

Income Shares Child Support Guidelines and Other Guidelines Issues



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Jane C. Venohr, Ph.D., Economist
Center for Policy Research
1580 Emerson Street
Denver, Colorado 80218
(303) 837-1555

jvenohr@centerforpolicyresearch.org

Points of view expressed in this document are those of the author and do not necessarily represent the official position of the State or the Child Support Guidelines Review Committee.

Meeting's Goals & Outline

Presentation Goals

- (1) Answer your questions about Income Shares guidelines and other states' guidelines
- (2) Basic understanding of the premise and workings of the Income Shares model
 - Income Shares is not a "one-size-fits-all" model, it is considerate of individual case circumstances
 - States using Incomes Shares vary in their provisions and schedule amounts
 - Income Shares has a long history of successful use
- (3) Share experiences of states that have recently changed guidelines models

Outline

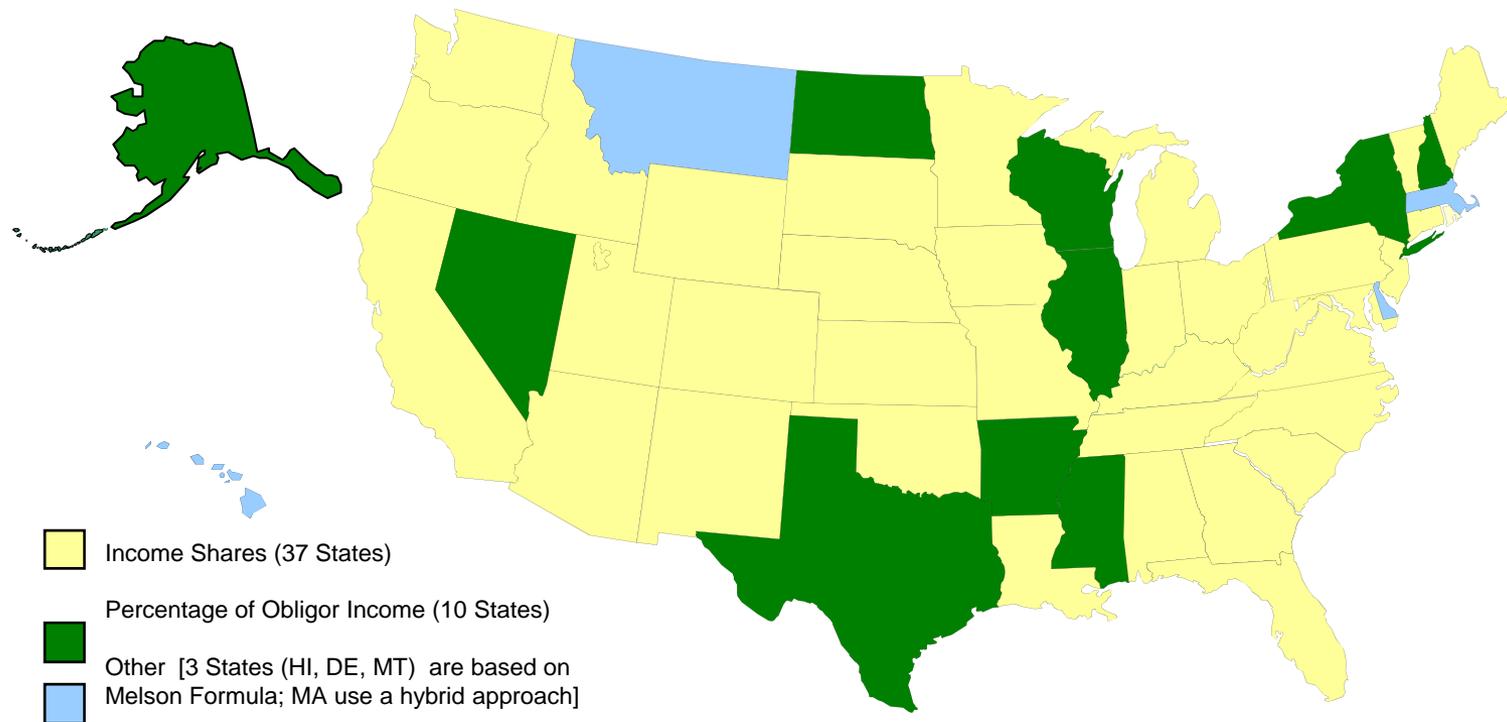
- Federal requirements & state guidelines models (slides 3-4)
- Example of Income Shares Schedule & Worksheet (slides 5-10)
- Respond to the question, "Will orders go up or down?" (slides 11-18)
- Low and High Incomes (19-21)
- Adjustments for Other Factors Including Medical Support (22-26)
- Specific State Experiences (27-32)

Federal Requirements of State Guidelines (45 C.F.R. § 302.56)

- Statewide child support guidelines
 - Must be based on specific descriptive and numeric criteria
 - Take into consideration all earnings and income of the noncustodial parent
 - Address how the parents will provide for the child(ren)'s health care needs through health insurance coverage and/or through cash medical support.

- Review guidelines every four years
 - Analyze case data on application of and deviations from guidelines
 - Consider economic data on costs of child rearing

State Usage of Guidelines Models in 2008



Premise of the Income Shares Model

- ✓ Starts with assumption that the child is entitled to same amount of expenditures the child would have received if the parents & child lived together
- ✓ Then, depending on the state, it may adjust for current realities: an obligor whose income is limited by incapacitation; shared physical custody; and other factors.

EXAMPLE: TWO CHILDREN	Mother	Father	Combined
1. Monthly Income	\$2,000	+ \$3,000	= \$5,000
2. % of Combined Income	40%	+ 60%	= 100%
3. Expenditures on Children in Intact Family			\$1,000
4. Each Parent's Share (Line 2 x Line 3)	\$400	+ \$600	= \$1,000

History of Income Shares

- Developed in response to federal requirements that states must adopt:
 - advisory guidelines by 1987 [P.L. No. 98-378]
 - presumptive guidelines that can be rebutted based on state-determined criteria by 1989 [P.L. No. 100-485]
- Congress requested federal Office of Child Support Enforcement (OCSE) to convene an advisory panel to develop recommendations for states
 - Panel comprised diverse stakeholders
 - Project staff developed Income Shares in response to Panel's 8 principles

Report: National Center for State Courts (1987). *Development of Guidelines for Child Support Orders, Final Report. Report to U.S. Department of Health and Human Services, Office of Child Support Enforcement, Williamsburg, Virginia.* <https://www.policy-studies.com/NewsandPublications/Publications/ChildSupportPublications/ChildSupportPublicationsArchive/tabid/141/Default.aspx>

Principles of State Child Support Guidelines Identified by 1984-87 Advisory Committee

1.	Both parents should share in the financial support of their children. The responsibility should be divided in proportion to their available income.
2.	The subsistence needs of each parent should be considered, but in virtually no case should the obligation be set at zero.
3.	Child support must cover a child's basic needs as a first priority; but, to the extent either parent enjoys a higher standard of living, the child is also entitled to share in that higher standard of living.
4.	Each child of a given parent has a right to a share of that parent's income. (In other words, when a parent has other children besides the children for whom support is being determined, an adjustment may be appropriate.)
5.	The guidelines should not treat children of separated, divorced, and never-married parents differently.
6.	The guidelines should not assume whether the mother or father is the custodial parent.
7.	The guidelines should not create economic disincentives to remarry or work. (An economic disincentive to remarry could exist if the guidelines considered a new spouse's income. An economic disincentive to not work may be avoided by imputing income to a parent who is voluntarily unemployed or underemployed.)
8.	The guidelines should consider the involvement of both parents in the child's upbringing. It should take into consideration the financial support provided by parents in shared physical custody or extended visitation arrangements. Yet, this does not necessarily obviate the child support obligation in 50/50% timesharing arrangements.

Excerpt of an Income Shares Schedule

Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children
3501 - 3550	815	1174	1377	1538	1692
3551 - 3600	820	1183	1387	1550	1705
3601 - 3650	826	1191	1397	1561	1717
3651 - 3700	832	1200	1408	1572	1730
3701 - 3750	837	1208	1418	1584	1742
3751 - 3800	843	1216	1428	1595	1755
3801 - 3850	849	1225	1438	1606	1766
3851 - 3900	855	1233	1447	1616	1778
3901 - 3950	861	1242	1457	1627	1790
3951 - 4000	867	1250	1466	1638	1802
4001 - 4050	874	1259	1476	1649	1814
4051 - 4100	880	1267	1486	1659	1825
4101 - 4150	886	1276	1495	1670	1837
4151 - 4200	892	1284	1505	1681	1849
4201 - 4250	898	1292	1514	1691	1860
4251 - 4300	902	1297	1518	1695	1865
4301 - 4350	905	1301	1522	1700	1870
4351 - 4400	909	1305	1526	1704	1875
4401 - 4450	912	1310	1530	1709	1880
4451 - 4500	916	1314	1534	1714	1885
4501 - 4550	919	1318	1538	1718	1890
4551 - 4600	923	1323	1542	1723	1895
4601 - 4650	926	1327	1546	1727	1900
4651 - 4700	930	1332	1551	1732	1906
4701 - 4750	935	1338	1558	1740	1914
4751 - 4800	939	1344	1565	1749	1923
4801 - 4850	944	1351	1573	1757	1932
4851 - 4900	948	1357	1580	1765	1941
4901 - 4950	953	1364	1587	1773	1950
4951 - 5000	958	1370	1594	1781	1959

Schedule is based on parents' combined income

Schedule shows average child-rearing expenditures for intact families with identical incomes

Excludes child care expenses, child's share of the insurance premium and extraordinary, uninsured medical expenses

Schedule contains the parents' total obligation to the children

Excerpt of an Income Shares Worksheet

Calculation of the Guideline Amount of Support	Custodial Parent Income	Noncustodial Parent Income	Combined
A. Adjusted Net Monthly Income	<u>\$1,500</u>	<u>\$2,750</u>	<u>\$4,250</u>
B. Proportional Share of Income (Also used for Uncovered Medical Expenses)	<u>35%</u>	<u>65%</u>	<u>100%</u>
C. Number of Children for Whom Support Is Sought			<u>1</u>
D. Basic Support Obligation from the Schedule			<u>\$898</u>
E. Cost of Child(ren)'s Health Insurance Premium (Difference between family and single cost)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
F. Total Obligation (line D + combined amount line E)			<u>\$898</u>
G. Each Parent's Share of Total Obligation (Line F multiplied by line B for each parent)	<u>\$314</u>	<u>\$584</u>	
H. Guidelines Amount of Child Support for NCP (NCP's line G minus NCP's line E)		<u>\$584</u>	

Income Shares Schedules Typically....

INCLUDE

- Housing: rent , utilities, mortgage interest, property taxes, condo fees, home furnishings, etc...
- Transportation: finance charges, leases, gas & oil, maintenance & repairs, bus tokens, etc...
- Food:
- Entertainment: admissions, lessons, activity fees, pets, toys, equipment
- Apparel:
- Other: personal care products, reading, ordinary education fees
- \$250 Out-of-Pocket Medical Expenses: to cover band-aids, over-the-counter medicines, etc...

EXCLUDE

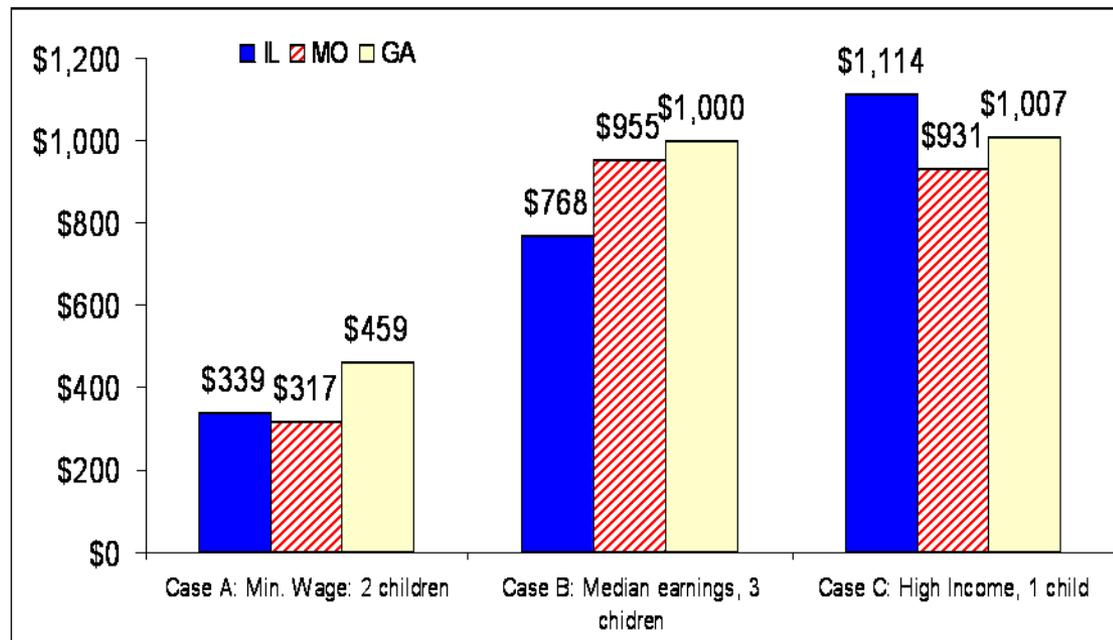
- Child care expenses
- Health insurance
- Uninsured, extraordinary medical expenses (co-insurance on x-rays)
- Mortgage principal
- Net vehicle outlays
- Other

Why Income Shares Schedules Vary

- Developed in different years, so consider different price levels
- Developed from different measurements of child-rearing expenditures
 - “Engel” estimator known to overstate actual child-rearing expenditures
 - “Rothbarth” estimator known to understate actual child-rearing expenditures
- Some rely on gross income, others rely on net income then make different tax assumptions to convert gross to net
- Some include self support reserve tests for low-income obligors; further, the amount of the self support reserve varies
- Some exceptionally low/high income states realign measurements based on national data for the income of their state
- A few states adjust for their higher housing costs
- States vary in what medical expenses are included and how much
- Other

Comparison of Order Amounts under the Missouri and Georgia Income Shares Guidelines

- MO's Income Shares schedule uses 2007 "Rothbarth" estimates of child-rearing expenditures. The Rothbarth estimator understates actual child-rearing expenditures.
- GA's Income Share schedule is based on the average of the "Rothbarth" and "Engel" estimator, which respectively understate and overstate actual child-rearing expenditures.
- In Case A, MO provides a low income adjustment. GA does not.



Case A (2 children): Obligor Income = \$7.75/hr, Obligee income = \$0

Case B (3 children): Obligor gross income = \$3,000/mo; Obligee gross income = \$2,000/mo

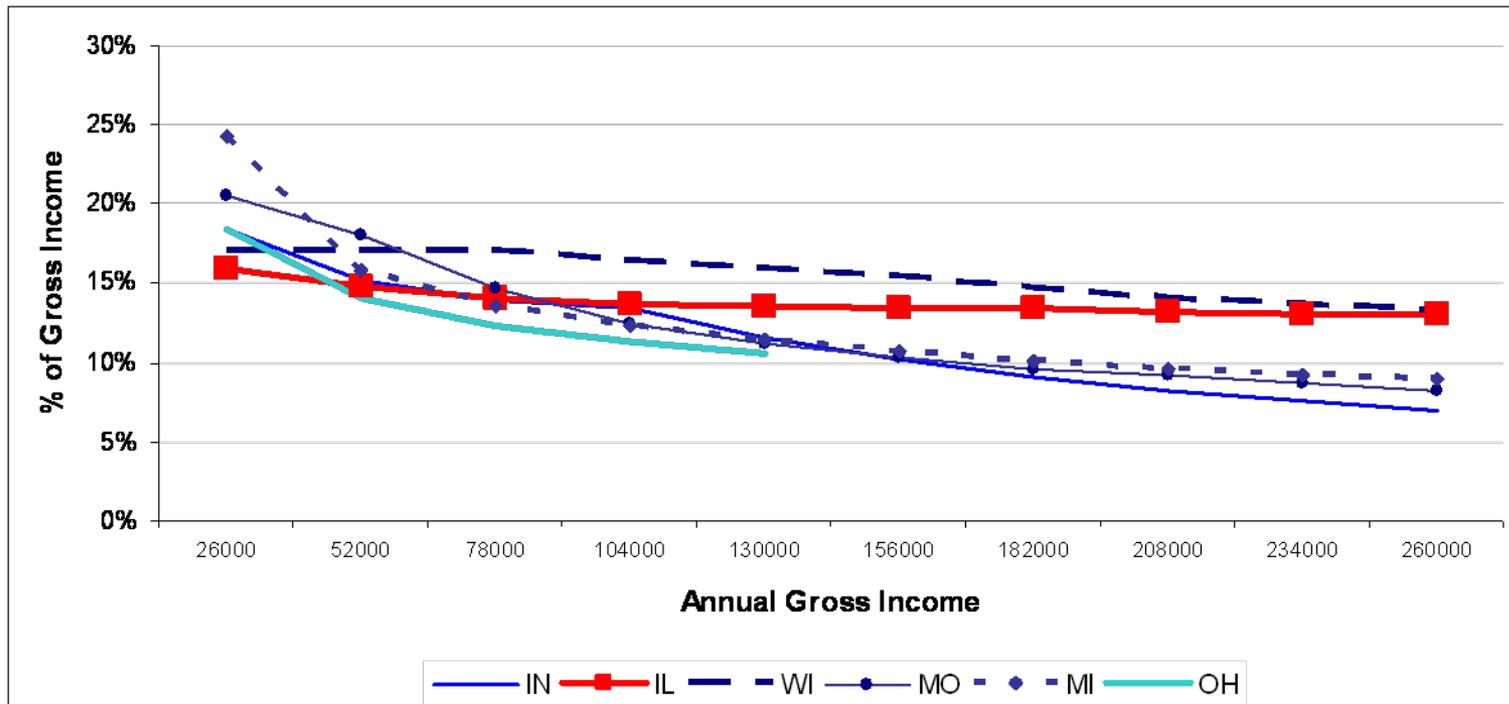
Case C (1 child): Obligor gross income = \$8,000/mo; Obligee gross income = \$2,000

Economic Studies Underlying State Child Support Guidelines

- Jacques van der Gaag (1981). *On Measuring the Cost of Children*. Discussion Paper 663-81. University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.
- Thomas J. Espenshade (1984), *Investing in Children: New Estimates of Parental Expenditures*, Urban Institute Press: Washington, D.C. (1984).
- David M. Betson (1990), *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin (1990).
- David M. Betson, (2008) “Chapter 5: Parental Expenditures on Children,” in Judicial Council of California, *Review of Statewide Uniform Child Support Guidelines*, San Francisco, California (2001). Available at URL: <http://www.courtinfo.ca.gov/programs/cfcc/1058files2001/CH5.PDF>
- David M. Betson (2006). “Appendix I: New Estimates of Child-Rearing Costs in PSI, *State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Considerations*, Report to State of Oregon, Policy Studies Inc., Denver Colorado. Available at URL: http://www.dcs.state.or.us/oregon_admin_rules/psi_guidelines_review_2007.pdf
- Mark Lino (2008), *Expenditures on Children by Families: 2007 Annual Report*, U.S. Department of Agriculture, Center for Nutrition and Policy Promotion. Miscellaneous Publication No. 1528-2007. Available at URL: <http://www.cnpp.usda.gov/ExpendituresonChildrenbyFamilies.htm>

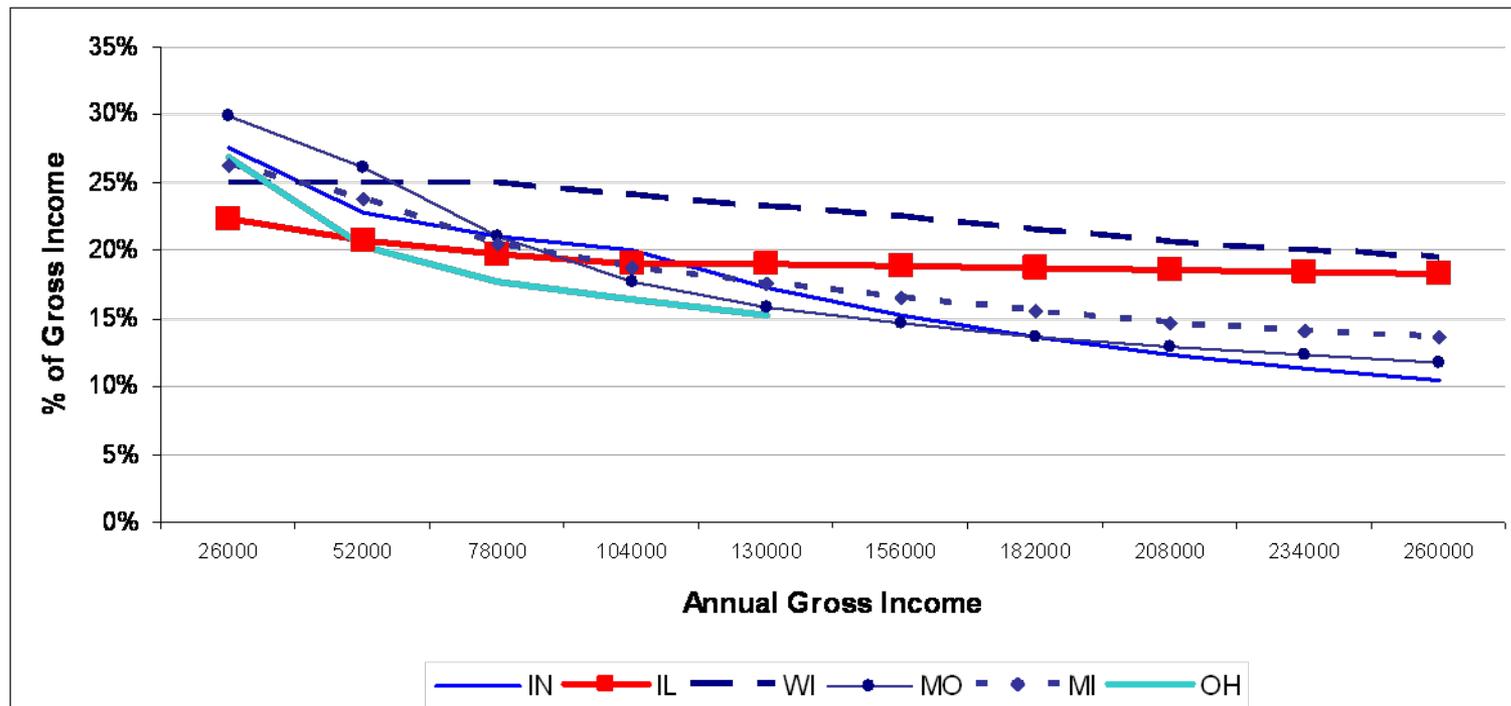
Comparison to Neighboring State Guidelines: One Child: Obligee Has No Income

All guidelines amounts are converted to gross income. No additional factors are considered (e.g., child care, health insurance).



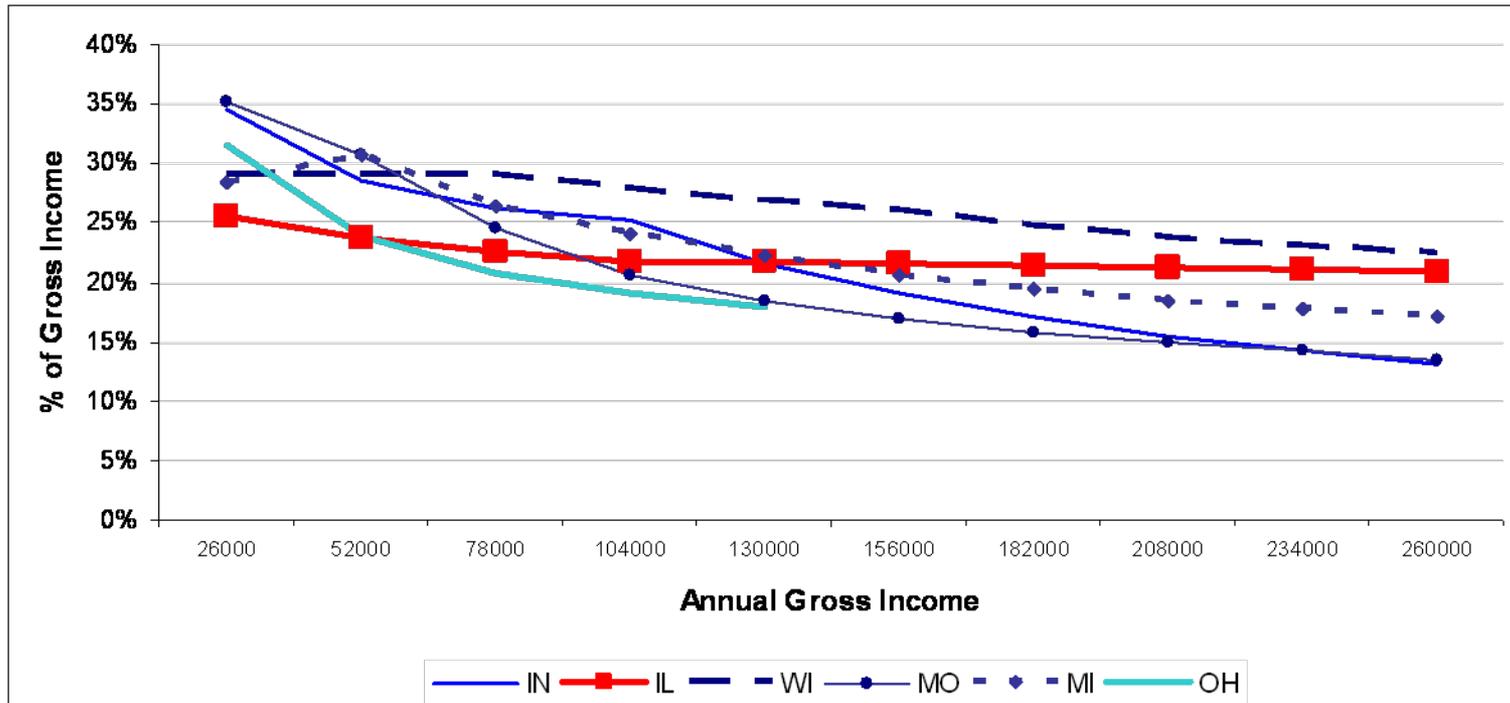
Comparison to Neighboring State Guidelines: Two Children: Obligees Has No Income

All guidelines amounts are converted to gross income. No additional factors are considered (e.g., child care, health insurance).

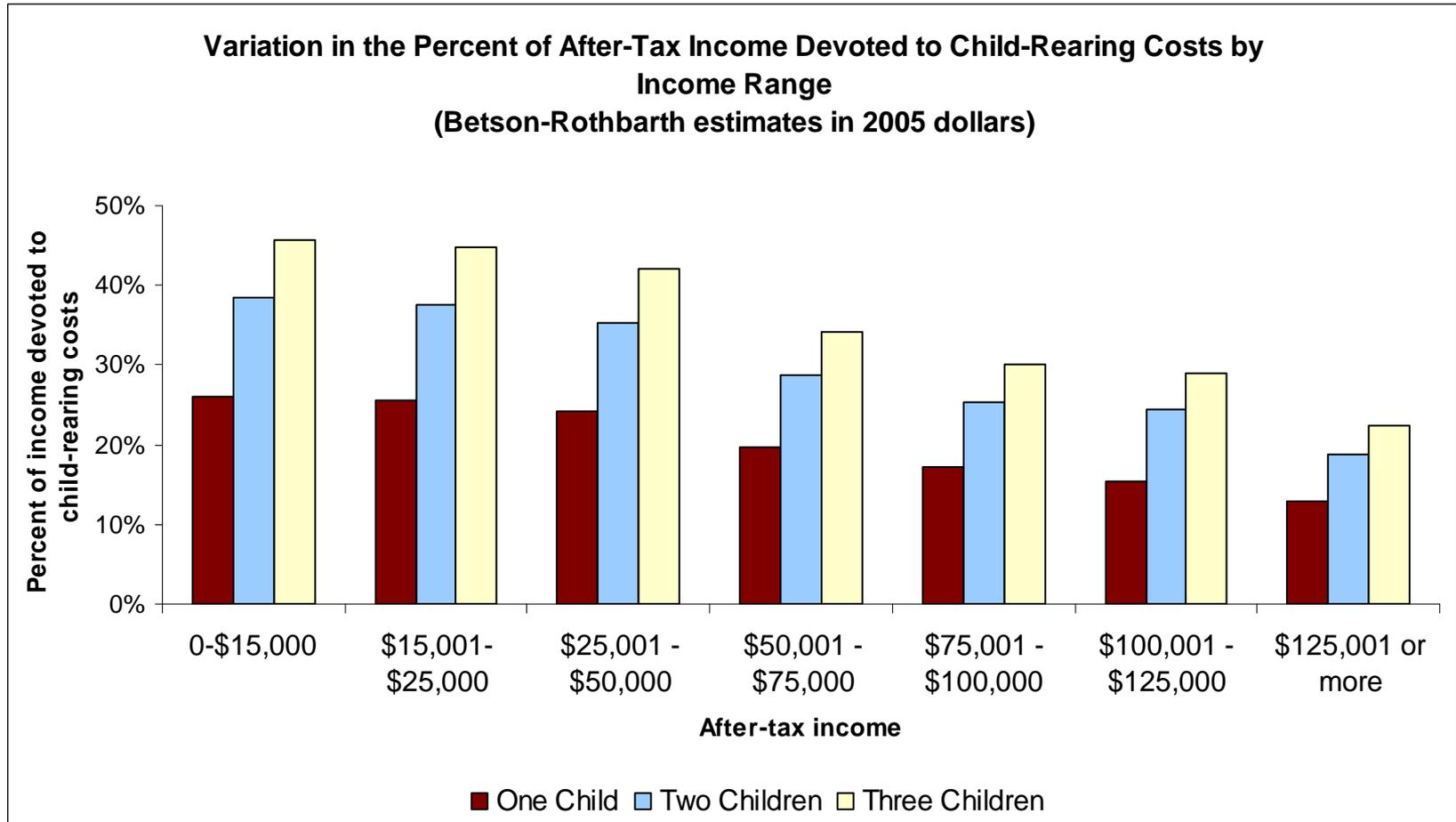


Comparison to Neighboring State Guidelines: Three Children: Obligee Has No Income

All guidelines amounts are converted to gross income. No additional factors are considered (e.g., child care, health insurance).



Most Economic Studies Find that Percent of Income Devoted to Child-Rearing Decreases as Income Increases



Treatment of High Incomes

Most state guidelines stop their schedules at incomes where there is an insufficient number of families in the data set used to estimate child-rearing expenditures at that income

- Gross-income schedules typically stop at \$10,000 to \$30,000/mo
- Net-income schedules typically stop at about \$10,000/mo
- Current economic evidence up to about \$30,000/mo gross or \$15,000/mo net

Many states also provide for court discretion for incomes above the highest amount on the schedule, but the highest amount is a floor

Excerpt from Colorado. The judge may use discretion to determine child support in circumstances where combined adjusted gross income exceeds the uppermost levels of the guideline; except that the presumptive basic child support obligation shall not be less than it would be based on the highest level of adjusted gross income set forth in the guideline.

About 8 states-- including Income Shares and non-Income Shares guidelines-- have formulae for an infinite amount of income

- Lowest formula for one child: VA
Above \$50,000 per month: the obligor's share of \$1,524 + 1% of gross income above \$50,000/mo
- Highest formula for one child: NH
25% of net income for 1 child

Issue: Existing Illinois Guidelines Do Not Provide a Low-Income Adjustment

Partial List of Studies Influencing Low-Income Adjustments in Guidelines

Federal Office of Child Support Enforcement (2007) *Story Behind the Numbers: Effects of Child Support Orders on Payments by Low Income Parents*, IM-07-04 (April 10, 2007)

Office of Inspector General. 2000. *The Establishment of Child Support Orders for Low Income Non-custodial Parents*. OIG-05-99-00390, Washington, D.C.: Department of Health and Human Services.

Office of the Inspector General. 2002. *Child Support for Children on TANF*, February 2002. OIG-05-99-00392, Washington, D.C.: Department of Health and Human Services.

Peters, Jo. 2003. *Determining the Composition and Collectibility of Child Support Arrears, Volume 2: The Case Assessment*. Olympia, WA: Washington Department of Social and Health Services.

Sorensen, Elaine and Chava Zibman. 2000. "A Look at Poor Dads Who Don't Pay Child Support," New Federalism: Discussion Paper 00-07. Washington, D.C.: The Urban Institute.

Sorensen, Elaine, Liliana Sousa, Simon Schaner . 2007. "A Look at Poor Dads Who Don't Pay Child Support," New Federalism: Discussion Paper 00-07. Washington, D.C.: The Urban Institute.
<http://aspe.hhs.gov/hsp/07/assessing-CS-debt/index.htm>

Center for Policy Research and Policy Studies Inc. 2003. OCSE Responsible Fatherhood Programs: Client Characteristics and Program Outcomes. Report to the federal Office of Child Support Enforcement, Denver, CO. Available on the Internet at: <http://fatherhood.hhs.gov/>

[Stability/RespFaPgmsClientChar.pdf](http://fatherhood.hhs.gov/Stability/RespFaPgmsClientChar.pdf).

Selected Findings from Studies of Low-Income Parents

Background. In general, the IV-D Child Support Enforcement Program is a highly effective program (cost effective ratios of \$4.73 and \$4.26 nationally and Illinois, respectively). Yet, child support arrears amount to:

- \$107 billion owed nationally
- \$3.4 billion owed in Illinois

Most (over 70%) of the arrears is owed by noncustodial parents who earn \$10,000/yr or less

About 25% of noncustodial fathers have reported incomes below the federal poverty level

29% of poor nonresidential fathers who are not paying child support are institutionalized, mostly in prisons.

Many have support orders that exceed 50% of their reported income

Contributing Factors

- Imputed income exceeds actual income; income may be imputed in defaults or when the NCP is sporadically employed
- Multiple orders
- Retroactive arrears and interest
- Other: guidelines amounts and lack of modifications

Two Low-Income Adjustments Used by States

	Self Support Reserve Tests	Equalize Income Method
Description	<p>Incorporate a self support reserve based on 85-135% poverty level (\$903/month)</p> <p>Can be incorporated into schedule or worksheet</p>	<p>Minimum order is based on amount that equalizes income assuming each parent, at a minimum, is capable of working full-time at minimum wage</p>
Usage by States	30 States Rely on Self Support Test	CO & OK
Merit	Simple	Recognizes the needs of both NCP and CP-family
Limitations	Considers the NCP's subsistence only	<p>Complicated</p> <p>Min. wage has changed</p>

Caveat: Most states provide that income can be imputed to a parent who voluntarily does not work or purposely reduces his/her work to affect the child support award amount

Other Factors Commonly Considered in Income Shares Guidelines

Factor	Typical Treatment	Additional Considerations
Child care expenses	Obligated parent's pro rata share is added to base support	Defining work-related child care expenses, adjustment for tax credit, & setting a cap on the maximum child care expense
Health insurance premium	Added to basic obligation and pro rated, parent paying premium gets a credit	Definition of reasonable in cost
Uninsured & extraordinary medical expenses	Each parent is responsible for the pro rata share	Defining extraordinary medical expenses providing for the tracking/exchanging of recipients and the payment
Additional dependents	Subtraction from income	Whether to limit adjustment to prior born, amount subtracted, equalizing the income available to the sets of children
Shared physical custody	Cross-credit: inflate basic obligation to account for the additional costs of raising a child in two households rather than one; calculate dummy order for each parent and weigh it by timesharing arrangement, difference between dummy order is shared-custody order	Timesharing threshold, other criteria for applying adjustment (e.g., agreement between the parties); adjustment formulas besides cross-credit

Federal Medical Support Changes

(Federal Register, vol. 73. , No. 140, July 21, 2008, pages 42416-42442).

- Eliminate presumption that noncustodial parent provides healthcare coverage for the children through his employer
- Recognize that either parent may provide healthcare coverage for the children
- Require more specification of how the child's healthcare needs will be met
- In ordering which parent is to provide coverage consider insurance accessibility and reasonable cost
 - 5% or less of gross income or another standard established by a state in its guidelines
- Provide for "cash medical support"
 - Uninsured medical expenses
 - Custodial parent pays premium
 - Distributed to Medicaid to partially offset Medicaid

Prorating Health Insurance and Adding It the Basic Obligation Is More Equitable than Subtracting It from Income

Problems with Illinois' Current Provision

- Does not adequately address situations where CP carries the insurance. Other states find that the CP provides insurance in about 40-50% of cases with private insurance
- In most cases, subtracting the premium puts more of the financial burden on the parent carrying the premium, escalating premium costs exasperate the inequitable burden

Illustration

NCP gets a credit of \$20 for each additional \$100 in the premium costs regardless of the CP's income

	Case A	Case B	Case C
1. Noncustodial Parent's Income	\$2,750	\$2,750	\$2,750
2. Health Insurance Premium	\$0	\$100	\$200
3. Net Income	\$2,750	\$2,650	\$2,550
4. Guidelines Percent for One Child	20%	20%	20%
5. Amount of Child Support	\$550	\$530	\$510

Example of Income Shares Worksheet that Adjusts for Insurance Premium: CP Provides Insurance

Calculation of the Guideline Amount of Support	Custodial Parent Income	Noncustodial Parent Income	Combined
A. Adjusted Net Monthly Income	<u>\$1,500</u>	<u>\$2,750</u>	<u>\$4,250</u>
B. Proportional Share of Income (Also used for Uncovered Medical Expenses)	<u>35%</u>	<u>65%</u>	<u>100%</u>
C. Number of Children for Whom Support Is Sought			<u>1</u>
D. Basic Support Obligation from the Schedule			<u>\$898</u>
E. Cost of Child(ren)'s Health Insurance Premium (Difference between family and single cost)	<u>\$100</u>		<u>\$100</u>
F. Total Obligation (line D + combined amount line E)			<u>\$998</u>
G. Each Parent's Share of Total Obligation (Line F multiplied by line B for each parent)	<u>\$349</u>	<u>\$649</u>	
H. Guidelines Amount of Child Support for NCP (NCP's line G minus NCP's line E)		<u>\$649</u>	

Income Shares Amount with No Insurance = \$584, which is \$65 less ($\$100 \times 65\%$) than when CP carries insurance

Example of Income Shares Worksheet that Adjusts for Insurance Premium: NCP Provides Insurance

Calculation of the Guideline Amount of Support	Custodial Parent Income	Noncustodial Parent Income	Combined
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H. Guidelines Amount of Child Support for NCP (NCP's line G minus NCP's line E)		<u>\$549</u>	

Income Shares Amount with No Insurance = \$584, which is \$35 less ($\$100 \times 35\%$) than when NCP carries insurance

States that Switched Guidelines Models

State	Year	Previous Model	New Model
W. Virginia	1997	Melson	Income Shares
Tennessee	2005	% of obligor net income	Income Shares
Georgia	2006	% of obligor gross income	Income Shares
Minnesota	2007	% of obligor net income	Income Shares
Dist. of Col.	2007	Hybrid model	Modified Income Shares

All of these states now start with gross income.

State Approaches to Drafting Income Shares Guidelines

	Level of Effort to Draft	Appropriate for Illinois Today	Anticipated Learning Curve & Acceptance
<p>1. Adapt another state's guidelines and/or specific provisions (e.g., TN ⇒ GA, OR ⇒ MN, DC ⇒ proposed MD)</p>	Easy	More appropriate for the other state	Learning curve & some misunderstanding of other state's vernacular/provision purpose
<p>2. Add Income Shares mechanics to existing guidelines (e.g., TN, DC)</p>	Moderate	Illinois tailored but is it appropriate for Illinois today?	Lowest learning curve
<p>3. Develop lists of factors to consider</p> <ul style="list-style-type: none"> -- Factors Core to Income Shares (e.g., TN) -- Issues identified by family law professionals & stakeholders (e.g, DC, MD) 	Most Difficult	Yes, ownership of guidelines	Learning curve but better understanding and acceptance
<p>4. Combination of the above (e.g., TN, MN, DC)</p>	Moderately Difficult	Tailored to Illinois today	Learning curve but better understanding and acceptance

Question: Is There a Rush to the Courthouse after a Guidelines Change?

Answer: Not usually, but some states have experienced pockets of increases.

The following factors influence the number of requests for order modifications.

- Whether a guidelines change is a change circumstances
- Whether new guidelines amount meets the modification threshold
 - Existing Illinois threshold: At least 20% change in income, minimum of \$10 per month
- Court fees
- Socio-economic factors & case circumstances
 - High-income cases in TN
 - Low-income cases in some jurisdictions of CA
 - Existing orders based on deviations in MN
 - Some parties have a “Don’t rock the boat mentality”
 - child support agencies receive 3-12 requests per year for every 100 ordered cases

Example of State Provisions on Whether Guidelines Change is a Change in Circumstances

Louisiana

The enactment and subsequent amendment of this Part shall not for that reason alone be considered a material change in the circumstances of either parent

District of Columbia

If a change to the Guideline results in a support order that differs from the current order by 15% or more, the current order is subject to modification based on the revised Guideline, and no other change in circumstances need be proven.

Summary of Advantages & Disadvantages of Illinois Switching to an Income Shares Model

Disadvantages

- Resistance to change
- Diverse stakeholders may be at odds on some provisions
- Learning curve
 - Can be overcome with training & automated worksheets
- Requires concerted effort

Advantages

- Perception of fairness
 - it considers many more individual case circumstances
- Opportunity to codify case law (e.g., high income, child care)
 - Greater consistency in application across state
 - Greater predictability among parents
- Can reflect actual expenditures on families
 - Which is consistent with existing Illinois deviation factor, “the standard of living the child would have enjoyed had the marriage not been dissolved.”
- Comports with new federal rules on medical support
- Opportunity to “clean-up” existing guidelines

Recap of Presentation Goals

- ❖ Answer your questions about Income Shares guidelines and other states' guidelines
- ❖ Basic understanding of premise and workings of the Income Shares model
 - ❖ Income Shares is not a "one-size-fits-all" model, it is considerate of individual case circumstances
 - ❖ States using Incomes Shares vary in their provisions and schedule amounts
 - ❖ Income Shares has a long history of successful use
- ❖ What to expect when changing models