

# Indiana Rules of Court Child Support Rules and Guidelines

Adopted Effective October 1, 1989  
Including Amendments Received Through January 1, 2010

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## Additional Documents

- Amended Child Support Obligation Worksheet (CSOW)
  - Parenting Time Credit Worksheet
  - Post-Secondary Education Worksheet (PSEW)
  - New Health Insurance Premium Worksheet (HIPW)
  - Amended Guideline Schedules for Weekly Support Payments
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## CHILD SUPPORT RULES

### Support Rule 1. Adoption of Child Support Rules and Guidelines

The Indiana Supreme Court hereby adopts the Indiana Child Support Guidelines, as drafted by the Judicial Administration Committee and adopted by the Board of the Judicial Conference of Indiana and all subsequent amendments thereto presented by the Domestic Relations Committee of the Judicial Conference of Indiana, as the Child Support Rules and Guidelines of this Court.

### Support Rule 2. Presumption

In any proceeding for the award of child support, there shall be a rebuttable presumption that the amount of the award which would result from the application of the Indiana Child Support Guidelines is the correct amount of child support to be awarded.

children between the parents based on their means, it is also perceived as being fair to parents. In applying the Guidelines, the following steps are taken:

1. The gross income of both parents is added together after certain adjustments are made. A percentage share of income for each parent is then determined.
2. The total is taken to the support tables, referred to in the Indiana Guidelines as the Guideline Schedules for Weekly Support Payments, to determine the total cost of supporting a child or children.
3. Work-related child care expenses and the weekly costs of health insurance premiums for the child(ren) are then added to the basic child support obligation.
4. The child support obligation is then prorated between the parents, based on their proportionate share of the weekly adjusted income, hence the name "income shares."

The Income Shares Model was developed by The Institute for Court Management of the National Center for State Courts under the Child Support Guidelines Project. This approach was designed to be consistent with the Uniform Marriage and Divorce Act, the principles of which are consistent with IC 31-16-6-1. Both require the court to consider the financial resources of both parents and the standard of living the child would have enjoyed in an intact family.

**Gross Versus Net Income.** One of the policy decisions made by the Judicial Administration Committee in the early stages of developing the Guidelines was to use a gross income approach as opposed to a net income approach. Under a net income approach, extensive discovery is often required to determine the validity of deductions claimed in arriving at net income. It is believed that the use of gross income reduces discovery. (See Commentary to Guideline 3A). While the use of gross income has proven controversial, this approach is used by the majority of jurisdictions and, after a thorough review, is considered the best reasoned.

The basic support obligation would be the same whether gross income is reduced by adjustments built into the Guidelines or whether taxes are taken out and a net income option is used. A support guideline schedule consists of a column of income figures and a column of support amounts. In a gross income methodology, the tax factor is reflected in the support amount column, while in a net income guideline, the tax factor is applied to the income column. In devising the Indiana Guidelines, an average tax factor of 21.88 percent was used to adjust the support column.

Of course, taxes vary for different individuals. This is the case whether a gross or net income approach is used. Under the Indiana Guideline, where taxes vary significantly from the assumed rate of 21.88 percent, a trial court may choose to deviate from the guideline amount where the variance is substantiated by evidence at the support hearing.

**Flexibility Versus the Rebuttable Presumption.** Although application of the Guideline yields a figure that becomes a rebuttable presumption, there is room for flexibility. Guidelines are not immutable, black letter law. A strict and totally inflexible application of the Guidelines to all cases can easily lead to harsh and unreasonable results. If a judge believes that in a particular case application of the Guideline amount would be unreasonable, unjust, or inappropriate, a finding must be made that sets forth the reason for deviating from the Guideline amount. The finding need not be as formal as Findings of Fact and Conclusions of Law; the finding need only articulate the judge's reasoning. For example, if under the facts and circumstances of the case, the noncustodial parent would bear an inordinate financial burden, the following finding would justify a deviation:

"Because the noncustodial parent suffers from a chronic medical condition requiring uninsured medical expenses of \$357.00 per month, the Court believes that setting child support in the Guideline amount would be unjust and instead sets support in the amount of \$\_\_\_\_ per week."

Agreed Orders submitted to the court must also comply with the "rebuttable presumption" requirement; that is, the order must recite why the order deviates from the Guideline amount.

**1. Phasing in Support Orders.** Some courts may find it desirable in modification proceedings to gradually implement the Guideline order over a period of time, especially where support computed under the Guideline is considerably higher than the amount previously paid. Enough flexibility exists in the Guidelines to permit that approach, as long as the judge's rationale is explained with an entry such as:

"The Guideline's support represents an increase of 40%, and the court finds that such an abrupt change in support obligation would render the obligor incapable of meeting his/her other established obligations. Therefore, the Court sets support in the amount of \$\_\_\_\_\_ and, on October 1, 20\_\_\_\_, it shall increase to \$\_\_\_\_\_ and, on September 1, 20\_\_\_\_, obligor shall begin paying the Guideline amount of \$\_\_\_\_\_."

**2. Situations Calling for Deviation.** An infinite number of situations may prompt a judge to deviate from the Guideline amount. For illustration only, and not as a complete list, the following examples are offered:

- One or both parties pay union dues as a condition of employment.
- A party provides support for an elderly parent.