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.

This report summarizes the findings from Arizona's case file review. A Court-appointed Committee will consider the findings as well as public comment, other research and additional information from many sources for the review. In turn, the Committee will recommend guidelines changes to the Arizona Supreme Court. The guidelines are promulgated through Arizona Supreme Court Administrative Order No. 2004-29. The Court posts more information about the review on its website URL: <http://www.supreme.state.az.us/csgrc/> Individuals may also submit comments and suggestions to the Committee from this website.

## BACKGROUND

Federal regulations require each state to establish one guidelines for setting and modifying child support award amounts. The guidelines are to be applied presumptively, but states must also establish criteria for rebutting the presumption if the application of the guidelines would be unjust or inappropriate for a particular case scenario. The deviation criteria must also consider the best interest of the child. The guidelines are to be used by all persons whose duty is to set child support orders. States must review their guidelines at least once every four years.

Arizona last revised its guidelines on January 1, 2005. The revisions were part of a review that began in 2002 and ended in 2004. It included a similar analysis of case file data and a report of the findings (PSI 2003). The Court contracted with Center for Policy Research (CPR) to collect and analyze case file data for this review.

## SAMPLING AND DATA COLLECTION

Arizona has conducted four case file reviews since the quadriennial review requirement was first imposed in 1989. The previous reviews took place in 1995, 1999, and 2002. All of the reviews considered a random sample of recently established or modified child support orders. The 1999 and 2002 review relied on a stratified random sample. The strata consist of Maricopa, Pima, Santa Cruz, and Yavapai Counties. For consistency, CPR also relies on a stratified random sample using the same counties except CPR replaced Santa Cruz County with Apache County. The 1999 and 2002 reviews cumulated into two reports. The 2002 report contains findings from both the 1999 and 2002 reviews. We rely upon it in this report to analyze trends in child support orders and guidelines usage.

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<sup>1</sup> Arizona Revised Statutes § 25-320(D) and Title 45, Public Welfare, CFR 302.56.

*Sample Size.* The 1999 and 2002 reviews relied on a sample of 267 orders and 431 orders, respectively. The sample size necessary to detect statistical differences in the guidelines deviation rate since 2002 is 270 orders. Nonetheless, this study targeted a sample size of 440 orders to be comparable to the 2002 sample size. CPR oversampled by 25 percent, then rounded up the sample size when distributing it across counties and county offices. The total targeted sample size was 615 orders. Exhibit 1 shows the targeted sample size for each county, the actual sample size, and other information.

Child support worksheets were available for 578 of the 615 orders (94% of the sampled cases). The worksheet contains much of the detailed information needed for the analysis (e.g., parents' incomes, the amount of the child's insurance). CPR eliminated orders without worksheets for the analysis. CPR also eliminated one order because it established two orders in a third-party custodian case (i.e., both the mother and father were ordered to pay support to the child's custodian). CPR also eliminated an additional nine cases because it was obvious that the worksheet sent to CPR was not the actual worksheet that formed the basis of the order. (As an aside, a case file may contain multiple worksheets reflective of variations in the child support calculation or differences in information submitted by the petitioner and respondent.) In all, this resulted in 568 orders for the analysis.

	Apache County	Maricopa County	Pima County	Yavapai County	Subtotal of the Four Counties	State Total
Total population (2007 Census)	71,118	3,768,123	946,362	208,014	4,993,617	6,166,318
% of State Total	1.2%	61.1%	15.3%	3.4%	81.0%	100.0%
New Orders Established by IV-D Agency (FY2007)	36	4,162	1,201	332	5,731	7,702
% of State Total	0.5%	54.0%	15.6%	4.3%	74.4%	100.0%
Child Support Orders Entered (2007 County Clerk Records)*	68	6,935	1,911	407	9,321	Unknown
Targeted Sample Count	30	410	120	55**	615	Not Applicable
Actual Sample County	27	385	110	46	568	Not Applicable

\*Includes IV-D and non-IV-D orders. IV-D refers to Section IV-D of the Social Security Act that requires states to develop a child support program to establish and enforce support in public assistance cases and make these services available to non-public assistance cases. Maricopa County includes modified orders. Pima County is estimated based on cases filed in 2007.

\*\*This is broken down into two locations: Prescott (35 cases) and Verde Valley (20 cases).

*Data Collection and Entry.* With the assistance of the AOC, IV-D agency, and County Clerks, CPR obtained a list of orders entered or filed in calendar year 2007 from each of the sampled counties. Then, CPR generated a random sample from those lists. CPR retained staff from the County Clerk offices to copy the orders and supporting guidelines worksheets of the random sample. The staff also noted whether the parents attended parenting education. (The Court case file contains a form indicating parent education attendance.) CPR entered the data into an EXCEL workbook.

*Data Limitations and Assumptions.* Information was limited to what was available on the order or worksheet. Counties use slightly different forms and some have two different forms. This results in at least three small data issues.

- Since not all forms allow for the option of “equal parenting time” for “custody,” we assumed that any cases where the worksheet indicates 173 to 182.5 parenting days was essentially equal parenting time. (As an aside, none of the worksheets indicated that Parenting Time Table B was used.) We considered the assumption that any case where the worksheet indicates 143 to 182.5 parenting days was essentially equal parenting time because the Guidelines assumes that certain child-rearing costs are substantially or equally shared by both parents above 143 parenting days; however, this would have masked the issue of zero orders. Almost half (45%) of cases where the number of parenting days is 173 to 182.5 have zero orders. In contrast, only 20 percent of cases where the number of parenting days is 143 to 172 have zero orders. The sample contains 84 orders with 173 to 182.5 parenting days and 30 orders with 143 to 182.5 parenting days.
- Secondly, in some counties where the worksheet asks “custody” instead of “primary residential parent,” it appears that some users entered the parent(s) with legal custody rather than the parent(s) with primary residence. CPR used the number of parenting days on the worksheet and information from the order to correct this.
- Finally, most guidelines forms do not include space for the equal parenting time/unequal income adjustment provided in Guidelines Paragraph 12; yet, some counties have developed a separate form to apply it. Still some parents try to apply Paragraph 12 to the worksheet that does not have space for the Paragraph 12 calculation. Because of this, it is often difficult to surmise whether Table A or Paragraph 12 was used to adjust for parenting time when there is essentially equal custody.

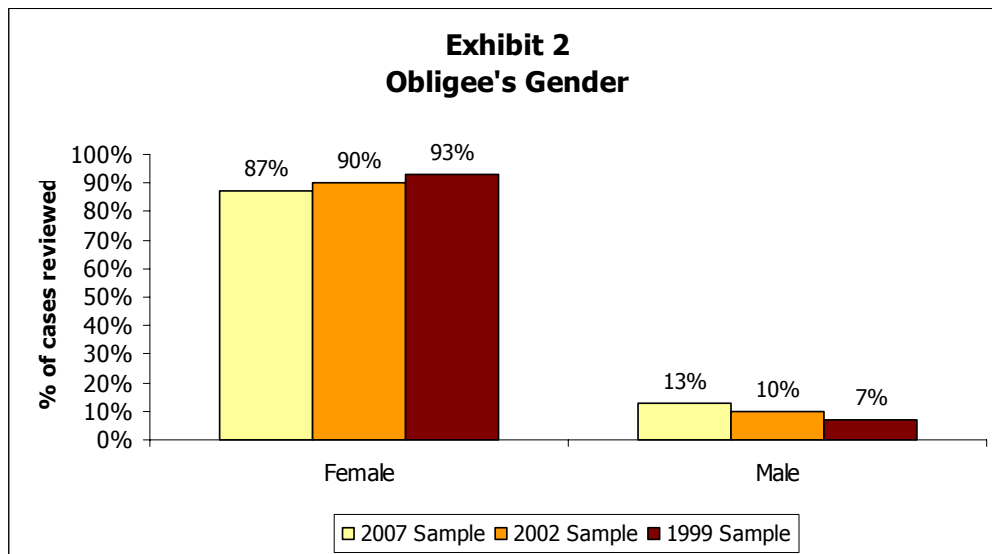
In addition, the completeness of the worksheet limited information for analysis. For example, many worksheets noted only the amount of the parenting time adjustment, but not the number of days or what adjustment was applied; nonetheless, the missing information could often be deduced from the calculation. For example, when only the adjustment percentage was noted, we assumed that the number of parenting days was the midpoint of the range of days corresponding to the percentage.

*Terminology.* Other limitations concern terminology. Although “custody” in Arizona family law refers to legal custody, we sometimes use “custodial parent” to indicate the parent who is the primary residential parent. Similarly, we use the term “noncustodial parent” to indicate the parent who is not the primary residential parent. We also use the terms, “obligor” and “obligee,” to indicate the parent with a duty to pay support and the parent to receive support, respectively. These terms do not always correspond to the timesharing arrangement because it is possible under the Guidelines calculation for the primary residential parent to be the obligor if there is substantial timesharing, the primary residential parent has higher income than the other parent, or due to additional child costs such as child care. Most orders identified which parent was the obligor even when there was a zero-order based on whom would be the obligor using the guidelines-calculated amount prior to the deviation. In cases where an obligor was not identified, CPR identified the obligor as being the parent who would have paid support under strict application of the Guidelines.

## FINDINGS FROM THE CASE FILE REVIEW

### Characteristics of the Cases

*Obligees in the Cases.* As in the previous case file reviews, the majority of parents who make child support payments, or the “obligors” in the case, are male (87%). In other words, 87 percent of the “obligees,” or the parents who receive the child support payment, are female. Exhibit 2 compares the gender of the obligees in the 2007 sample with the gender of the obligees in the 2002 and 1999 samples.



While the percentage of female obligees in Arizona has decreased over time, as evident in Exhibit 2, it is still greater than the percentage of female obligees at the federal level, which is 84 percent (Census 2007). This national statistic, however, is based on a different measurement than the one used in the Arizona reviews (which parent has primary custody versus which parent actually pays the child support). Still, the majority of child support cases across the country are those in which the mother has primary custody and receives support from the father.

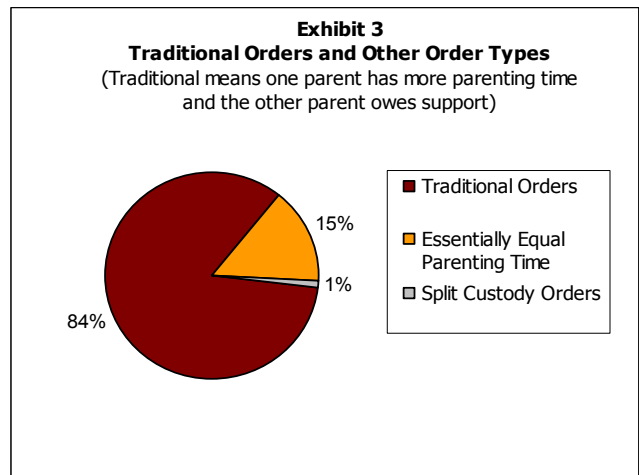
*Order Types.* The majority of the 2007 sample (84%) consist of “traditional” child support orders; that is, cases where one parent is the primary residential parent and the other parent owes support. In most of these traditional orders (89%), the mother is the primary residential parent and the father pays child support.

As shown in Exhibit 3, 15 percent of the orders involve essentially equal parenting time. Of these orders:

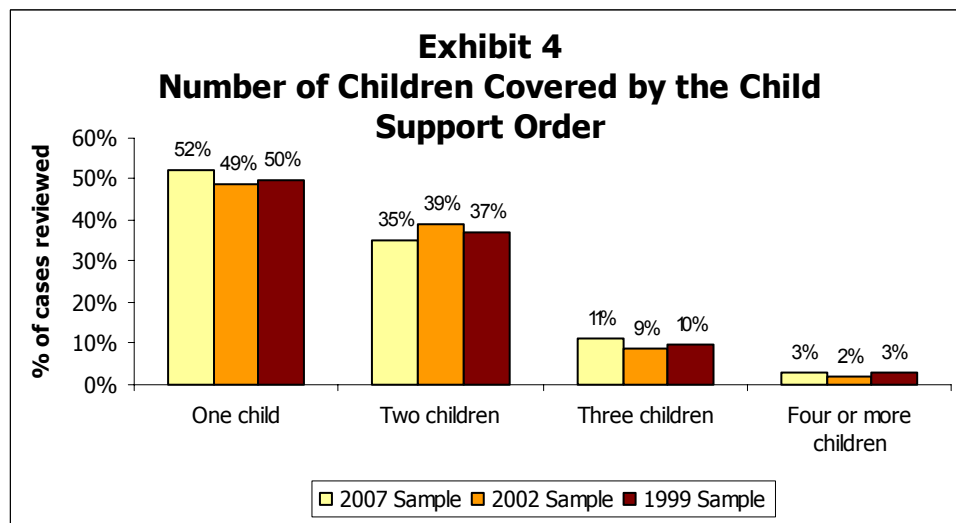
- More than three-quarters (76%) are cases where the father has more income and would be the obligor under strict application of the guidelines;

- 18 percent are cases where the mother has more income and under strict application of the guidelines would be the obligor;
- Three percent of the cases involve parents with equal incomes; and
- The remaining three percent are orders where additional expenses alter which parent would pay support under strict application of the guidelines.

Finally, Exhibit 3 shows few orders (1%) involve split custody; that is, where there are at least two children and each parent is the primary residential parent for at least one child.



*Children Covered in the Cases.* Most (87%) of the cases reviewed cover one or two children. Exhibit 4 shows the number of children covered in the child support cases in the 2007, 2002, and 1999 samples.



In the 2007 sample, the average age of the youngest child and oldest child covered in the order are 7.1 years and 9.0 years, respectively. This is similar to the past two case file reviews. In the 2002 sample, the average age of the youngest child was 7.8 years and the average age of the oldest child was 9.6 years, while in 1999 the average age of the youngest child and oldest child was 7.5 years and 9.5 years, respectively.

### Parents' Incomes

In the 2007 sample, monthly income averages \$2,558 among obligees and \$4,046 among obligors. Median monthly income is \$2,094 among obligees and \$3,000 among obligors. The average gross monthly incomes of obligees and obligors have increased since the previous case file

review. Exhibit 5 compares the average gross monthly incomes of obligees and obligors in the 2007 sample to the incomes in the 2002 and 1999 samples.

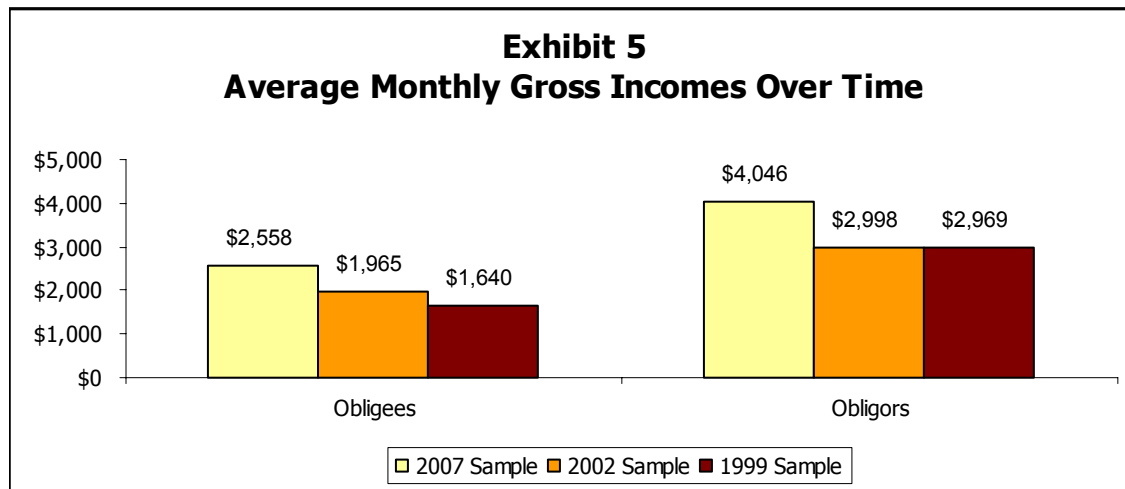


Exhibit 5 shows that average gross monthly incomes have steadily increased over time. This appears to result from an increase in the proportion of high earners. As evident from Exhibit 6, which gives more details on the changes in the parents' incomes over time, the percent of parents with gross incomes above \$3,000 per month has increased significantly. For example, in 2002, just over a third (36%) of obligors had gross incomes more than \$3,000 per month. In 2007, that proportion has grown to almost half (48%).

On the other hand, the number of obligees and obligors earning less than \$1,000 per month, as evident in Exhibit 6, has decreased since 2002. Some of this decrease may result from the change in Arizona's minimum wage. In 2002, Arizona used the federal minimum wage of \$5.15 per hour. At this rate, a person working 40 hours per week would earn \$893 per month. The minimum wage in Arizona has increased to \$6.90 per hour. An employee working full time at the new minimum wage rate would earn \$1,196 per month. Effective July 24, 2009, the federal minimum wage will increase to \$7.25 per hour, which is \$1,257 per month for a full-time worker.

*High Incomes.* Exhibit 6 breaks down the \$3,001 or more incomes further for the 2007 sample. (Similar information is not available from the 2002 report.) It shows four percent of the obligees and 13 percent of the obligors have gross incomes more than \$6,001 per month. However, it is unusual for both parents to have high incomes. For example, only two percent of orders involve cases where both parents have gross incomes above \$6,001 (i.e., a combined income above \$12,001 per month).

**Exhibit 6. Gross Monthly Incomes over Time  
(% of orders)**

	<b>2007 Sample (n=568)</b>	<b>2002 Sample (n=427)</b>	<b>1999 Sample (n=267)</b>
<b>Obligee's Gross Monthly Income</b>			
\$1000 or less	12%*	26%*	30%
\$1,001-\$2,000	36%	34%	43%
\$2,001-\$3,000	26%	25%	20%
\$3,001 or more	26%*	16%*	7%
• \$3,001 to \$4,000	12%		
• \$4,001 to \$5,000	6%	N.A.	N.A.
• \$5,001 to \$6,000	4%		
• \$6,001 or more	4%		
<b>Obligor's Gross Monthly Income</b>			
\$1,000 or less	4%*	12%	12%
\$1,001-\$2,000	24%	29%	34%
\$2,001-\$3,000	24%	23%	26%
\$3,001 or more	48%*	36%*	28%
• \$3,001 to \$4,000	19%		
• \$4,001 to \$5,000	12%	N.A.	N.A.
• \$5,001 to \$6,000	5%		
• \$6,001 or more	13%		

\* The 2007 amount is a statistically significant change from the previous review,  $p < .05$

*Combined Incomes above the Schedule.* Approximately two percent of the 2007 sample have a combined gross income over \$20,000 per month. This is important because the Arizona guidelines' schedule does not cover combined incomes over \$20,000 per month. For incomes above that, the guidelines provide that the highest amount on the schedule shall be used and a parent requesting more bears the burden of proof of evidence that child-rearing expenses should be more. The case file review suggests that this provision is applied infrequently. About one-third (36%) of the orders where the combined income exceeded \$20,000 per month involved a guidelines deviation. (Caveats to this are: the deviation may reflect another reason; and, a request for deviation may have been denied.) Half of these deviations were in an upward direction, the other half were in a downward direction.

Of the cases involving combined incomes over \$20,000 gross per month, the average order amount is \$1,282 per month, the orders range from zero to \$3,371, and nearly half (46%) of these orders cover one child. The average order amount in these cases is less than the highest amount on the schedule for one child, which is \$1,561 per month or eight percent of \$20,000. On average, the order amount absorbs about five percent of the obligor's gross adjusted monthly income in these cases. The order amount as a percent of the obligor's gross adjusted monthly income ranges from zero to eight percent. These are relatively low order amounts, particularly when considering that most of income is from one parent in these cases. The obligor's income averages 71 percent of the combined income in these cases. The median is 79 percent of combined income.

*Percent of Combined Income.* The Arizona Guidelines uses the Income Shares Model. This model prorates most costs of raising a child between the parents based on each parent's share of the combined income. Therefore, we analyze the obligor's income as a percentage of the parents' combined income. Exhibit 7 gives information on the obligor's income as a percentage of combined income over time.

**Exhibit 7. Obligor's Income as a Percent of Combined Income  
(% of orders)**

	<b>2007 Sample (n=568)</b>	<b>2002 Sample (n=427)</b>	<b>1999 Sample (n=267)</b>
0-15%	1%	1%	0%
16-30%	6%	7%	5%
31-45%	17%	17%	19%
46-60%	29%	31%	30%
61-75%	30%	25%	29%
76-90%	13%	10%	10%
91-100%	5%*	10%*	6%
<b>Average</b>	<b>59%</b>	<b>59%</b>	<b>60%</b>

\* The 2007 amount is a statistically significant change from the previous review,  $p < .05$

As shown in Exhibit 7, the obligor's income is approximately 60 percent of the combined income in the 2007, 2002, and 1999 samples. This means that, in the Income Shares Model, the obligors are responsible for an average of 60 percent of the child-rearing expenses.

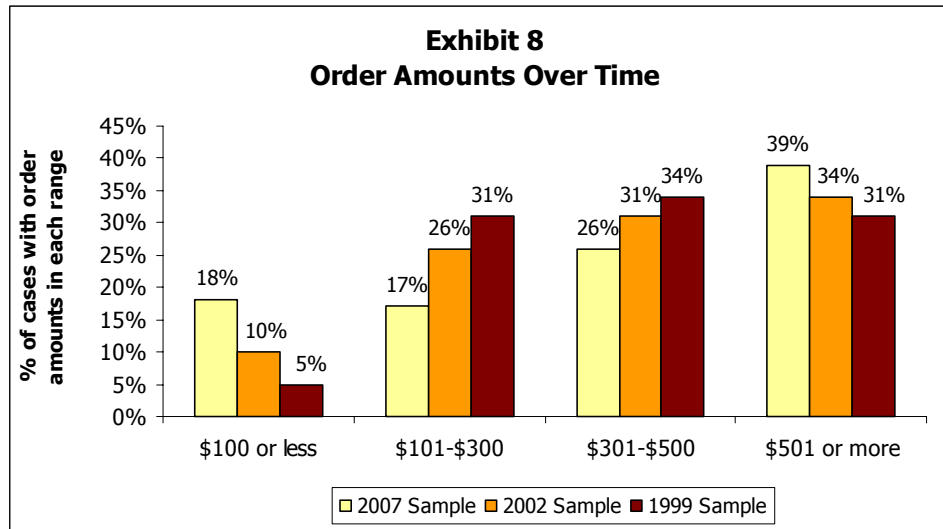
Exhibit 7 also indicates a significant decrease in the percent of cases where the obligor has income but the obligee has essentially no income. This is evident by the decrease in the percent of cases at the 91-100% range.

### Monthly Order Amounts

In 2007, the average child support order is \$460 per month. This is a slight increase from the 2002 and 1999 averages, which were \$455 and \$447, respectively. The median child support order is \$407 per month among 2007 orders.

Exhibit 8 gives more information about the order amounts in 2007, 2002, and 1999. As shown in Exhibit 8, 39 percent of the orders in 2007 were set at amounts over \$500 per month. Eighty percent of these orders were between \$500 and \$1,000 per month, while 20 percent of these orders were over \$1,000 per month.

Of the orders that are below \$100 per month, the majority (89%) are less than \$50. These orders make up 16 percent of the total sample. This is a statistically significant increase from the 2002 and 1999 samples, where orders under \$50 per month made up only six percent and one percent, respectively, of the total sample.



### *Zero-Dollar Orders*

Zero-dollar orders have also increased since the last review. In 2007, these orders are 14 percent of the total sample, while in 2002, these orders made up only five percent of the total sample. This increase is statistically significant.

*Guidelines Applied.* More than a quarter (26%) of the zero-dollar orders followed the guidelines. Several different case circumstances in the 2007 sample produced a zero-dollar order when the guidelines are applied.

- The obligor has zero income or the self-support reserve test brought the order down to zero.
- The combination of the parenting time adjustment and additional child-rearing costs paid by the obligor offset the obligor's share of the basic obligation. For example, in one case the obligor pays \$500 of additional educational expenses, which was more than his share of the basic obligation adjusted for parenting time.
- The parents have essentially equal incomes and equal parenting time.
- The child receives Social Security benefits.

None of these reasons contribute significantly more or less to zero-dollar orders.

*Guidelines Deviations.* The remaining zero-dollar orders (74% of all zero-dollar orders) result from guidelines deviations. Besides almost equal parenting time (53% of these cases involved essentially equal parenting time), there appears to be some common characteristics of these orders.

- Almost one half (48%) of zero-dollar orders based on a deviation started with a guidelines-calculated amount of \$100 or less. Obviously, these parents zeroed out the order. Many of these cases involved essentially equal parenting time. We also questioned whether more cases were actually in this category but the worksheet did not reflect it. Although we did not examine every step taken in worksheet calculations, we did spot-check a few worksheets

with equal parenting time and discovered that the guidelines amount would have resulted in a different amount had the parenting time adjustment been applied to the other parent or Table A was used instead of Paragraph 12, or vice versa.

- About one-third (33%) involved cases where the obligor's income was less than or equal to the obligee's income or the obligor's monthly income was less than \$2,400. This suggests that the parents may have agreed to a zero dollar order to increase the obligor's self-support reserve.

Yet, in some cases, the basis for the deviation to a zero-dollar order was not obvious. The obligor in these cases clearly has more income and less parenting days than the obligee and there were no substantial additional child-rearing expenses such as child care expenses.

## Applications of Adjustments

### *Parenting Time Adjustments*

A parenting time adjustment was applied in 88 percent of the cases in the 2007 sample. This is a statistically significant increase from 2002, when 77 percent of the cases had a parenting time adjustment applied. The parenting time adjustment is based on the concept that when the non-custodial parent spends time with the child, some of the costs of caring for the child are directly absorbed by that parent. And, as the noncustodial parent spends more time with the child, more of the costs will shift away from the custodial parent onto the noncustodial parent.

To determine the adjustment to the child support order, the total number of days (a period of more than 12 hours is considered one day) the noncustodial parent spends with the child over the course of a year must be calculated. Once this is calculated, one of three adjustments may apply under the Guidelines.

- The most common way is to apply Parenting Time Table A, which contains adjustment percentages based on the number of parenting time days with the obligor. Table A is the genesis of the existing Arizona parenting time adjustment. Initially promulgated in the mid-1990s, Table A recognizes that when the child is with the obligor, the obligor incurs some time-variable child-rearing expenses directly such as food. Table A also recognizes that when the obligor has substantially more time with the child, the obligor incurs more of the child's variable expenses as well as housing and transportation expenses for the child. Hence, the adjustment percentage becomes larger as the number of parenting-time days increase. In its original form, the adjustment percentage never resulted in a zero-dollar order because it was believed that even when there is equal timesharing, one parent would control more child-rearing expenditures than the other parent; namely, the child's clothing and other personal items. As evident in Paragraph 11 of the current guidelines, however, this concept has been abandoned, at least in Table A.<sup>2</sup> As an aside, only three other states guidelines (Indiana,

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<sup>2</sup> This is based on the commentary following Table A. It states that "[C]ertain costs usually incurred only in the custodial household are assumed to be substantially or equally shared by both parents [when the number of parenting days exceed 143 days.] These costs are for items such as the child's clothing and personal care items, entertainment and reading materials."

Missouri, and New Jersey) base their parenting-time adjustment on a similar concept and all of these states have retained the concept of controlled expenses. We also note that Table A was refined over time by making the increments of parenting day ranges smaller and modifying the percentage adjustments.

- The guidelines also include a Parenting Time Table B. It was added to the guideline after Table A was promulgated. It is intended to provide adequate support in cases where there is substantial timesharing (the obligated parent has over 143 days) and the parents do not equally share child-rearing expenses, rather one parent does indeed incur more of the expenses for the child's clothing and similar expenses. In effect, Table B retains the original principle of Table A that even in equal timesharing cases, one parent will incur the "controlled" child-rearing expenses.
- Finally, the current Guidelines provides Paragraph 12, which is to be applied in essentially equal timesharing cases. This adjustment has also evolved over time. As we recall, in its original form, it allowed for zero-dollar orders in equal timesharing and equal income cases. In effect, it addressed a criticism of the original Table A adjustment: it did not result in zero-dollar orders in equal timesharing and equal income cases while the more popular timesharing adjustment method in other state guidelines did.<sup>3</sup> It appears that since then, Paragraph 12 has been expanded to also address essentially equal timesharing cases when the parents' incomes are not equal.

None of the worksheets in the 2007 sample noted use of Table B, nor did any in the 2002 review. Although it appears that most cases used Table A to adjust for parenting time, it is not entirely clear how often Paragraph 12 was used. In some of the handwritten worksheets, it was obvious that the person completing the worksheet contemplated whether to use Table A or Paragraph 12.

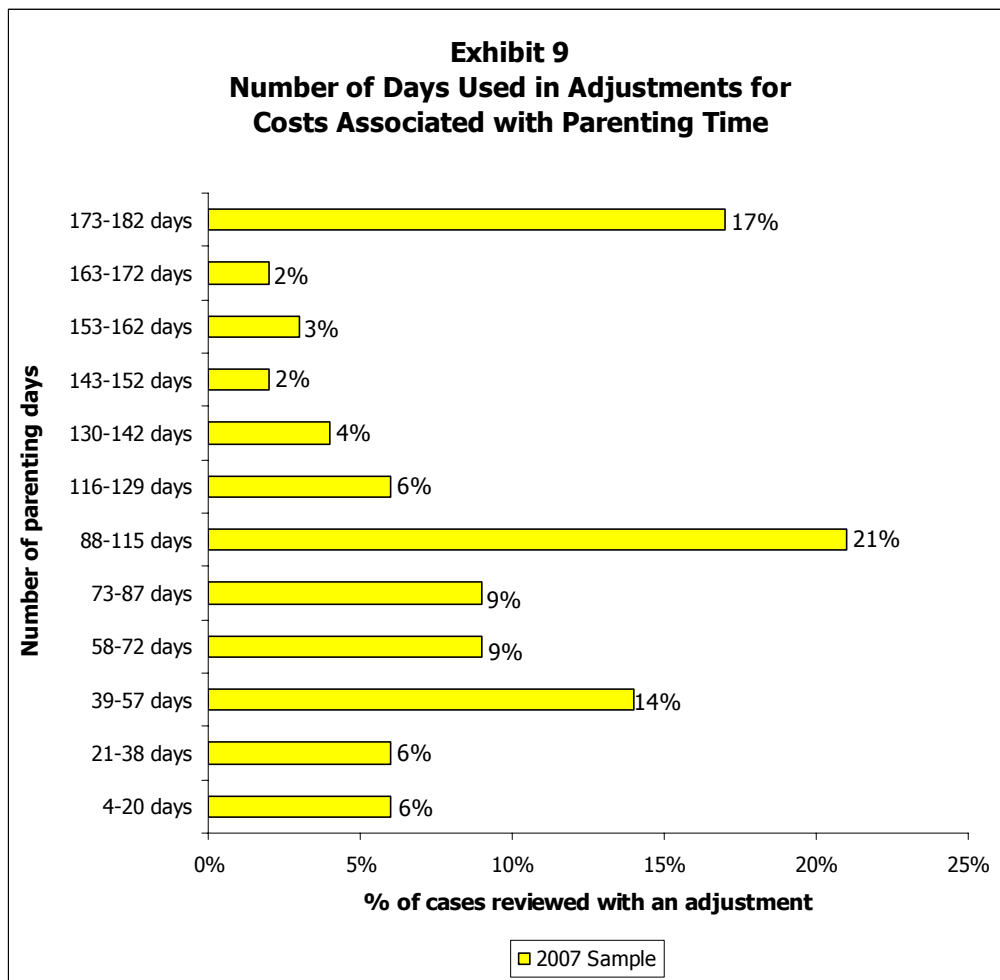
Exhibit 9 shows the ranges of parenting days per year — the same ranges found in Table A — used to adjust the child support obligations in the 2007 sample. As shown in this exhibit, 17 percent of the cases with an adjustment use an adjustment of 173 to 182 parenting days per year. The majority of these cases (78%) were equal parenting time. Twenty-one percent of the cases with a parenting time adjustment are based on the 88 to 115 day range. For this range, the non-custodial parent receives a 16.1 percent decrease to the monthly obligation.

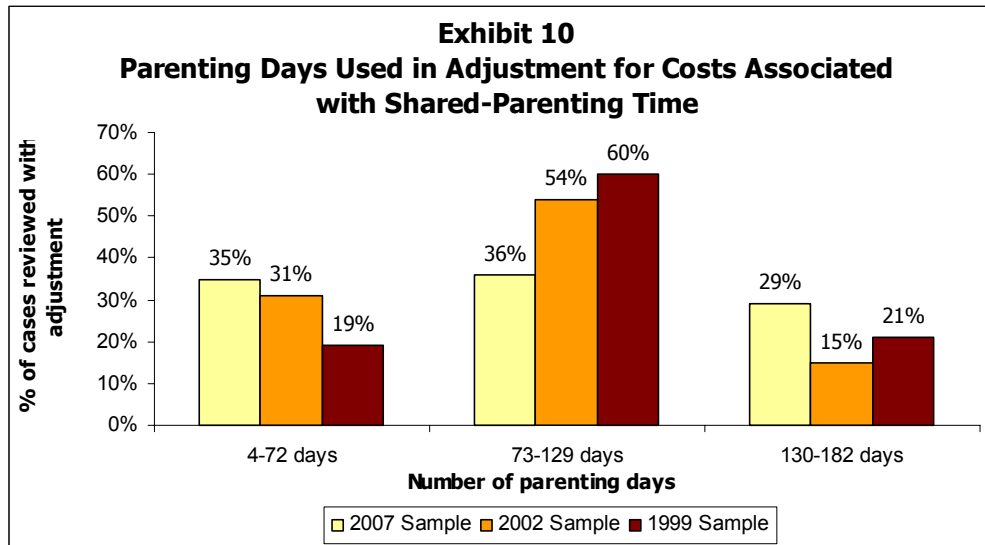
Exhibit 10 compares the parenting time days used in the 2007, 2002, and 1999 samples. There has been a steady increase (statistically significant from 1999 to 2002 but not from 2002 to 2007) in the amount of cases with a four to 72 day adjustment. The percent of cases using the 73 to 129 parenting day range decreased from 60 percent in 1999, to 54 percent in 2002, down to 36 percent in 2007. The decrease from 2002 to 2007 is statistically significant. More cases used the 130 to 182 day adjustment in 2007 than in 2002. The percent of cases increased from 15 percent to 29 percent. This increase is statistically significant.

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<sup>3</sup> The cross-credit formula is the most popular timesharing adjustment in state guidelines. An example of the cross-credit formula is contained in the Colorado guidelines. It results in a zero-dollar order when there is equal timesharing and equal incomes.

In all, 15 percent of the 2007 sample involved cases with essentially equal physical custody, which is significantly more than the 2002 sample. As an aside, we could only find one other state (Wisconsin) that tracked custody changes over time and no comparable national data. Wisconsin also finds an increase in equal parenting time. Among divorce cases in Wisconsin, the incidence of equal custody has increased from 15 percent in a 1996-99 sample to 24 percent in a 2003-04 sample (Brown and Canican 2007). We note that the Arizona and Wisconsin samples are not perfectly comparable. The Arizona sample included divorced and never married parents. The Wisconsin sample was limited to divorced parents. Generally, divorced parents are more likely to have parenting time agreements than never-married parents.





*Age of the Child in Equal Parenting Time Cases.* Many of the children in essentially equal parenting time cases are younger: 13 percent are infants or toddlers; 36 percent are of preschool or kindergarten age; 34 percent are of secondary school age; and 18 percent are teens.

#### *Adjustment for Older Children*

The Arizona guidelines apply an adjustment for children over the age of 12 to account for the presumption that older children can cost a parent up to 10 percent more to care for than younger children. An older child adjustment was applied in 30 percent of the cases in the 2007 sample. This is less than the proportion of cases in the 2002 sample with this adjustment (32%) though greater than the proportion of cases in the 1999 sample with the adjustment (24%).

#### *Adjustment for Low-Income Obligor*

In each child support case, the Arizona Guidelines require that the court perform a self-support reserve test to ensure that the obligor can afford to pay the child support order and still maintain a minimum standard of living. To do so, \$775 is deducted from the obligor's adjusted gross income. If the resulting amount is less than the child support order, the Court has the option to reduce the child support amount to the resulting amount. When determining whether to reduce the order amount, the Court also must take into consideration the financial situation of the obligee. In the 2007 sample, less than five percent of the obligors received the low-income adjustment. This is slightly less than the six percent of obligors that received the adjustment in 2002.

#### *Adjustments to the Parents' Income*

When calculating the child support order, the Arizona guidelines allow adjustments to be made to the parents' gross income for other support obligations. These obligations include:

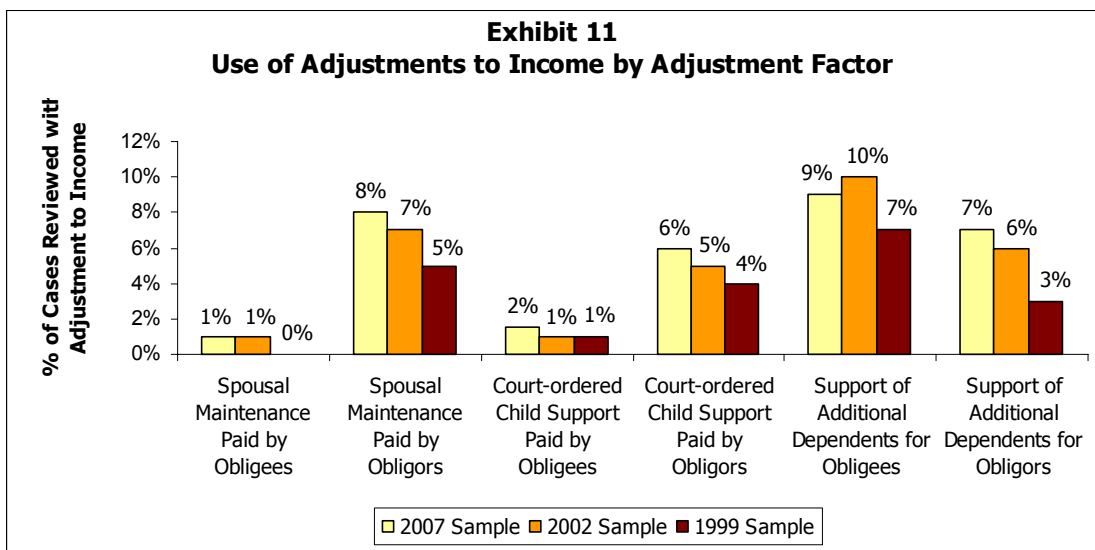
- Court-ordered spousal maintenance;
- Court-ordered child support for children from other relationships; and
- Support of other dependents in the household who are not included in a child support order.

It is important to note that this analysis cannot determine how many parents actually pay spousal maintenance, court-ordered support for other children, or support other dependents. We can only determine whether the Court took the payments into consideration when determining the parents' gross incomes.

Exhibit 11 compares the use of these income adjustments in 2007 to the 2003 and 1999 samples. It shows that spousal maintenance payments were subtracted from the incomes of one percent of the obligees and eight percent of the obligors in the 2007 sample. The average amount deducted for spousal maintenance payments was \$1,300 for obligees and \$1,268 for obligors. In the 2002 sample, the average amounts were \$630 for obligees and \$1,295 for obligors.

The court does not often include an adjustment to parents' income for court-ordered child support for children in other relationships. In the 2007 sample, only two percent of obligees and six percent of obligors had their incomes reduced for this reason. The 2002 and 1999 samples also had few parents with court-ordered child support adjustments. The average amount deducted was \$427 for the obligees and \$380 for the obligors in the 2007 sample, an increase from \$348 for obligees and \$365 for obligors in the 2002 sample.

The adjustment for support of additional dependents is also infrequently used when determining parents' income for the 2007 sample. 10 percent of obligees and seven percent of obligors received an adjustment for this reason. The average amount subtracted in 2007 for obligees and obligors were \$521 and \$602, respectively. In 2002, the averages were \$424 for obligees and \$508 for obligors.



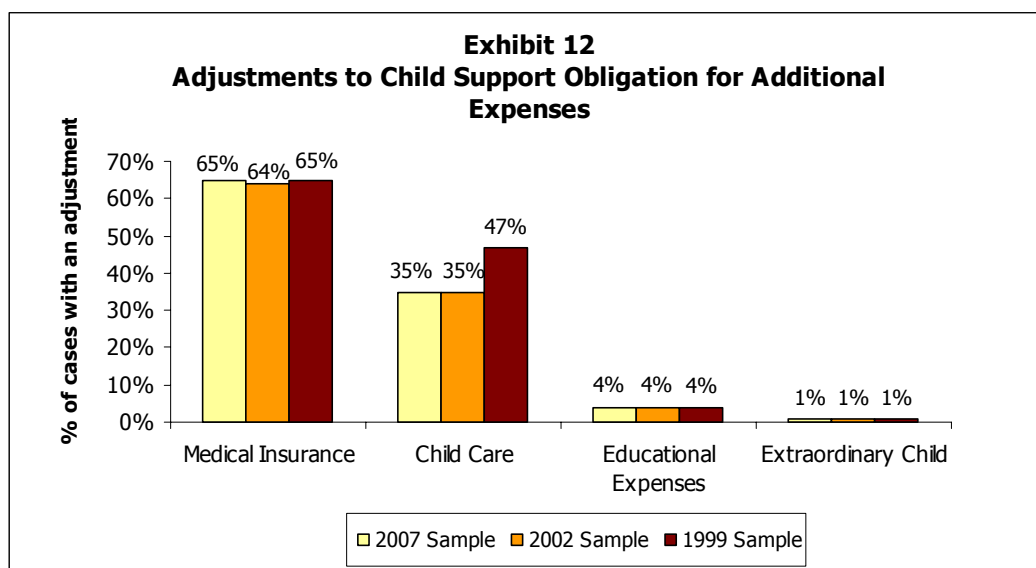
*Adjustments to the Order for Additional Expenses*

To determine the basic child support obligation, the court takes into consideration the cost of a child's medical, dental, and vision insurance; childcare costs; education expenses; and extraordinary expenses for a special needs or handicapped child. Either the obligor or the obligee can pay for these expenses. If the obligor pays, the child support obligation is reduced. Conversely, if the obligee pays, the child support obligation increases. Exhibit 12 gives more information on how often these adjustments were made to child support orders in the 2007, 2002, and 1999 samples.

As shown in Exhibit 12, the percentage of cases considering these additional expenses has remained stable since the 2002 case file review. Nearly two-thirds of the cases (65%) have an adjustment for a child's medical insurance. The average adjusted amount for medical insurance are:

- \$132 in the 2007 sample;
- \$108 in the 2002 sample; and
- \$91 in the 1999 sample.

On average, obligors spent approximately 3.5 percent and obligees spent 4.9 percent of their gross income on medical insurance for their children. Most (83%) of the obligors and 70 percent of obligees who paid for insurance spent less than five percent of their gross income on medical coverage. This is important because in July of 2008, the federal government passed new medical support rules that defined medical insurance as reasonable in cost if "the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law" [45 CFR §303.31(a)(3)].<sup>4</sup>



<sup>4</sup> *Federal Register*, vol. 73., No. 140 (July 21, 2008, pages 42416-42442).

The Arizona Guidelines mandate that all child support orders assign a parent to provide medical insurance. In the 2007 sample, the mother was ordered to provide insurance in 40 percent of the cases, the father in 49 percent of the cases, and both parties were ordered to provide the insurance in 11 percent of the cases. This is slightly different than the 2002 sample, which found the mother ordered to provide insurance in 42 percent of the cases, the father ordered in 54 percent of the cases, and both parents ordered in four percent of the cases.

In seven percent of the cases, neither parent was ordered to provide medical insurance. These children may be covered by Medicaid or KidsCare, Arizona's State Child Health Insurance Program (SCHIP), because their parents do not have employer-provided insurance available. There was a decrease in the percentage of these cases from the 2002 sample, when 20 percent of cases did not specify a parent to provide medical insurance.

The guidelines also instruct the court to specify how much of a child's uninsured medical expenses each parent has to pay. These amounts are not taken into consideration when the child support order is calculated. In the 2007 sample, the court ordered the obligor to cover an average of 55 percent of the uninsured costs and the obligee to pay an average of 45 percent. Typically, the court splits the uninsured costs between parents 50/50 or prorates the split according to the parents' incomes.

A little more than one-third of the cases (35%) include an adjustment for child care costs. On average, the adjusted amounts for child care costs are \$412 a month in the 2007 sample and \$323 in the 2002 sample.

In the past three case file reviews, only four percent of the cases included an adjustment for education expenses. The guidelines define these expenses as costs incurred for sending a child to a private or special school or any other necessary costs to meet the educational needs of a child. The average adjusted amounts are \$327 in the 2007 sample, \$130 in the 2002 sample, and \$197 in the 1999 sample.

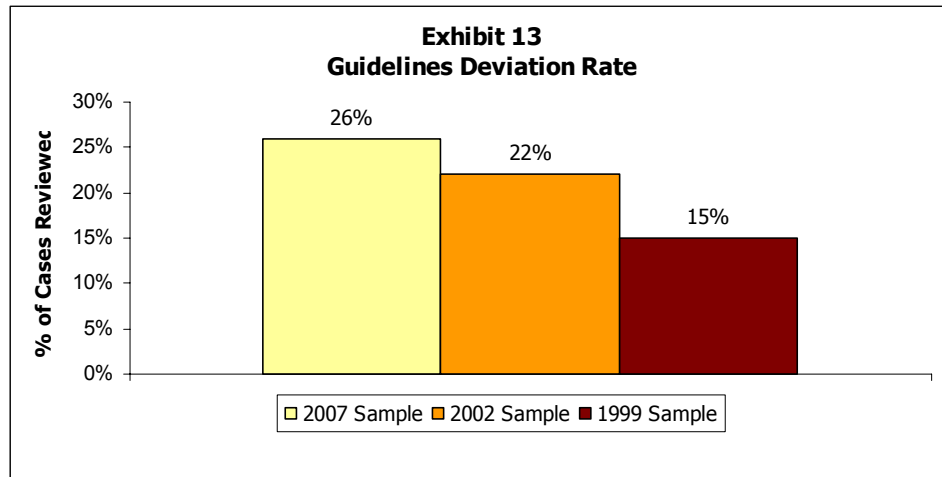
The Guidelines instruct the court to increase the child support obligation to provide for handicapped or special needs children. Only one percent of the cases included this type of adjustment. The average cost adjustment in the 2007 and 2002 sample were \$80 and \$79, respectively.

### **Deviations from the Guidelines**

The Arizona Guidelines mandate that the court deviate from the child support guidelines when:

- It is inappropriate or unjust to apply the guidelines; and
- It is in the best interest of the child to deviate.

The court has the option to deviate if both parents agree to the new amount. Exhibit 13 shows the deviation rate from the 2007, 2002, and 1999 samples.



While the deviation rate did increase from the 2002 to the 2007 sample, the increase is not statistically significant. Exhibit 14 gives more information about the deviation reason, direction, and amount in the 2007, 2002, and 1999 samples.

<b>Exhibit 14. Deviations from the Guidelines Over Time</b>			
	<b>2007 Sample (n=568)</b>	<b>2002 Sample (n=427)</b>	<b>1999 Sample (n=267)</b>
Percent of cases with a deviation	26%	22%*	15%
Did the deviation occur due to an agreement between the parents			
➤ Yes	77%	78%*	56%
➤ No	23%	22%	44%
Direction of the deviation			
➤ Upward	30%*	49%*	58%
➤ Downward	70%*	51%*	42%
Average Amount of the Deviation			
➤ Upward Deviations	42%*	74%*	22%
➤ Downward Deviations	-67%*	-48*	-24%

\* Statistically significant change from the previous review, p<.05

As shown in Exhibit 14 more than three-quarters (77%) of the deviations were the result of a written agreement between the parents. In these cases, the majority of the deviations were in a downward direction (66%).

Other reasons for the deviations given included:

- The best interest of the child in 10 percent of the cases;
- The court found that the application of the guidelines was inappropriate or unjust in three percent of the cases; and

- In the remaining 11 percent of the cases, there was no reason stated in the order although there may have been a verbal record.

Another possible reason for a deviation is rounding. Oftentimes, there is a deviation from the guidelines and the order amount only slightly changed. To estimate this effect, rounding was attributed to cases with deviations where the difference between the order amount and the worksheet amount was less than either \$25 or five percent. Based on these calculations, 19 percent of the deviations are due to rounding. Most of these small deviations were due to an agreement between the parent (70%) or there was no reason given (19%). If rounding-error is not considered to be a deviation, the deviation rate would be 21 percent.

### *Characteristics of Deviated Orders*

The characteristics of deviated orders vary widely in timesharing arrangements, incomes, additional child-rearing expenses, and other characteristics. Due to the wide variations, CPR could develop only a few generalizations about the characteristic of deviated orders. In all, CPR was able to develop three categorizations of deviations; however, they account for only two-thirds of the deviations.

- In almost one-third (31%) of deviated orders, parenting time was essentially equal. In most (71%) of these cases, the order was deviated downward to zero. Many deviated downward from a guidelines-calculated amount of less than \$100 per month to zero. Yet, there were also many non-zero order amounts entered in essentially equal parenting time cases. Some resulted in upward deviations and others resulted in downward deviations.
- In almost one-quarter (24%) of deviated orders, it appeared that an upward deviation was made because the obligee had relatively low income (i.e., less than \$2,500 gross per month) or because the obligor had considerably more income than the obligee.
- In eleven percent of deviated orders, it appeared that the order was deviated downward (but not to zero) because of the obligor's relatively low income (i.e., less than \$2,500 gross per month) or because the obligee had more income than the obligor.

None of these categorizations comprise a substantial share of the total 2007 sample: equal parenting-time cases with deviations comprise eight percent of all orders; low-income obligee cases with deviations comprise six percent of all orders; low-income obligor cases with deviations comprise three percent of all orders; and the remaining deviations comprise five percent of all orders. Further, the subcategory of equal parenting-time cases that deviated to a zero order, which comprises only six percent of the total 2007 sample, is not substantial.

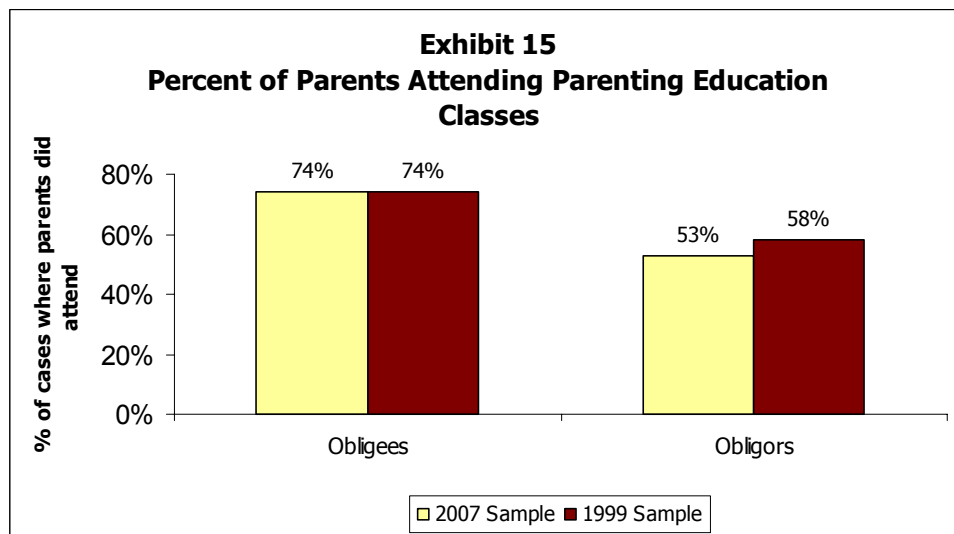
### *Deviation Rates in Other States*

Some nearby states (i.e., California and New Mexico) have lower deviation rates. However, neither of these studies were based on a representative sample of all child support orders like the Arizona study is. New Mexico finds a deviation rate of three percent (NM Child Support Enforcement Division 2007) and California finds a deviation rate of nine percent (Judicial Council

of California 2006). The New Mexico sample considers only orders established by the State child support agency and the agency requests guidelines deviations infrequently. The California study includes only cases with standardized order forms, worksheets, or other information sufficient to determine whether the guidelines were applied. Since California does not strictly include this information in the case file, often orders based on agreement between the parents do not contain this information. Many California parents also prefer this because they do not want their income information placed in a case file that is of public record. A more apt comparison to Arizona may be Washington State, which like Arizona more rigorously includes worksheets in the case file. Washington finds a guidelines deviation rate of 29 percent (Stirling 2002).

### Parenting Education

Arizona law mandates that all divorcing and never-married parents with minor children and custody access disputes attend a parenting education class. In the 2007 sample, 74 percent of obligees and 53 percent of obligors attended parenting education. Exhibit 15 compares the percentage of obligors and obligees that attended parenting education in the 2007 and 1999 samples. (These data were not collected in 2002.) One factor that may explain the lower attendance rate among obligors than obligees are orders entered by default. If the obligor does not stipulate or attend a hearing, he/she may also be less likely to attend parenting education. Based on the data we collected, we could not tell whether the parents were at the trial or if the order was entered by default or stipulation.



As shown in Exhibit 15, the percentage of obligees attending parenting education has remained stable over time, while the percent of obligors attending decreased; yet, the decrease is not statistically significant. Both parents attended in just under half (48%) of the cases.

More obligors attended parenting education when they had equal timesharing or the order amount deviated from the guidelines. However, obligee attendance rates did not vary in these circumstances from the overall obligee attendance rate. Seventy-one percent of the obligors with equal timesharing attended parenting education and 64 percent of the obligors with deviated

orders attended parenting education. (These are statistically different from the attendance rate for all obligors,  $p < .05$ ). The higher obligor attendance rates suggest that obligors in these circumstances are more vested parents. Obligor willing to care for their children for an equal amount of time are obviously more vested parents, but this characteristic is less obvious among obligors with deviated orders. Nonetheless, recall that most of the deviations resulted from agreement between the parents, so these obligors may also be more participatory parents.

The attendance rates also differed in cases with zero-dollar orders. (Recall, that the “obligor” in a zero-dollar case is the parent who would have paid support prior to adjustments.) In zero-dollar cases, the obligor attendance rate is 64 percent, but the difference is less statistically significant ( $p < .10$ ) from the overall obligor attendance rate. Moreover, a caveat to this finding is that many zero-dollar orders involve essentially equal parenting time, which is driving the higher attendance rate among all zero-dollar cases. When we limit the sample to zero-dollar orders where the obligor has less than equal parenting time (43 orders meet these criteria), the obligor attendance rate is only 49 percent. (This is not statistically different from the 53% attendance rate among all obligors.)

Another interesting finding concerns obligee attendance rates in zero-dollar cases where the obligor has less than equal parenting time. The obligee attendance rate in these cases (93%) is statistically more ( $p < .05$ ) than the obligee attendance rate for all cases (74%). Other salient findings about these cases are: 65 percent of them are based on deviations and median obligor income was generally lower in these cases compared to all cases (\$1,433 gross per month among cases with both zero-dollar orders and less than equal parenting time compared to \$3000 gross per month for all cases). The obligee agreed to the deviation in most of these cases, oftentimes through oral testimony.

## **SUMMARY AND RECOMMENDATIONS**

Arizona is reviewing its child support guidelines. As part of the review, researchers have collected case file data and analyzed it. The analysis considers the application of and the deviation from the guidelines. Federal regulation encourages states to:

- limit guidelines deviations; and
- use the findings from the case file review to recommend guidelines changes that will reduce the numbers of guidelines deviations and result in awards that are just and appropriate and considerate of the best needs of the child.

## **SUMMARY OF FINDINGS**

### **Guidelines Deviations**

The guidelines deviation rate increased from 22 percent in 2002 to 26 percent in 2007; however, the difference is not statistically significant. Further, if cases with round-off error are considered (i.e., a difference of less than 5% or \$25), the deviation rate would be 21 percent. Like the last review, the vast majority of guidelines deviations resulted from agreement between the parties.

More of the deviations are downward. No typology characterized the majority of cases based on deviated orders. The most common typology was essentially equal timesharing cases but they comprised just less than one-third of all deviations.

### **Order Amounts**

Order amounts, on average, did not change since the last guidelines review. They average \$460 per month in the 2007 sample.

*Zero-Dollar Orders.* The most striking finding from the 2007 sample is a significant increase in zero-dollar orders. They account for 14 percent of the cases reviewed in 2007 compared to 5 percent of the cases reviewed in 2002. Most of the zero-dollar orders resulted from guidelines deviations rather than from application of the guidelines. Many of these cases deviated down to zero involved essentially equal parenting time, a guidelines-calculated amount less than \$100 that was rounded down to zero, or both.

*Orders Based on the Low-Income Adjustment.* The 2005 Guidelines amendments increased the amount of the self support reserve allowable to the noncustodial parent from \$710 to \$775 per month. Despite the increase, the adjustment is not being applied more often than it was applied in 2002.

*Orders in Cases with Combined Incomes above \$20,000.* The current schedule considers combined adjusted gross incomes up to \$20,000 per month. Above that level, the guidelines provide that the highest amount of the schedule shall be used unless evidence is provided to justify a higher amount. This guidelines provision was applicable to only two percent of the 2007 sample. Often the order amounts in these cases were less than the highest amount on the schedule. There were relatively few deviations at this income range.

### **General Guidelines Usage Patterns**

With the exception of the parenting time adjustment, there is little change in the guidelines application and case characteristics since the last review. In general, allowable adjustments to income (i.e., adjustments for spousal maintenance, child support paid to other families, and support of other children) produce usage patterns similar to the last review. The allowable add-ons to basic child support obligations (i.e., add-ons for medical/dental/vision insurance; childcare, education expenses, and extraordinary child expenses) also produce similar usage patterns to the last review.

### **Parenting Time Arrangements and Adjustments**

Most of the 2007 orders considered parenting time and more of the 2007 orders considered parenting time than orders in the 2002 sample did. No case relied on Table B to adjust for parenting time. Although it appears that most cases used Table A to adjust for parenting time, it is not entirely clear how often Paragraph 12 was used. In some of the handwritten worksheets, it was obvious that the person completing the worksheet contemplated whether to use Table A or

Paragraph 12. In other worksheets, it appeared that the user was unsure which parent got the parenting time adjustment.

Patterns in the amount of parenting time have also shifted. In the 2002 sample, parenting time adjustments reflected amounts based on “traditional visitation,” such as every other weekend, holidays, and one month in the summer. In 2007, however, just over one-third (36%) of parenting-time arrangements reflect amounts in line with “traditional visitation.” Instead, there was an increase in cases with more timesharing, particularly equal time, and more cases with less time-sharing.

### **Cost of Insurance**

On average, parents spend less than five percent of their gross income to insure their children.

### **Parenting Education Attendance**

In the 2007 sample, 74 percent of obligees and 53 percent of obligors attended parenting education. Obligor attended parenting time more often when their order was based on a deviation or the obligor had equal parenting time.

## **RECOMMENDATIONS**

Based on the analysis, CPR recommends the following.

- No changes to the deviation criteria.
- Changes to the standardized order and worksheet forms.
- Simplify the parenting time adjustments for use by unrepresented parents.
- Consider the findings of the case file review when developing a threshold for determining reasonable cost of health insurance.
- Consider ways that the guidelines can better address cases with combined adjusted gross incomes above \$20,000 per month, the highest amount on the schedule.
- Review the reasons for an increasing trend in zero orders and consider their consequences; specifically, whether they may require changes to the guidelines or other recommendations.

***No Changes to the Deviation Criteria.*** We did not find any overwhelming evidence pointing to possible changes to the deviation criteria that would improve the application of the guidelines. Instead, we recommend the Committee consider whether these cases could be better addressed through changes to Paragraph 12 (Equal Custody) or the worksheet forms; and, contemplate the appropriateness of zero-dollar orders.

**Recommended Form Changes.** It is important to make the standard obligation and worksheet form as clear as possible for use by self-represented parents.

- *Counties should be encouraged to develop gender-neutral order forms.* Specifically, the forms should allow the user to circle either the “mother” or “father” as the obligor, rather than presume that the father is the obligor. Presuming the father is the obligor may obscure that Paragraph 12 could be used in essentially equal parenting-time cases.
- *On the guidelines worksheet, counties should be encouraged to adopt Maricopa County’s terminology, “the primary residential parent is...” rather than ask which parent is the “custodial parent.”* Clarification of this term may help direct self-represented parents to which parenting time adjustment should apply to their case circumstance. The primary residential parent is the parent with the most parenting time. It appears that some users indicate the parent(s) with legal custody rather than the primary residential parent on worksheets that ask “custody?” In addition, counties should be encouraged to adopt Maricopa County’s choice of the primary residential parent being the: “mother, father, or equal.” If the term, “primary residential parent” becomes a standard, the guidelines should be revised to include that term.
- *The section of the guidelines worksheet that indicates whether Parenting Time Table A or B is applied should be expanded to note whether Paragraph 12 is applied.* This may also help self-represented parents decide which parenting time adjustment to use. It will also be easier to identify which parenting time adjustment is being applied during the next case file review. Alternatively, some counties have developed another worksheet to apply Paragraph 12 in equal custody and unequal incomes. If an alternative worksheet is adopted, however, the Court should develop simplified instructions to direct the user to the appropriate worksheet.

**Recommended Changes to the Parenting Time Adjustment.** Generally, CPR recommends that the Committee review the intent of the three different ways to adjust for parenting time under the Guidelines, modify them as they deem appropriate, and provide better direction on which adjustment to use. This may help reduce the number of deviations among equal timesharing cases. One particular point of confusion is that Paragraph 12 is to apply to “essentially equal” parenting time, but Table A presumes that child-rearing costs are substantially or equally shared in each household when the obligor has at least 143 parenting days. This could be interpreted that either Table A or Paragraph 12 could be applied to cases with 143 parenting days. The increasing trend of essentially equal parenting cases heightens the need to clarify these adjustments.

*Either make Parenting Time Table B easier to apply or eliminate it.* Table B provides appropriate support awards when there is equal timesharing but not equal cost sharing; that is, one parent may incur more of the child’s clothing expenses than the other parent. Based on the case file review, it is never applied. Application of Table B requires proof that the parents are not engaged in equal cost sharing. Such proof may not be obtained easily. This may explain why Table B is not applied. On the other hand, the purpose of requiring proof may be to limit the application of Table B. The Committee or the Courts should review Table B to determine its purpose and whether it is fulfilling that purpose.

***Recommended Threshold for Determining Reasonable Cost of Insurance.*** Arizona HB2505 passed by the 2008 Arizona Legislature defines the child's insurance to be reasonable cost if it does not, "exceed the higher of five percent of the gross income of the obligated parent or an income-based numeric standard that is prescribed in the child support guidelines." When considering any guidelines changes to address this statutory change, the Committee and Court may want to consider the findings from the case file review that suggests that a standard lower than five percent would likely result in private insurance being reasonable in cost in fewer cases.

***Recommended Changes to Address Combined Incomes above \$20,000 per month.*** The Committee may want to consider extending the schedule to higher incomes, adopting a formula for incomes above the schedule, or eliminating the criterion that the obligee bears the burden of proof that a higher amount is appropriate. With regards to the latter option, most other states guidelines do not require the obligee to bear the burden of proof; rather, they allow for a higher amount under court discretion.

***Consider the Consequence of Zero-dollar Orders.*** Zero-dollar orders comprise 14 percent of the 2007 sample, which is significantly more than the 2002 sample. About half of these orders involved guidelines amounts of \$100 or less before the deviation was made and many involved essentially equal parenting time. On the one hand, these zero order amounts may be appropriate. For example, zero orders are appropriate in equal parenting time and equal income cases. On the other hand, we do not know whether they are appropriately modified when the parenting time changes. A seminal study (MacCoby and Mnookin 1992) that tracked children of divorced parents over time finds that the child's residence changes over time and that as the child ages, the child is more likely to reside with one parent. Other concerns are that parents request order modifications infrequently (OCSE 2007) and that parents are often reluctant to request a modification because they fear rocking the boat with the other parent (Venohr and Price 1991). If these are valid concerns, perhaps more information about the modification process could be provided in mandatory parenting education. As is, parents with zero orders or essentially equal parenting time are more likely to attend parenting education than other case types.

## CONCLUSION

Periodic guidelines reviews are an opportunity for states to review their guidelines and recommend changes to the guidelines that will make their application more just and appropriate while serving the best interest the child. The findings from an analysis of case file data, such as the findings summarized in this report, can inform the development of these recommendations.

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