

Child Support Guidelines Review Collective Ideas of CSAC

General Suggestions or Comments*

- Our goal should be to achieve balance in our guidelines where parents are contributing to the care of their children, and no one is being harmed.
- Guidelines should be established in such a way that they always result in a fair and equitable award, based on discernable facts, so that debt is prevented from accruing, and the negative impact to individuals, and the family as a whole, is minimized.
- We cannot fail to adequately consider the impact of the guidelines on the recipient of support.
- We should be thoughtful and strategic regarding the changes we make during this quadrennial as a means of controlling the variables and to allow us to further assess the effectiveness of the guidelines.

**Perhaps these can be developed into guiding principles for our review?*

Subsections in **BOLD** and referenced below can be found at [45 CFR 302.56](#).

(c)(1)(ii)

- Basic subsistence needs of the obligor
 - Minimum orders
 - \$40 is fine for individuals who are at or below 75% of the Federal Poverty Level (FPL) as a rule, judges can always deviate for individuals who do not meet zero dollar requirements but cannot pay the \$40.
 - Minimum support obligation is based on 75% of the FPL for a family of one person. Should the Committee review the current self-support threshold to determine whether the threshold of 75% should be adjusted to reflect the needs of the obligor, current cost of living, and the economic needs of the child?
 - We should use the Asset Limited, Income Constrained, Employed (ALICE) study data, as it focuses on those who are employed, to conduct a comparative analysis of ALICE findings relative to basic subsistence needs (basic costs associated with living in Illinois) v. FPL to see how the data compares. Then, allow these findings to guide our approach.
 - How would applying these findings impact ordered support amounts?
 - Would more obligors be paying the minimum?
 - If so, how would this amount compare to the current guideline amount?
 - Would this negatively or positively impact obligee and child?
 - It appears, as per the ALICE data, that single parent families with a female as head of the household may be in the most precarious position. If this is the case, it is crucial that we do not overcorrect, as statistically most obligees in IL are female.
 - Would adjusting this amount negatively or positively impact compliance rate?

- If receipt of SSI results in a zero-dollar order, why would someone who is employed and earning the same, or less, have a greater support obligation (at present receipt of SSI results in a zero dollar support order)?
 - How does this amount compare to FPL and ALICE?
 - SSI monthly benefit for an eligible individual for 2020 is \$783/month, while 2020 FPL for an individual living in IL is \$1,063.33/month (75% of which is \$797.50)
 - Is it the amount of the SSI that is key, or is the fact that a recipient has been determined to be unable to work due to a disability?
- On what is our \$40 per child per month amount based?
- Support is a giant scale that we must balance by making certain children are supported while making certain that their parents are able to not only survive but have an opportunity to thrive.
 - This also helps to ensure the connectivity of the obligor to the child and the harmonious relationship with the obligee.

(c)(1)(iii)

- Imputation
 - As per anecdotal, it seems that minimum wage by 40 hours is the de facto imputation amount, regardless of barriers obligor may have.
 - Although 40 hours/week is possible, how many hours on average does the average minimum wage worker work?
 - Is this number of hours from one employer, two minimum wage employers, or more?
 - If found that the reality of the minimum wage worker is that they are not able to work 40 hours with one employer, then how does this impact their self-sufficiency, as there are a number of out of pocket costs the worker will incur due to the lack of employer sponsored benefits, i.e., there will not be an employer provided healthcare or other benefits based on the fact that worker is meeting the minimum threshold for benefits.
 - There can also be additional costs associated with working more than one job to accumulate full time employment, e.g., childcare, transportation, etc.
 - Is there any consideration in the existing imputation process for these probable costs?
 - Is this same reasoning applied to obligee when they may not have verifiable wages?
 - If not, then why?
 - Is this an issue of implicit bias?
 - If so, should this be addressed legislatively or via educational outreach?
 - If this is true, how is the rebuttable presumption that 75% of FPL is appropriate absent insufficient work history as provided in 3.2 overcome?
 - Should more prescriptive guidelines for imputation, unemployment, and underemployment be contemplated, discussed, and possibly implemented as a means of mitigating possible barriers? These could include references to prior incarceration, criminal record, educational level, health (mental and physical), and other factors that

severely diminish or impact an individual's ability to pay. Some of these factors are specifically named in (c)(1)(iii). Current statute (750 ILCS 5/505(a)(3.2) and (3.3)) is very limited in the weighing of factors that can limit ability to pay.

- We should fully review the available data as to whether the imputation process incentivizes or disincentivizes employment, payment, and parental involvement.
 - If incentivized or disincentivized, the context or circumstances in which positive or negative outcomes are achieved for each.
 - What is the relative payment rate of current support on cases where income has been imputed?
 - Is this payment rate tied to the amount due and owing, meaning as the amount rises, does compliance also rise or fall?
 - How does the rate of payment for current support when income has been imputed compare to the rate of payment when actual income is used in the establishment of a support obligation?

(c)(2)

- Health care coverage
 - While IL is compliant with this federal regulation, there are two areas of conflict in our current statute. The Committee should address these known issues during this review.
 - 505.2 currently conflicts with the provisions of 505.
 - 510 has language that is a remaining artifact of the prior statute that preclude public coverage sufficing. This currently conflicts with federal regulations.

(c)(3)

- Incarcerated Obligor
 - Should IL consider abatement of support by operation of law similar to what some states have adopted
 - Cons
 - IV-D and non-IV-D populations could potentially be treated differently. If so, how would we mitigate this issue if we choose this path?
 - Due process
 - Who notices the obligee?
 - How is the obligee noticed?
 - How does obligee object in cases where support could continue to be paid?
 - Pros
 - IV-D and non-IV-D would all be treated the same, receiving equal justice, regardless of their access to a private attorney.
 - Many other states already do this, so we could possibly take the best pieces of their practices and memorialize in statute relatively easily
 - Would be a 100% solution that would apply to all who meet a threshold number of days that they are/will be incarcerated.
 - There are few exceptions where individuals can produce income while incarcerated. Public policy should not be built to address the exceptional.
 - Federal regulation provides for the abatement with notice to the obligee providing them an opportunity to object.

- If abated during incarceration, should abatement continue for a period after the obligor is released or should child support resume upon release, as previously established, absent a request for a modification?
- If abated, what does the process look like? Is there a hearing of any type, or would notice just be sent to the obligee and added to the case file?

(h)(1)

- Cost of raising children
 - Keep version of cost adjusted Betson-Rothbarth (BR)
 - Review United States Department of Agriculture (USDA) v. BR
 - Given the emerging research related to Asset Limited, Income Constrained, Employed (ALICE), could ALICE further inform our understanding of the cost to raise children

(h)(2)

- Deviation
 - What is the rate of deviation in IL?
 - What are the most common reasons for deviation?
 - When deviating, what is the breakdown of the percentage of deviation upwards or downwards, e.g., is it 50% (deviate upwards)-50% (deviate downward), or is it 90-10?
 - We can obtain these data sets regarding the IV-D population, is there a way we can obtain this information in non-IV-D?
 - If we compare the IV-D v. non-IV-D deviation tendencies, would they be similar?
 - If not, how do they differ?
- Default
 - How often are default orders entered?
 - When default order entered, what is the average amount that is determined to be due?
 - Is this amount based on real, verifiable income data, imputed, or both?
 - If both, what is the percentage of actual income data being used v. imputed?
 - If/when imputed, how is this done, i.e., minimum support orders or some other rate?
 - What is the relative payment rate of current support for orders entered by default?
 - Is this payment rate tied to the amount due and owing, meaning as the amount rises, does compliance also rise or fall?

(h)(3)

- Public Input
 - Disseminate a short questionnaire or survey to family/divorce litigants (IV-D and non-IV-D) following their court appearance.
 - Public Comment Meetings
 - We need to make a conscious effort to reach all portions of the State as we conduct these meetings, i.e., Cook, the Collar Counties, Central IL, far Western IL, far Eastern IL, the Metro-St. Louis area, and far Southern IL.
 - We should reach out to DHS to find their zip codes with the highest levels of TANF, SNAP, Medicaid, and/or CCAP benefits to make certain we hold

meeting(s) in these areas to try to increase the likelihood of participation by lower income families.

- We should use some combination of the internet, HFS website, email blasts, public service announcement(s), community-based organizations, and the Illinois Coalition Against Domestic Violence (ILCADV) to reach as many families and as diverse of a population as possible.
- At what point should these meeting occur, pre-development, post-development, or both?

Other Issues We Could Choose to Address

- Multi-family adjustment without court order
 - There appears to be a lack of computational clarity on how to apply this provision. Many judges begin the computation with the first-born children and reduce support accordingly for after-born children.
 - Should we attempt to clarify?
 - If so, how?
- Shared physical care
 - Currently, this change in formula is available when both parents are exercising 146 or more overnights of parenting time with the children per year. This creates a cliff effect when graphing child support calculations. Many states have attempted to address.
 - Should IL attempt to address the cliff and the reported resulting “146 or bust” mentality that it has allegedly created?
 - If so, how?
 - Should the Committee consider reducing the threshold for implementation of the shared physical care formula to 92 overnights per year and increase the multiplier to 1.7?
 - Should the Committee consider addressing by using a sigmoid function of s-curve, similar to OR and others?
 - Other option?

Possibly Necessary Procurements

- Economist to conduct review and compile results in accordance with (h)(1).
- Do we want to look into finding a second economist, perhaps one of the economists responsible for the ALICE research who could look at (h)(1) through a different lens with a focus on costs associated with lower income families?
 - Could this second economist also assist with our review being conducted in association with (c)(1), if the Committee feels further review is necessary?
- Do we need to procure the services of someone or an entity to conduct or assist with our focus groups and to oversee the meaningful opportunity for public input as per (h)(3), or does the CSAC and/or HFS have individuals who can conduct this piece?