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Arizona Child Support Guidelines

Child-Outcome Based Support Model



2010

DRAFT ARIZONA CHILD SUPPORT GUIDELINES
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I. General Information

A. PURPOSES

1. To establish a standard of support for children consistent with the reasonable needs of children and the ability of parents to pay.
2. To make child support orders consistent for persons in similar circumstances and set child support amounts based on the factors in A.R.S. § 25-320.
3. To give parents and courts guidance in establishing child support orders and to promote settlements.
4. To comply with state law (Arizona Revised Statutes (A.R.S. § 25-320) and federal law (42 United States Code, § 651 et seq., 45 Code of Federal Regulations, § 302.56) and amendments, if any.

B. PREMISES

1. These guidelines apply to all children, whether born in or out of wedlock, and their parents.
2. Support provided to other persons for whom the parent has no legal duty of support, such as the parent's stepchildren or parents, provides no basis for adjusting the amount of child support due under these guidelines.
3. Because child support has priority over other financial obligations; the existence of other obligations generally provides no reason for deviating from the guidelines. The guidelines themselves explain how to take account of other legal support obligations in calculating the support required for the children to whom they are being applied.
4. A parent who pays or receives child support may also be entitled to spousal maintenance. A court establishing both child support and spousal maintenance shall first determine the appropriate amount of spousal maintenance, and then follow the provisions of these guidelines in taking spousal maintenance into account in setting the amount of child support.
5. Child support is set in equal monthly amounts. Therefore, monthly figures are used to calculate the child support obligation. Average monthly figures should be used when income or expense amounts fluctuate over the course of a year.

6. The child support calculation is based on Adjusted Gross Income, as defined in these Guidelines.

C. PRESUMPTION

These guidelines apply to all actions involving establishment of current or past child support or modification of child support. The court shall order the amount determined under these guidelines absent a deviation pursuant to Section IV(A).

D. BASIS OF GUIDELINES

The Arizona Child Support Guidelines are based on the financial resources and needs of the child and of each parent, the standard of living the child would have enjoyed in a two-parent household, and the allocation of parenting time, as contemplated by A.R.S. § 25-320(D). They reflect a systematic consideration of the impact of parental separation on the parents and their children to achieve outcomes that are fair to the child and both parents. For a detailed description of the methodology used to construct these Guidelines see the Child Support Guidelines Review Committee's Final Report and Recommendations located at: <http://www.supreme.state.az.us/csgrc/>

E. DEFINITIONS

These definitions are for the purpose of these guidelines only.

Adjusted Gross Income – Gross income adjusted as provided in Section II(D). This may differ from adjusted gross income for tax purposes.

Basic Support Amount – The amount found in the Basic Support Amount Tables for the parents' Adjusted Gross Incomes and the number of children. The tables are provided in the Arizona Child Support Calculation Instructions Booklet. The calculator provides this amount automatically.

Calculator – The Child Support Calculator located on the website of the Arizona Supreme Court website at: <http://www.supreme.state.az.us/csgrc/>

Children of Other Relationships – Children of either parent who are not the subject of this particular child support determination.

Child's Parents – Adults who have a legal obligation to support the child under Arizona law.

Custodial Parent – The parent with greater parenting time unless the parents share equal parenting time, as defined herein. (Each parent has at least 170 days.)

Equal Parenting Time – Parenting Time is considered equal for purposes of these Guidelines when each parent has at least 170 days per year of parenting time.

Gross Income – Income as defined in Section II(A), (B), and (C). This may differ from gross income for tax purposes.

Guideline Support Amount – The Preliminary Support Amount adjusted for child care expenditures, health insurance premiums, educational costs, and expenses for extraordinary children, as described in Section II(J), as well as any adjustment required under Section II(K) when it may be inappropriate to order a custodial parent to pay child support.

Guideline Obligee – The parent who would receive the Guideline Support Amount.

Guideline Obligor – The parent who would pay the Guideline Support Amount.

Noncustodial Parent – The parent with less parenting time unless the parents share equal parenting time, as defined herein. (Each parent has at least 170 days.)

Parenting Time – The number of days per year that a parent has physical custody of the child, as calculated under Section II(F).

Parent’s Worksheet for Child Support Amount – (Also referred to as the “*Worksheet*.”) The printable version of the entries and amounts from child support calculator.

Phase-In Support Order - The monthly transitional child support award determined under Section V(C) of these guidelines.

Preliminary Obligee – The parent who would receive the Preliminary Support Amount. (This is an intermediate step to determining the Final Support Order.)

Preliminary Obligor – The parent who would pay the Preliminary Support Amount. (This is an intermediate step to determining the Final Support Order.)

Preliminary Support Amount – The Basic Support Amount adjusted for Parenting Time. (This is an intermediate step to determining the Final Support Order.)

Support Obligee – The parent ordered to receive support in the Final Support Order.

Support Obligor – The parent ordered to pay support in the Final Support Order.

II. Determining the Guideline Support Obligation

A. INCOME

Basic Principles for Determining the Parental Income Considered in the Guidelines

1. The child support amount is based on the Adjusted Gross Incomes of the child's parents, calculated according to the principles set forth in this section. The income of a parent's new spouse is not counted or included as income of the child's parent.
2. Each parent's Gross Income, and Adjusted Gross Income, is determined as set forth in this Section.

B. INCLUSIONS TO GROSS INCOME OF PARTIES

1. Gross income includes income from any source, and may include, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits (subject to Section IV(E)) received directly by either parent and not on behalf of a child, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, and prizes. Seasonal or fluctuating income shall be averaged. Income from any source that is not continuing or recurring in nature need not be included as income for child support purposes.
2. Cash value may be assigned to in-kind or other non-cash benefits or to recurring contributions from any sources that reduce living expenses.
3. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income means gross receipts minus ordinary and reasonable expenses required to produce income. Ordinary and reasonable expenses include one-half of the self-employment tax actually paid.

4. Expense reimbursements or benefits received by a parent in the course of employment or self-employment or operation of a business shall be counted as income if they are significant and reduce personal living expenses.
5. If a parent is unemployed or working below full earning capacity, the court may consider the reasons. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a parent up to his or her earning capacity. If the reduction in income is voluntary but reasonable, the court shall balance the benefits of that parent's decisions against the financial detriment, if any, to the child. If there is no available income information, the court shall presume that each parent is capable of earning at least the applicable minimum wage and attribute that amount to the parent. If income is attributed to the parent receiving child support, appropriate childcare expenses may also be attributed. However, the court may decline to attribute income to either parent. Examples of cases in which it may be inappropriate to attribute income include, but are not limited to, the following circumstances:
 - a. A parent is physically or mentally disabled,
 - b. A parent is engaged in reasonable career or occupational training to establish basic skills or reasonably calculated to enhance earning capacity,
 - c. Emotional or physical needs of a natural or adopted child require that parent's presence in the home, or
 - d. A parent is incarcerated.

C. EXCLUSIONS FROM GROSS INCOME

1. Gross income does not include sums received as child support or benefits received from means-tested public assistance programs including, but not limited to, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps and General Assistance.
2. Gross income does not include benefits received on behalf of a child.
3. Each parent should have the choice of working additional hours through overtime or at a second job without affecting the child support award. Generally, the court should not include income greater than what would have been earned from full-time employment. The court may, however, include income actually earned that is greater than would have been earned by full-time employment if that income was historically earned from a regular schedule and is anticipated to continue into the

future. The court should generally not include additional income if earning that additional income would require an extraordinary work regimen. Determination of what constitutes an extraordinary work regimen depends upon all relevant circumstances, including the choice of jobs available within a particular occupation, working hours, and working conditions.

D. ADJUSTMENTS TO INCOME

1. The court-ordered amount of spousal maintenance resulting from this or any other marriage, if actually being paid, shall be deducted from the gross income of the parent paying spousal maintenance. The court-ordered amount of spousal maintenance resulting from this or any other marriage, if actually being paid, shall be added to the gross income of the parent receiving spousal maintenance. Court-ordered arrearage payments shall not be included as an adjustment to gross income.

2. Gross income is adjusted for support of children of other relationships as described below.
 - a. Court-ordered child support actually being paid shall be deducted from the gross income of the paying parent. Court-ordered arrearage payments shall not be included in the adjustment.

 - b. The following table applies to this sub-section:

TABLE ONE							
Adjustment for Support of Other Children							
ROWS	Number of Other Children	Total number of children the parent is legally obligated to support <i>(includes children being supported by court order)</i>					
		COLUMNS					
		2	3	4	5	6	7
	1	.125	.095	.080	.070	.055	.050
	2		.190	.155	.135	.115	.095
	3			.230	.205	.170	.145
	4				.270	.225	.195
	5					.280	.240
6						.290	

An amount may be deducted from the income of a parent for support of children of other relationships for whom that parent has a legal duty of support but for whom there has not been an adjustment under paragraph

(a) above. The amount to be deducted is determined using Table 1 above, as follows:

- (i) Select the column (“Total Number of Children the Parent is Legally Obligated to Support”) in Table 1 for the total number of children the parent seeking the adjustment is legally obligated to support, including the child or children who are the subject of this support calculation.

EXAMPLE:

If there are two children who are the subject of this support determination and two other children for whom the parent is legally obligated to support, use column 4.

- (ii) Select the row (“Number of Other Children”) for the number of children equal to:
 - The total number of children for whom the parent has a legal duty to support:
 - Minus the children who are subject to this order, and
 - Minus other children for whom the parent is paying court-ordered child support.

EXAMPLE:

Father has four children, two of whom are the subject of this support determination, one for whom there is court-ordered child support amount being paid and one child living with Father. Use row 1, column 4. The adjustment is .080.

- (iii) Select the proportion that appears in the column and row determined above and multiply that figure by the parent’s gross income (after subtracting from that gross income any court-ordered child support for any other children actually being paid, and any court ordered spousal maintenance actually being paid). The resulting number is subtracted from the gross income. If there are more than seven total children for whom there is a legal duty to support or more than six “other” children, use the highest figure that applies for that row or column.

EXAMPLE:

Mother has four children – George, Mary, Jack and Jill. Jack and Jill are the children in this case. George and Mary are Mother’s children from a different relationship. George lives with his father

and Mother pays \$250 per month child support for George. Mary lives with Mother. Mother's gross income is \$5,000 per month. First, subtract \$250 in support Mother pays from her gross income. This reduces Mother's gross income to \$4,750. Then, use the chart to calculate the "other child" adjustment for Mary to whom Mother has a duty of support, but does not pay child support, because Mary lives with Mother. Use Row 1, since Mary is the only "other child." Mother has a total of four children, so use Column 4. Using the chart, the amount of the adjustment for Mary is .080 (8%). Multiply Mother's remaining gross income of \$4,750 by .080. The result is \$380. Mother's Adjusted Gross Income is \$4,370 (\$5,000 minus \$250 child support for George minus \$380 for the "other child" adjustment for Mary.)

E. ADJUSTED GROSS INCOME

The amount determined after applying Sections II(A) through (D) constitutes the Adjusted Gross Income under these Guidelines

F. ADJUSTING SUPPORT AMOUNTS TO REFLECT THE PARENTING TIME ALLOCATION

1. General Provisions

Parenting time is calculated, for the noncustodial parent, by the method described in paragraph 3 below. All days not allocated to the noncustodial parent under this calculation are counted as parenting time for the custodial parent. The calculator will automatically compute the parenting time adjustment. To understand all the steps performed by the calculator, instructions for calculating the child support amount manually are provided in the Arizona Child Support Calculation Instructions Booklet.

2. Understanding the Parenting Time Adjustment

a. General explanation

Arizona's parenting time adjustment is designed to be fair to both parents. It takes into account both the *variable* and *duplicated* costs each parent incurs on account of the children, which depend in part on each parent's share of the parenting time.

- i. Food is an example of a variable cost, because the amount a parent spends on the child's food depends on how much

time that parent has the child. The food costs will vary, in other words, with the parent's share of the parenting time. Because every dollar one parent spends on variable costs reduces the other parent's expenditures by roughly the same amount, it is appropriate to adjust the support payment by the full amount of the variable costs paid by the noncustodial parent.

- ii. Duplicated costs are different because both parents incur the cost—what one parent spends does not reduce the amount the other parent must spend. An example is a bedroom for the child. A non-custodial father might incur the cost for a larger home with a spare bedroom used only by the child, but the non-custodial father's cost to provide the bedroom does not reduce the costs of the custodial mother who also provides a bedroom for the child. Duplicated costs are thus *extra* expenses for the child that results from the parenting time arrangement. These extra expenses, like other extra expenses considered in the guidelines, are divided between the parents in proportion to their income. For example, if the Father earns 60% of the parents' income, and the Mother earns 40%, then Arizona's parenting adjustment is designed so that the Father pays 60% and the Mother pays 40% of the duplicated costs.
- iii. The amounts for both the variable and duplicated costs were developed by studying available research and the methodology employed by other states using a similar approach.

b. EXAMPLE:

The following example sets out the basic idea. The example assumes that the mother has the child 75% of the parenting time, and the father has 25% of the parenting time.

First, the calculator looks up how much extra money the custodial household would need to have the same living standard as the non-custodial parent's household, assuming they were equal earners and the custodial parent had the child all the time. That allows for the calculation of how much extra the child can cost in total. For the purposes of this example, assume that this extra cost is \$200 per month. The calculator divides those costs in half, because on average, half the

costs of children are variable and half the costs are duplicatable. In this example, there would be \$100 of variable costs and \$100 of duplicatable costs.

Because father has the child 25% of the time, his variable costs are 25% of \$100, or \$25. The allocation of duplicatable costs is more complicated. While all the duplicatable costs are estimated at \$100 in this example, a parent who has the child 25% of the time will not normally incur *all* possible duplicatable costs. The calculator assumes that a father who has the child less than 15% of the parenting time will not incur any duplicatable costs and that if he has the child for 45% of the parenting time or more, he incurs all the duplicatable costs. The calculator also assumes that the amount father spends on duplicatable costs increases proportionately as one goes from 15% to 45% of parenting time. In this example, where father has the child for 25% of the time, he will incur one-third of the possible duplicatable costs (because 25% of all parenting days is one-third of the way from 15% to 45% of all parenting days). One-third of the \$100 of duplicatable costs is \$33, so this father's actual duplicated costs are estimated at \$33. If mother earns 40% of the parents' income, then she is responsible for 40% of the Father's duplicatable costs of \$33. The father's support obligation should be reduced by 40% of \$33 which is \$13.

Therefore, in this example, the total parenting time adjustment reduces the father's support payment by the \$25 he spends on variable costs, plus the mother's share of father's duplicated costs, which is \$16. The calculator automatically reduces the support amount that father would otherwise be asked to pay mother by \$25 plus \$13, or \$38.

3. Calculating Parenting Time

Parenting time is measured in days per year. The number of parenting time days arising from the blocks of time the child spends with the noncustodial parent is calculated as follows:

- a. Each block of time begins and ends when the noncustodial parent receives or returns the child from the custodial parent or from a third party with whom the custodial parent left the child. Third parties include, for example, a school or childcare provider. All time from beginning to end of each block of parenting time is included.
- b. Count one day of parenting time for each 24 hours within any block of time.

- c. To the extent there is a period of less than 24 hours remaining in the block of time, after all 24-hour days are counted or for any block of time that is in total less than 24 hours in duration:
- i. A period of 12 hours or more counts as one day.
 - ii. A period of 6 to 11 hours counts as a half-day.
 - iii. A period of 3 to 5 hours counts as a quarter-day.
 - iv. Periods of less than 3 hours may count as a quarter-day if, during those hours, the noncustodial parent pays for routine expenses of the child, such as meals.
- d. The blocks of time the child spends with the noncustodial parent are determined by the parenting time plan indicated in the court order or the historical practice of the parents.

EXAMPLE ONE:

Noncustodial parent receives the child at 9:00 p.m. on Thursday evening and brings the child to school at 8:00 a.m. on Monday morning, from which custodial parent picks up the child at 3:00 p.m. on Monday.

- 9:00 p.m. Thursday to 9:00 p.m. Sunday is 3 days.
- 9:00 p.m. Sunday to 8:00 a.m. Monday is 11 hours, which equals a half day.
- Total parenting time is 3 ½ days per week or 182 days per year (equal parenting time).

EXAMPLE TWO:

Noncustodial parent picks the child up from school at 3:00 p.m. Friday and returns the child to school at 8:00 a.m. on Monday.

- 3:00 p.m. Friday to 3:00 p.m. Sunday is 2 days.
- 3:00 p.m. Sunday to 8:00 a.m. Monday is 17 hours, which equals 1 day.
- Total parenting time is 3 days per week or 156 days per year.

EXAMPLE THREE:

Noncustodial parent picks up child from soccer at noon on Saturday and returns the child to custodial parent at 9:00 p.m. on Sunday.

- Noon Saturday to noon Sunday is 1 day.
- Noon Sunday to 9:00 p.m. Sunday is 9 hours, which equals ½ day.
- Total parenting time is 1 ½ days per week or 78 days per year.

G. PRELIMINARY SUPPORT AMOUNT

Determining the Preliminary Support Amount is an intermediate step in the child support calculation under these guidelines. The Preliminary Support Amount is most easily determined by using the calculator provided on the court's website, using the parents' Adjusted Gross Incomes, the number of children, and adjusting for parenting days. The Preliminary Support Amount can also be calculated manually by consulting the Arizona Child Support Calculation Instructions Booklet, and following the instructions provided.

The parent who would pay the Preliminary Support Amount is the Preliminary Obligor. Usually this is the noncustodial parent. However, the custodial parent may be the Preliminary Obligor in the less common case in which the custodial parent's income is much larger than the noncustodial parent's, and the noncustodial parent has a substantial number of parenting days.

Determining the Preliminary Obligor and Preliminary Obligee are intermediate steps in the child support calculation under these guidelines. They do not alone provide the basis for a support order creating legal obligations.

H. WHEN A PARENT'S INCOME IS MORE THAN \$20,000 MONTHLY

The tables used for calculating the Preliminary Support Amount do not include Adjusted Gross Incomes of either parent in excess of \$20,000 a month.

When using the Child Support Calculator: Enter each parent's actual Adjusted Gross Income, as the calculator will automatically substitute an income of \$20,000 for the steps in which that is appropriate, while using the parents' actual Adjusted Gross Incomes for the steps in which that is appropriate.

When calculating child support manually: Refer to the Arizona Child Support Calculation Instructions Booklet.

The court may deviate from the Guideline Support Amount in accordance with Section V(A) when the monthly income of either parent exceeds \$20,000

I. MORE THAN FOUR CHILDREN

The Preliminary Support Amount calculation gives support amounts for up to four children. When five or more children are the subject of the support order, the support amount shall be calculated based upon four children but the court may deviate from the Guideline Support Amount in accordance with Section V(A).

J. ADJUSTMENTS TO SUPPORT

The following child-related expenses are generally shared by the parents in proportion to their Adjusted Gross Incomes. Each parent's proportionate share is determined by dividing that parent's Adjusted Gross Income by the combined Adjusted Gross Income of the parties.

1. CHILDCARE COSTS

The court may adjust the Preliminary Support Amount for childcare costs appropriate to the parents' financial abilities. Average monthly expenses for childcare should be calculated in accordance with Section I(B)(5)

2. EDUCATION EXPENSES

The court may adjust the Preliminary Support Amount for any necessary expenses appropriate to the parents' financial abilities for attending private or special schools or necessary expenses to meet particular educational needs of a child when such expenses are incurred by agreement of both parents or ordered by the court.

3. EXTRAORDINARY CHILD

The court may adjust the Preliminary Support Amount appropriate to the parents' financial abilities to provide for the special needs of gifted or handicapped children. These guidelines are designed to fit the needs of most children; typical extracurricular and school activity expenses are not considered extraordinary expenses.

4. MEDICAL SUPPORT

State law requires orders for child support to assign responsibility for providing medical insurance for the children who are the subject of the child support order. (A.R.S. § 25-320, §25-500 and §25-529.) Cash medical support may be established if the court finds that neither parent can obtain medical insurance that is accessible and available at a reasonable cost.

The court shall adjust the Preliminary Support Amount to reflect the cost of the children's medical, dental, and vision insurance coverage, if any. (This provision

does not imply any obligation of either parent to provide dental or vision insurance.) In determining the amount to be added, only the amount of the insurance cost attributable to the children who are the subject of the child support order shall be included. If coverage is applicable to other persons, the total cost shall be prorated by the number of persons covered. The court may decline to credit a parent for medical, dental, and vision insurance coverage obtained for the children if the coverage is not valid in the geographic region where the children reside. The court shall not adjust the Preliminary Support Amount for cash medical support pursuant to A.R.S. § 25-320(K) or (L).

EXAMPLE:

Through an employment-related insurance plan, Mother provides insurance that covers Mother, one child who is the subject of the child support case, and two other children. Under the plan, the cost of an employee's individual insurance coverage would be \$50. Mother instead pays a total of \$170 for the "family option." Subtract the \$50 cost of individual coverage from the \$170 for the "family option" to find the cost of dependent coverage, which is \$120. Divide the \$120 by 3, the number of dependents covered. The cost attributable to the child who is the subject of the case is \$40. The parents share the \$40 cost in proportion to their Adjusted Gross Incomes.

5. APPLYING ADJUSTMENTS

To adjust for court-approved costs of childcare, educational expenses, extraordinary expenses and health insurance add up the monthly amounts and then allocate the total cost between the parents in proportion to their Adjusted Gross Incomes. The Preliminary Obligor's share of these costs is added to the Preliminary Support Amount. Because payments the Preliminary Support Obligor makes to third parties for court-approved child-related expenses satisfy part of that parent's responsibility, these payments are subtracted from the Preliminary Support Amount. The result is the Guidelines Support Amount, unless further adjustments under Section II(K) apply. (Section II(K) applies only in those cases when, after adjustments in II(J), the custodial parent would be the Guideline Support Obligor.)

EXAMPLE:

Assume Father earns 60% and Mother earns 40% of their combined income. Father is the noncustodial parent and the Preliminary Support Obligor. The Preliminary Support Amount is calculated to be \$500 per month. In addition, the parents have other court-approved child-related expenses. Father pays \$100 per month for the child's health insurance premiums and Mother pays \$300 for childcare and the Court has determined that the adjustments are to apply. The Preliminary Support Amount must be adjusted to reflect these additional expenditures. The calculations can be laid out in a table like the following:

	Paid by Father	Paid by Mother
Additional child-related costs:		
Childcare	0	\$300
Education	0	0
Extraordinary child expenses	0	0
Health insurance	<u>\$100</u>	<u>0</u>
Total paid by each parent	\$100	\$300
Total paid by both parents combined		\$400
Preliminary Obligor's income share		60%
Adjustment to Preliminary Support Amount		\$240

This is the Preliminary Obligor's share of total additional child-related costs, computed as 60% of \$400 which is \$240.

The Preliminary Obligor's \$240 share of the additional child-related costs is added to the Preliminary Support Amount of \$500, bringing the Preliminary Support Amount to \$740 per month. This is Father's total responsibility under this example. He satisfies part of this responsibility by paying \$100 to the insurance company for the child's health insurance and is therefore entitled to have that amount subtracted from the \$740 figure. Subtracting \$100 from \$740 leaves \$640, the amount of the support payment that the father owes the custodial household in addition to his direct payment of \$100 to the insurance company. This \$640 is the Guidelines Support Amount (providing, as in this example, no further adjustments are required by section II(K)). Since the father owes this payment, he is the Guidelines Support Obligor. This calculation may be clearer in a table format like the following:

Preliminary Support Amount	\$500
+ Adjustment for Preliminary Support Obligor's share of additional costs	+\$240
= Total Adjusted Preliminary Support Amount	\$740
- Preliminary Obligors Payment to Third Parties	-\$100
<u>= Guidelines Support Amount</u>	<u>\$640</u>

Father owes the Guidelines Support Amount of \$640.

SECTION II

Determining the Guideline Support Obligation

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These proposed guidelines are currently being reviewed and have not been approved.

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6. DETERMINING THE GUIDELINE OBLIGOR

The above example illustrates the usual case in which the Guideline Support Amount as calculated in this section is a positive number. (In the example, the result of \$740 minus \$100 is positive.) In this case the Guideline Obligor is the same parent as the Preliminary Obligor. The adjustment has changed the amount of the payment, but not which parent pays it. Sometimes the amount of the adjustments made under this section will be larger than the Preliminary Support Amount. In that case the initial calculation of the Guideline Support Amount can yield a negative number. If that occurs, the Preliminary Obligee becomes the Guideline Obligor.

When the initial calculation of the Guideline Support Amount in this section results in the custodial parent being the Guideline Obligor, the Guideline Support Amount may be adjusted to zero under the special provisions of Section II(K). Otherwise, the amount as calculated in this section is the Guideline Support Amount.

K. WHEN THE CUSTODIAL PARENT WOULD BE THE GUIDELINE SUPPORT OBLIGOR

In some cases, after the Preliminary Support Obligation has been calculated and then further adjusted as provided in Section II(J), the result may be that the custodial parent would be the Guideline Support Obligor and the noncustodial parent would be the Guideline Support Obligee. That is, the custodial parent would be required to pay child support to the noncustodial parent. In these cases and unless there is a basis for deviation in accordance with Section IV(A), the Guideline Support Amount should be changed to zero, and no child support ordered, when:

- a. The calculated support payment called for is less than \$150 per month, or
- b. The Adjusted Gross Monthly Income of the custodial parent is \$4,000 or less, or
- c. The Adjusted Gross Monthly Income of the noncustodial parent is \$4,000 or more, or
- d. The noncustodial parent has less than 120 days of parenting time per year.

When the Guideline Support Amount is changed in this section, then the Guideline Support Amount for the purposes of these guidelines is zero. Otherwise, the Guideline Support Amount is as calculated in Section II(J).

The Guideline Support Amount is the amount of child support that the court will order, unless either:

- a. the court orders a lower amount pursuant to the Self Support Reserve test provided for in Section II(L), or
- b. there is a finding under Section IV that a deviation from the guidelines is appropriate.

L. ROUNDING THE GUIDELINE SUPPORT AMOUNT

1. When the Guideline Support Amount is insignificant, the court may round it to zero.
2. In all cases the court may round the Guideline Support Amount to the nearest ten dollars.
3. A rounded amount reached by the application of Paragraphs 1 and 2 is not a deviation.

M. FINAL SUPPORT ORDER

The Guideline Support Order is the amount of child support that the court will order as the Final Support Order, unless either:

1. The court orders a lower amount pursuant to the Self Support Reserve test provided for in Section II(N), or
2. There is a finding under Section IV that a deviation from the guidelines is appropriate.

N. SELF SUPPORT RESERVE

The purpose of the Self Support Reserve is to protect the Guideline Support Obligor from a child support order that would reduce his or her available income below the 2009 federal poverty level of \$903 per month for a single person. The court shall therefore consider the Self Support Reserve test to the Guideline Support Amount by deducting \$903 from the Guideline Support Obligor's Adjusted Gross Income. If the resulting amount is less than the Guideline Support Amount, the court may reduce the Final Support Order to the resulting amount, after first considering the financial impact the

reduction would have on the custodial parent's household. This test applies to the current child support obligation only, but the court may also order a reduction in the payments the Guideline Support Obligor would otherwise be required to make on arrears.

EXAMPLE:

The Guideline Support Obligor's Adjusted Gross Income is \$1,170 and the Guideline Support Amount is \$300. Subtracting \$903 from \$1,170 leaves a resulting amount of \$267, which is less than the \$300 Guideline Support Amount. The court may reduce the child support order to \$267. Before making any reduction, the court should consider the financial impact the reduction would have on the custodial parent's household. If both parents have insufficient income to be self supporting, the court has discretion to determine whether and in what amount the child support order should be reduced under this Section.

III. Guideline Support Order

A. COURT'S FINDINGS

The court shall make findings in the record as to: Gross Income, Adjusted Gross Income, Preliminary Support Amount, court-approved Adjustments to Support, Guideline Support Amount, and Final Support Obligation. The findings may be made by incorporating a worksheet containing this information into the file. The child support order shall be a sum certain and shall start on a date certain. Absent good cause, the start date shall be the first day of a month. A new child support order shall be filed upon any change in the amount or due date of the child support obligation.

B. EXCHANGE OF INFORMATION

The court shall order that every 24 months, financial information such as tax returns, financial affidavits, and earning statements be exchanged between the parties. Unless the court has ordered otherwise, at the time the parties exchange financial information, they shall also exchange residential addresses and the names and addresses of their employers.

C. GIFTS IN LIEU OF MONEY

Once child support has been ordered by the court, the child support is to be paid in money. Gifts of clothing, etc., in lieu of money are not to be offset against the child support order except by court order.

D. DEPENDENCY EXEMPTION

1. Whenever the current child support order provides for a payment of at least \$1,200 per year, the federal tax exemptions applicable to the minor children shall be allocated between the parents as they agree, or, in the absence of their agreement, in a manner that allows each parent to claim allowable federal dependency exemptions proportionate to Adjusted Gross Income, in a reasonable pattern that can be repeated in no more than 5 years. This may be done by allocating claiming of the children or claiming of specific years. To implement this provision, the proportionate Adjusted Gross Income of the parents is rounded to the nearest fraction with a denominator no larger than 5 (i.e. $\frac{1}{2}$, $\frac{1}{3}$, $\frac{2}{3}$, $\frac{1}{4}$, $\frac{3}{4}$, $\frac{1}{5}$, $\frac{2}{5}$, $\frac{3}{5}$, $\frac{4}{5}$). For illustrative purposes, if father earns 57% and mother earns

43% of the combined Adjusted Gross Income. This would be rounded off to 60% for father and 40% for mother. Father's 60% share is equivalent to 3/5. The dependency exemption shall therefore be allocated utilizing this fraction. If a parent otherwise entitled to the dependency exemption would derive no tax benefit from claiming it in any given year, then the entire exemption for that tax year, and not just the share indicated by the preceding sentence, should be allocated to the parent who would derive a tax benefit for that tax year.

To claim the allocated dependency exemption in the tax year at issue, the Support Obligor must be current on all child support and arrears payments ordered to be paid in that year. To be considered current the child support and arrearage payments due by December 31 of that tax year must be received by the Clearinghouse by January 15 of the next tax year. While enforceable as child support, any unpaid contributions to medical expenses or extracurricular expenses do not affect the entitlement to the exemption unless reduced to a judgment and due by a date certain during that tax year.

If the paying parent is current as defined above, the other parent shall execute the necessary Internal Revenue Service (IRS) documents to allow the paying parent to claim the exemption. If the Support Obligor is not current as defined above, the other parent shall be entitled to the dependency exemption for that tax year.

EXAMPLE:

Father's percentage of gross income is approximately 67% and Mother's percentage is approximately 33%. All payments are current. If there are three children, Father would be entitled to claim two children and Mother would claim one child. If there is only one child, Father would be entitled to claim the child two out of every three years, and Mother would claim the child one out of every three years.

E. UNREIMBURSED MEDICAL EXPENSES

The court shall also specify the percentage that each parent shall pay, in excess of cash medical support, for any medical, dental, and/or vision costs of the children that are not covered by insurance. For purposes of this paragraph, non-covered "medical" means medically necessary medical, dental, and/or vision care as defined by Internal Revenue Service Publication 502.

Except for good cause shown, any request for payment or reimbursement of uninsured medical, dental, and/or vision costs must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receipt of the request.

Both parents should use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

F. TRAVEL EXPENSES

The court may divide parenting time travel expenses between the parents where one-way travel for parenting time exceeds 100 miles, or in extraordinary circumstances. The court shall consider the financial resources of the parents and may consider how their conduct, such as change of residence, has affected the costs. The court may:

1. Order one parent to reimburse the other parent. The party who is entitled to travel reimbursement shall provide written evidence to the other parent of expenses actually paid within 30 days of payment, and the other party shall reimburse the expense within 14 days of receipt of the written evidence, or
2. Assign to one parent all of the travel expenses and alter the child support to reflect the fact that the parent is paying all of the travel expenses.

IV. Special Circumstances

A. DEVIATION

1. **BY COURT**

The court may order support which is a deviation from the guidelines after considering all relevant factors, including those set forth in A.R.S. § 25-320, and applicable case law, if all of the following criteria are met:

- a. Application of the guidelines is inappropriate or unjust in the particular case,
- b. The court has considered the best interests of the child(ren) in determining the amount of a deviation. A deviation that reduces the amount of child support paid is not, by itself, contrary to the best interests of the child(ren),
- c. The court makes written findings in the child support order, minute entry or child support worksheet regarding (a.) and (b.) above, the Guideline Support Amount and the amount after the deviation.

2. **BY AGREEMENT**

The court may deviate from the guidelines based upon an agreement of the parties only if all of the following criteria are met:

- a. The agreement is in writing or stated on the record pursuant to Rule 69, *ARFLP*.
- b. All parties have entered into the agreement with knowledge of the Guidelines Support Amount.
- c. All parties have entered into the agreement free of duress and coercion.
- d. The court complies with the requirements of Section IV(A)(1).

3. EXAMPLES FOR DEVIATION

Circumstances which may justify a deviation include, but are not limited to, the following:

- a. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common, as provided in A.R.S. § 25-320(D)(7).
- b. Extraordinary income tax circumstances, such as either party receiving substantial tax-free income.
- c. When there are more than four children for whom the child support is ordered.
- d. When the Support Obligor's monthly Adjusted Gross Income is greater than \$20,000, and the other parent's monthly Adjusted Gross Income is less than \$20,000, an upward deviation may be appropriate.
- e. When the Support Obligees' monthly Adjusted Gross Income is greater than \$20,000, and the other parent's monthly Adjusted Gross Income is less than \$20,000, a downward deviation may be appropriate.

B. MULTIPLE CHILDREN, DIVIDED PHYSICAL CUSTODY

When each parent is granted physical custody of at least one of the parties' children, each parent is obligated to contribute to the support of all the children. In that circumstance, separate child support calculations should be performed for the child or children in each parent's home. The amount of the resulting child support to be paid by the parent having the greater child support obligation shall be reduced by the amount of child support owed to that parent by the other parent.

EXAMPLE:

(For simplicity, this example does not consider parenting time.) Father's gross income is \$2,000 per month and he has primary care of one child. Mother's gross income is \$4,000 per month and she has primary care of two children. Prepare a parent's worksheet to determine child support for the one child in father's household. In a separate parent's worksheet determine child support for the two children in mother's home. Mother is obligated to pay \$787 for child support for the one child. This amount is reduced by the \$311 obligation owed by father to mother for the two children. Thus, the mother shall pay \$476 per month.

C. MULTIPLE CHILDREN, VARYING PARENTING TIME SCHEDULE

When there are multiple children who are under a different parenting time schedule from one another, the parenting time adjustment cannot be determined with the same precision as when the children are under the same schedule. In that circumstance, two separate calculations should be performed. The first should be based upon the assumption that all of the children are under the lesser parenting time schedule. The second calculation should be based upon the assumption that all of the children are under the greater parenting time schedule. The two resulting child support amounts shall represent the range of the support obligation between the two parenting time schedules. Based upon the particular circumstances of the case, the child support award may be any amount that falls within the range of the two calculated figures.

EXAMPLE:

Father's gross income is \$4,000 and Mother's gross income is \$4,000. The parties have three children, all of whom reside primarily with Mother. One of the children has 50 days of parenting time with Father and the other two children have 150 days of parenting time with Father. Calculate the child support obligation for all three children assuming that they are each under the 50 day parenting time schedule. This results in a monthly obligation owed by Father of \$796. Then calculate the child support obligation for all three children under the 150 day parenting time schedule. This results in a monthly obligation owed by Father of \$479. The two resulting figures of \$796 and \$479 provide the range for the child support award. Any amount within this range is considered consistent with the guidelines and it is not a deviation.

D. THIRD-PARTY CAREGIVERS

When a child lives with a third-party caregiver by virtue of a court order, administrative placement by a state agency, or under color of authority, the third-party caregiver may be entitled to receive child support payments from each parent on behalf of the child.

E. SUPPORT ASSIGNED TO THE STATE

If child support or cash medical support has been assigned to the state under A.R.S. § 46-407 or A.R.S. § 25-320(K)(1), the obligation of a parent to pay child support or cash medical support shall not be offset by child support arrearages that may be owed to that parent. Child support or cash medical support assigned to the state may not be waived or forgiven by the custodial parent.

F. INCOME AND BENEFITS

1. INCOME OF A CHILD

Income earned or money received by a child from any source other than court-ordered child support shall not be counted toward either parent's child support obligation except as described below.

2. BENEFITS RECEIVED ON BEHALF OF A CHILD

Benefits, such as Social Security Disability (SSDI) or other insurance, received by a custodial parent on behalf of a child, as a result of contributions made by the parent paying child support shall be credited as follows:

- a. If the amount of the child's benefit for a given month is equal to or greater than the paying parent's child support obligation, then that parent's obligation is satisfied.
- b. Any benefit received by the child for a given month in excess of the child support obligation shall not be treated as an arrearage payment, nor as a credit toward future child support payments.
- c. If the amount of the child's benefit for a given month is less than the parent's child support obligation, the parent shall pay the difference.

3. BENEFITS NOT INCLUDED IN PARENT'S INCOME

Benefits received by either parent on behalf of a child are not included as gross income pursuant to Section II(C)(2).

4. DISABLED ADULT CHILD

Pursuant to A.R.S. § 25-320(E) and A.R.S. § 25-809(F), the court may order support to continue past the age of majority for a disabled child if the child is severely mentally or physically disabled as demonstrated by the fact that the child is unable to live independently and be self-supporting. In such a case, the court may take into account income earned or money received by or on behalf of the disabled adult child against any child support obligation. **Note:** depending upon the nature of the court order, the benefits received by the disabled adult child may be reduced.

G. ARREARS

1. When setting or modifying an amount for a payment on arrears, the court shall balance all relevant considerations including the total amount of arrears, the accruing interest, the time it will take the obligor to pay these amounts, the obligee's financial circumstances, support of other children, and the obligor's reasonable ability to pay. The court shall not set the payment on arrears at an amount less than the accruing monthly interest unless there are compelling circumstances justifying a lower payment, and the court makes a finding explaining why the amount is justified.
2. When a current child support obligation terminates, the court shall consider the amount of the monthly child support obligation at the time of termination as evidence of the amount the obligor has the ability to pay monthly towards arrears.
3. The court may modify the amount of the payment on arrears upon a showing of substantial and continuing changed circumstances.
4. In setting or modifying the arrears payment the court shall consider whether the obligor available income after payment of all current child support obligations and payments on arrears meets the Self Support Reserve test. (\$903 monthly income.)

V. Modification and Termination Of Support

A. DURATION OF CHILD SUPPORT

Duration of child support is governed by A.R.S. § 25-320 and A.R.S. § 25-501. Child support shall continue until a child reaches the age of majority unless that child is attending high school or a certified high school equivalency program at the time that the child turns 18. In that case, child support shall continue so long as the child is actually attending high school or the equivalency program, but only until the child reaches 19 years of age. In some circumstances, child support may continue after a child's 19th birthday but only if the child is severely mentally or physically disabled as demonstrated by the fact that the child is unable to live independently and be self-supporting.

The child support obligation presumptively terminates on the last day of the month of the 18th birthday of the youngest child included in the order unless the youngest child will not complete high school by age 18. In that event, the presumptive termination date shall be the last day of the month in which the child graduates from high school, stops attending high school, or turns age 19, whichever occurs first. **HOWEVER, THE INCOME WITHHOLDING ORDER MAY NOT STOP AUTOMATICALLY. IN THAT EVENT, A MOTION TO STOP THE INCOME WITHHOLDING ORDER MAY BE NECESSARY.** In a Title IV-D case the person paying support may contact the Department of Economic Security which can administratively stop the income withholding order.

B. MODIFICATION

1. **PROCESS FOR MODIFICATION**

Child support orders can only be modified by court order. An order to modify child support can be obtained through any of the following procedures:

a. **STANDARD PROCEDURE**

Pursuant to A.R.S. § 25-327 and § 25- 503, either parent or the state Title IV-D agency may ask the court to modify a child support order upon a showing of a substantial and continuing change of circumstances.

b. SIMPLIFIED PROCEDURE

Either parent or the state Title IV-D agency may request the court to modify a child support order if application of the guidelines results in an order that varies 15% or more from the existing amount. A 15% variation in the amount of the order will be considered evidence of substantial and continuing change of circumstances. The simplified procedure also may be used by either parent or the state to establish a cash medical support order or to modify a child support order to assign or alter the responsibility to provide medical insurance for a child who is subject of a child support order. A modification of the medical assignment or responsibility does not need to vary by 15% or more from the existing amount to use the simplified procedure. A request for modification of the child support amount must be accompanied by the following documents: a completed and sworn "Parent's Worksheet For Child Support Amount," and "Affidavit of Financial Information" documentation supporting the incomes if different from the court's most recent findings regarding income of the parents (including, without limit, copies of the last three years' tax returns filed by or on behalf of the applicant and/or any entity in which the applicant has an interest and the last six pay roll stubs for the applicant); the last child support order entered by the court; evidence of whether the applicant, if the child support obligor, has paid child support for the past 12 months; and evidence of every category of adjustment within the child support worksheet (i.e., insurance expense, education expense, etc.). If the applicant is unable to provide documentation regarding the other parent's income or expenses, the requesting party shall indicate that the income amount for that parent is attributed and/or estimated and shall set forth the basis relied upon to include that income or expense figure. The state Title IV-D agency may submit a parent's worksheet.

The simplified procedure shall not be applicable to any self-employed parties where said self-employment is a significant source of income absent the agreement of both parents. If a self-employed parent files a simplified modification action, the other parent shall either file a request for hearing as provided for herein, or an objection to simplified process. If the objection is timely filed, the modification matter shall be heard under the standard procedure.

If a responding party objects in writing to the simplified procedure within 20 days of service, (if in state) or 30 days of service (if out of state), the matter shall be conducted under the standard procedure above.

A copy of the request for modification of child support and the "Parent's Worksheet For Child Support Amount," including supporting

documentation, showing that the proposed child support amount would vary 15% or more from the existing child support order shall be served on the other parent, or on both parents if filed by the state Title IV-D agency, pursuant to Rule 27, *ARFLP*.

If the requested modification is disputed, the parent disputing the modification must request a hearing within 20 days of service. If service is made outside the state, as provided in Rule 42, *ARFLP* the parent receiving service must request a hearing within 30 days of service.

A party requesting a hearing shall file a written request for hearing accompanied by a completed and sworn "Parent's Worksheet for Child Support Amount." Copies of the documents filed, together with the notice of hearing, shall be served on the other party and, if appropriate, the state Title IV-D agency by first class mail not less than ten judicial days prior to the hearing.

Upon proof of service and if no hearing is requested within the time allowed, the court will review the request and enter an appropriate order or set the matter for hearing.

If any party requests a hearing within the time allowed, the court shall conduct such hearing. No order shall be modified without a hearing if one is requested.

The notice provision of Rule 44, *ARFLP*, does not apply to this simplified modification procedure.

A request to modify child support, request for a hearing and notice of hearing, "Parent's Worksheet for Child Support Amount" and child support order filed or served pursuant to this subsection must be made using forms approved by the Arizona Supreme Court or substantially similar forms.

Approved forms are available from the clerk of the superior court.

c. BY AGREEMENT

The parties may agree to modify a child support order. To become effective, the agreement must be in writing, signed by all parties, filed with the clerk of court, and approved by the court. If the agreed upon amount is different from the amount calculated under the guidelines, it must be explained as required by Section IV(A) above.

2. LIMITATIONS

a. EFFECT OF EMANCIPATION

If child support is ordered for more than one child, the amount of child support does not automatically change if one of the children graduates from high school, reaches the age of majority, dies, or is otherwise emancipated. To obtain a modification of the child support order, a request, petition or agreement must be made in writing to the court to recalculate the child support obligation pursuant to these guidelines.

b. TERMINATION OF SUPPORT

Arizona law provides that a child support order terminates when the child or children have graduated from high school, reached the age of majority, dies, or are otherwise emancipated.

Upon entry of an initial or modified child support order, the court shall, or in any subsequent action relating to the child support order, the court may, establish a presumptive date for the termination of the current child support obligation. The presumptive termination date shall be the last day of the month of the 18th birthday of the youngest child included in the order unless the court finds that it is projected that the youngest child will not complete high school by age 18. In that event, the presumptive termination date shall be the last day of the month of the anticipated graduation date or age 19, whichever occurs first. The presumptive date may be modified upon changed circumstances. An employer or other payor of funds honoring an order of assignment or an administrative income withholding order that includes the presumptive termination date and is for current child support only, may discontinue withholding monies after the last pay period of the month of the presumptive termination date. If the order of assignment or administrative income withholding order includes current child support and arrearage payment, notwithstanding the presumptive termination date, the employer or other payor of funds shall continue withholding the entire amount listed on the order of assignment or administrative income withholding order until further order. For purposes of determining the presumptive termination date, it is further presumed:

- i. That a child not yet in school will enter 1st grade if the child reaches age 6 on or before September 1 of the year in which the child reaches age 6; otherwise, it is presumed that the child will enter 1st grade the following year; and,

SECTION V

Modification and Termination of Support

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These proposed guidelines are currently being reviewed and have not been approved.

01/26/10

- ii. That a child will graduate in the month of May after completing the 12th grade.

Even if a child support obligation has stopped, any order of assignment may not terminate. If the order of assignment does not stop, a specific order stopping the wage assignment must be obtained. In a Title IV-D case, the wage assignment may be stopped by contacting the IV-D agency.

c. RETROACTIVE MODIFICATION

Arizona law limits retroactive modification of child support. If there is a substantial and continuing change in circumstances that a party believes would warrant modification of the child support order, the party is required to file for the necessary relief from the court.

d. RELIEF FROM A CHILD SUPPORT JUDGMENT

In certain cases relief from a child support judgment may be available as provided in Rule 85(C), *ARFLP*, or as otherwise provided by law.

e. GROUNDS FOR MODIFICATION

A substantial variance between an existing child support order and an amount resulting from application of the most recently enacted guidelines may be considered evidence of a substantial and continuing change of circumstances for purposes of a modification. A variance of at least 15% would be evidence of a substantial and continuing change of circumstances.

C. PHASE-IN SUPPORT ORDERS

1. Purpose of This Section

Because these guidelines change the manner in which child support is determined, a significant increase in the child support award set under prior guidelines may occur in certain circumstances. This may create a financial hardship, which may be a basis to phase-in the increased amount by setting a Phase-in Support Order for a specified period before the Final Support Order becomes effective.

2. Actions to Which This Section Applies

The phase-in rule set forth in this section applies only to actions:

- a. filed on or before August 31, 2013, and

- b. which seek to modify a child support order made under any guidelines in effect prior to these guidelines.

This section does not apply to actions to modify support awards made under these guidelines.

3. **Determining Phase-In Eligibility**

If the Final Support Obligor invokes this section in a modification action to which it applies, the court shall first determine the Final Support Order under these guidelines without considering this section. It shall then determine whether this Final Support Order is eligible to be phased in, using the following procedure:

- a. Determine what the equivalent order would have been under the guidelines in effect immediately before adoption of these guidelines, assuming the same facts that were used to calculate the Final Support Order under these guidelines.
- b. Divide the Final Support Order under these guidelines (numerator) by the equivalent order that would have been set under the immediately preceding guidelines (denominator). The resulting quotient should then be converted to a percentage.
- c. If the resulting percentage so calculated is 150% or greater, then the Final Support Order calculated under these guidelines is eligible to be phased in.
- d. **EXAMPLE:** The Final Support Award under these guidelines is \$1,000. The equivalent order under the immediately preceding guidelines would have been \$800. The result of dividing \$1,000 by \$800 is 1.25 (125%). Since the difference is less than 150%, this order is not eligible to be phased in under this section, and the following steps shall not apply.

4. **Determining Whether a Phase-In is Appropriate**

Assuming the percentage determined above is 150% or greater, the court shall proceed as follows to determine whether a phase-in of the Final Support Order is appropriate:

- a. The court shall first consider whether the obligation to pay the additional amount required by Final Support Order calculated under these guidelines, as compared to the equivalent order calculated under the preceding guidelines, imposes an unreasonable economic hardship on the Final Support Obligor. An economic hardship may be unreasonable if it arises from the Obligor's reliance on the prior guidelines and it interferes significantly with meeting established budgets and financial commitments for living and other expenses. The Final Support Obligor has the burden of proving the facts needed to establish that he or she will suffer an unreasonable economic hardship under this paragraph.

- b. If the court finds that the Obligor has not met the burden of proof, then the Final Support Order shall not be phased in under this section.
- c. If the court does find that the Obligor will suffer an unreasonable economic hardship, then it shall balance this concern against the impact of the delay in implementing the full amount of the Final Support Order on the economic well-being of the child, to determine whether a phase-in of the Final Support Order is appropriate.

5. Implementing a Phase-In Support Order

- a. If the court determines that a phase-in is appropriate under Paragraph 4 of this section, it may reduce the amount of the Final Support Order by not more than 50% of the difference between the Final Support Order, and the equivalent amount that would have been ordered under the immediately preceding guidelines. This reduced amount is the Phase-In Support Order.
- b. The Phase-In Support Order made pursuant to the preceding paragraph shall remain in effect for a period that the court believes fair and reasonable under the circumstances, but not to exceed 18 months. The order setting the Phase-In Support Order shall specify a date certain on which it will be replaced by the Final Support Order. During the term of the Phase-In Support Order amount, no arrears shall accrue from the amount that would have otherwise been ordered under these guidelines if not for the phasing-in of the award.

EXAMPLE:

The current child support order entered before these guidelines went into effect requires father (Obligor) to pay to mother \$500 per month. Mother seeks an upward modification of child support. Under these guidelines, the Final Support Order would be \$1,000 per month, and the effective date for the increase would be January 1, 2011. A second worksheet is completed to determine the equivalent support award under the guidelines in effect immediately before adoption of these guidelines. That amount is determined to be \$600 per month. The current calculated amount (\$1,000) is divided by the amount calculated under the prior guidelines (\$600), resulting in a percentage of 167%. The Court finds that the full increase would be an unreasonable hardship to father, given financial commitments that he made in advance of the modification proceeding that he cannot adjust for without additional time. The Court further finds that the hardship to father outweighs the potential financial detriment of delay for the child. The increase in the support award is therefore phased-in, commencing January 1, 2011 and continuing through June 30, 2012 (18 months), and the Phase-In Support Order is set at \$800 per month (\$1,000 minus 50% of the difference between \$600 and \$1,000). The order would further provide that the Final Support Order of \$1,000 per month would become effective automatically, as of July 1, 2012.

ADDENDUM A

USER GUIDE FOR DETERMINING SUPPORT

There are a specific number of steps to the process of determining child support under these Guidelines. Those general steps, and the sections that relate thereto, are as follows:

- **Number of Children-** The number of children who are the subject of this support determination must be identified. If there are more than four children, see Section II(I).
- **Determining Parental Income-** The gross income for each parent must be determined. See Sections II(A), (B), (C) and (H).
- **Adjustments to Parental Income-** The gross income of each party may be increased or decreased through the payment or receipt of spousal maintenance, payment of child support for other children or financial responsibility to support other children. See Sections II(D) and (E).
- **Parenting Time Adjustment-** A determination must be made as to the effect that parenting time with each parent has on the financial costs for the children. See Section II(F) and, in special circumstances, Section IV(B) and (C).
- **Preliminary Support Amount-** The initial support figure shall be provided automatically through the COBS Calculator or may be manually determined. See Section II(G).
- **Adjustments to Support-** Expenses such as medical insurance coverage, childcare costs, education expenses and those costs that relate to the needs of a specific child may be factored into the support calculation. See Section II(J).
- **Guideline Amount-** This is the figure derived from performing the steps noted above. See Section II(J)(5) and (K).
- **Entry of Order-** The amount to be ordered by the court may be the Guideline amount or, based upon the circumstances of any given case, may be adjusted further after applying the Self-Support Reserve Test under Section II(L) (which is designed to balance basic needs for all parties) or considering whether a deviation is appropriate under Section IV(A). See also the provisions of Section III, which relate to the final support order.

This guide is not intended to address every situation that may arise but should assist in the vast majority of cases.

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Court Services Division, Court Programs Unit
1501 W. Washington, Suite 410
Phoenix, AZ 85007-3231
(602) 452-3253