

Review of the New Hampshire Child Support Guidelines

Submitted to:

New Hampshire
Department of Health and Human Services
Division of Economic and Housing Stability
Bureau of Child Support Services

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Points of view expressed in this document are those of the authors and do not necessarily represent the official position of the Department of Health and Human Services, Division of Economic and Housing Stability, Bureau of Child Support Services or the Court. The authors are responsible for any errors and omissions.

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EXECUTIVE SUMMARY

This report documents the findings from the 2022 review of the New Hampshire child support guidelines. The guideline is set in state statute (NH RSA §§ 458-C:1 through 458-C:7.) The New Hampshire Department of Health and Human Services (DHHS), Division of Economic and Housing Stability (DEHS), Bureau of Child Support Services (BCSS) also publishes a Child Support Guideline Calculation Table as prescribed in statute (but called a “schedule” in statute rather than a table). BCSS updates the table each year to reflect changes in the federal income tax withholding formula as prescribed in state statute.

Federal regulations (45 C.F.R. § 302.56) require states to review their guidelines at least once every four years. The review must consider economic data on the cost of raising children, the analysis of case file data, and input from a wide range of stakeholders. The expectation is that the information will be used to develop recommendations that ensure that the guidelines result in appropriate child support orders and that deviations from the guidelines are limited.

SUMMARY OF CHAPTERS

The report consists of eight chapters.

Chapter 1: Introduction

This chapter provides background information and an overview of federal requirements. New Hampshire first adopted statewide guidelines in 1988. It relies on the income shares model that presumes both parents are financially responsible for their children and that the child is entitled to the same level of expenditures the child would have received had the parents lived together and shared financial resources. Support is calculated from a child support table based on the combined adjusted gross income of the parents and the number of children for whom support is being determined. Each parent is responsible for their prorated share of the table amount. The obligor-parent’s share is the core of the order amount.

Federal regulation imposes many requirements of state child support guidelines and state guidelines review processes. States must consider economic data on the cost of raising children; examine case file data to analyze the application and deviation from the guidelines, payment data, and the rates of income imputation, default, and application of the low-income adjustment; consider labor market data; and obtain input from low-income parents and the state child support agency. The findings from the analysis are to be used to develop informed recommendations appropriate for the state.

The 2016 Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) rule also expanded requirements of state guidelines.¹ This is reviewed in Chapter 5.

¹ See Federal Office of Child Support Enforcement. (Dec. 20, 2016). Actional Transmittal (AT-16-06) *Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*. Retrieved from <https://www.acf.hhs.gov/css/policy-guidance/final-rule-flexibility-efficiency-and-modernization-child-support-enforcement>.

Chapter 2: Findings from the Analysis of Case File Data and Labor Market Data

Case file data were obtained from 500 random sampled petitions for child support in 2021. The sample was stratified over 10 courts: Berlin, Claremont, Concord, Derry, Keene, Laconia, Manchester, Ossipee, Plymouth, and Rochester. The sample included 430 orders for child support and 71 state petitions resulting in medical-support-only orders. Among the 430 orders for financial child support, 301 orders were generated from divorce and parenting petitions, and 129 were generated from state petitions.

Federal data analysis requirements were met. The analysis of the case file data found a deviation rate of 48%. The rate is 20% among state petitions and 61% among divorce and parenting petitions. The rate is lower than that from the previous review. Still, New Hampshire's deviation rate is much higher than that of other states. Over half of the deviations were known to be due to the parenting schedule. The sample indicates a 21% default rate. It was higher (49%) among state petitions and lower (8%) among divorce and parenting petitions. Income imputation was indicated for 15% of all orders, 38% of state petitions, and 3% of divorce and parenting orders. The self-support reserve (SSR) was applied to 21% of 2021 sampled orders, 41% of state petitions, and 11% of divorce and parenting petitions.

Labor market data can inform income imputation. One factor in income imputation concerns hours worked and whether a 40-hour work week is appropriate. Many low-skilled jobs do not always offer full-time or year-round work. The average number of hours worked per week in New Hampshire is 33.6 hours. The average hours worked is significantly less in some industries, particularly those paying low wages (e.g., the average hours worked per week in the New Hampshire leisure and hospitality was 25.6 hours). Other findings from the labor market analysis suggest that many obligor-parents in any government child support caseload are generally low skilled, have other barriers to employment, and have limited employment opportunities.

Chapter 3: Findings from the Analysis of Case File Data and Labor Market Data

To obtain input from a variety of stakeholders, particularly parents and BCSS staff to meet the federal requirement to obtain input from low-income parents and the IV-D agency, a web-based survey was made available for almost four weeks. The survey also sought input from the judiciary (i.e., judges, attorneys, and court personnel), advocates for parents and children, legislators, and others with an interest in the New Hampshire child support guidelines. The survey was announced through several sources including social media, flyers, and the courts.

There were 224 survey respondents: 32% were parents, 25% were BCSS staff, 21% were judicial officers/attorneys/court staff, and 21% were others (e.g., representatives of organizations that advocate for children and legislators.) The major finding was the need for a timesharing adjustment. Except for BCSS respondents, most respondents favored a cross-credit adjustment that calculates a theoretical order for each parent adjusted for the child's time, then bases the support order on the difference. The parent with the larger amount owes the other parent the difference.

There was no consensus that the guidelines amounts were too high or too low. There was some evidence that survey respondents thought the existing self-support reserve was too low. Survey

respondents generally favored a minimum order and income imputation to able-bodied parents who do not work when employers are hiring. Survey respondents generally did not favor ordering grandparents of a child born to a minor unwed parent who is receiving public assistance to pay support for their grandchild. There were several comments to make the guidelines simpler and improve parent understanding of the guidelines.

Chapter 4: Economic Data on the Cost of Raising Children

The existing New Hampshire guidelines percentages are generally based on an economic study published in 2006. That study used the “Rothbarth” methodology to separate childrearing expenditures from total expenditures from expenditures data collected from families in 1998–2004. Since 2006, the same economist has updated his study using the same methodology applied to expenditure data collected from families in 2013–2019. This is the most current study of childrearing expenditures used by any state. The appropriateness of the guidelines percentages was assessed using this study. The measurements of childrearing expenditures were adjusted for the same factors as the 2006 study (i.e., expenditures to income ratios to relate the measurements to net income and childcare and all but the first \$250 per child per year in out-of-pocket medical expenses were excluded). The comparisons found that the current guidelines percentages are too low for two and more children at low- and middle-incomes, and too high at very high incomes. The 2018 review concluded the same finding at higher incomes.

When conducting the economic analysis, several other findings about the child support table/percentages and worksheet were noted. The findings considered equity in the calculation, simplicity in use, and understandability to parents. New Hampshire is one of few states that treat childcare expenses and out-of-pocket healthcare expenses as income deductions. A more equitable approach is to prorate the expense between the parties and add the obligor-parent’s share of that expense onto the obligor-parent’s base support.

Chapter 5: Analysis of New Hampshire’s Compliance with 2016-Added Federal Requirements

The Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) rule of 2016 added several requirements to state guidelines: base the guidelines amount on the parent’s income and earnings and evidence of ability to pay; consider the basic subsistence needs of paying-parents with limited ability to pay; take into consideration the individual circumstances of the paying-parent when income imputation is authorized; provide that incarceration is not voluntary unemployment; and allow for public coverage (e.g., Medicaid) to be considered healthcare coverage for the purposes of addressing the children’s healthcare needs when establishing an order. The timeline for states to meet the requirement is tied to a state’s guidelines review cycle. New Hampshire’s deadline is January 1, 2024.

The authors of this report do not have the authority to determine whether New Hampshire complies with these 2016-added requirements. Only the federal Office of Child Support Enforcement (OCSE) has that authority. Nonetheless, in general New Hampshire appears to meet all the requirements through their existing guidelines, case law, and practices.

Chapter 6: Analysis of Grandparent Liability

Current New Hampshire law imposes grandparent liability for public assistance provided to children born to their unwed minor children but does not address how to establish an ongoing obligation for such grandparents. The law predates the establishment of the child support program and is generally outdated. Since child support programs focus on obtaining support from the parents, there is also less need to pursue grandparents. Most respondents to the web-based survey did not favor assessing grandparent liability. Judges, attorneys, court staff, and BCSS staff noted very few cases where grandparent liability was an issue or ordered. Many judges favored retaining some discretion over grandparent liability so they could order it when appropriate.

Chapter 7: Timesharing Adjustments in State Guidelines Formulas

New Hampshire is one of nine states that does not provide a formulaic adjustment for timesharing in their child support guidelines. Based on the findings from the case file data, almost three-quarters (74%) of divorce and parenting petitions have a parenting plan that provides that the child will be in the physical care of each parent for a significant share of the child's time. The majority (61%) of these cases deviate from the New Hampshire guidelines.

No state child support guidelines formula for timesharing is exactly alike. The most common approach is a cross-credit adjustment with a 150% multiplier. It is used in 18 states, but these states vary in the time-sharing threshold that must be reached to apply the adjustment. In the cross-credit formula, theoretical orders are calculated for each parent based on the time the child is with the other parent, then offset against each other so that the parent with the higher theoretical order owes the difference. Most states (including Maine and Vermont) relying on the cross-credit increase the basic obligation by 150% to account for it costing more to raise the child in two households than one household. A criticism of the cross-credit is that it produces a large decrease at the timesharing threshold as the child's time with the obligor-parent increases in some circumstances. The Oregon formula was developed to address this limitation of the cross-credit formula. It produces more gradual changes in the order amount when the child's time with the obligor-parent increases. Oregon leaders purport that the formula has reduced litigation. The limitation of the Oregon formula is it is complicated. Some do not like that it adjusts for even a few nights per year, but that is mathematically necessary to achieve a gradual adjustment.

Chapter 8: Conclusions and Recommendations

Chapter 8 provides conclusions and recommendations. The major conclusion is the need for a timesharing adjustment. Survey respondents highly recommended a timesharing formula. Adopting one would also reduce the deviation rate. New Hampshire is one of the few states not to have an adjustment. Another major recommendation is to increase the guidelines percentages for two and more children at low and middle incomes. This recommendation is based on the review of the economic data on childrearing expenditures. Other recommendations aim to simplify the guidelines for guidelines users, produce more equitable treatment, and improve the data quality for the next review.

Recommendations

1. Update the guidelines percentages set in statute.
2. Revise the statutory provisions covering the preparation of the schedule and annual update to make the schedule simpler to understand.
3. Replace the income deductions for work-related, childcare expenses and out-of-pocket medical costs with add-ons to base support.
4. Revise statutory provisions that enable the courts to simplify the worksheet.
5. Increase the self-support reserve (SSR).
6. Adopt a timesharing adjustment.
7. Either repeal the law providing for grandparent liability to support the children of their unwed minor children or add more specification to it.
8. Codify New Hampshire case law that does not treat incarceration as voluntary unemployment and New Hampshire practices to consider the actual circumstances of a parent when income imputation is authorized.
9. Add information to court forms that facilitate the calculation of timesharing adjustments and improve the data quality for the next guidelines review.
10. Encourage DHHS to develop a user-friendly, automated child support calculator.

CHAPTER 1: INTRODUCTION

This report summarizes the findings from the data analysis conducted for New Hampshire’s 2022 child support guidelines review. Federal regulation (45 C.F.R. § 302.56) requires states to review their guidelines at least once every four years. As part of that review, states must consider economic data on the cost of raising children; examine case file data to analyze the application and deviation from the guidelines and the rates of income imputation, default, and application of the low-income adjustment, and payment data; consider labor market data; obtain input from low-income parents and the state child support agency; and fulfill other requirements. This review gathered input from a wide range of stakeholders (including parents and child support agency staff) through a web-based survey. In all, the information is to be used to develop recommendations that ensure that the guidelines result in appropriate child support orders and that deviations from the guidelines are limited.

Additionally, this report reviews three other topics. It explores whether the current provisions of the New Hampshire guidelines meet the expanded federal guidelines requirements imposed by the 2016 Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) rule.² The timeline for states to meet the requirement is tied to a state’s guidelines review cycle. New Hampshire’s deadline is January 1, 2024. The report also reviews state laws on grandparent liability to provide support to grandchildren under certain circumstances. The review responds to an Office of Legislative Budget Assistant performance audit noting that state laws on grandparent liability are unclear.³ Finally, it explores shared-parenting time formulas in state guidelines. The New Hampshire guidelines is one of nine states that does not provide a formula.

OVERVIEW OF NEW HAMPSHIRE CHILD SUPPORT GUIDELINES

The New Hampshire child support guidelines are set in state statute (NH RSA §§ 458-C:1 through 458-C:7.) New Hampshire first adopted statewide guidelines in 1988. It relies on the income shares model that presumes both parents are financially responsible for their children and the child is entitled to the same level of expenditures the child would have received had the parents lived together and shared financial resources. To this end, support is calculated from a child support schedule based on the combined adjusted gross income of the parents and the number of children for whom support is being determined. Each parent is responsible for their prorated share of the schedule amount. The obligor-parent’s share is the core of the order amount. As directed by statute, the Department of Health and Human Services (DHHS) updates the schedule for changes in the federal income tax code using a table of child support percentages for 10 net income bands, and number of children ranging from one child to four or more children. (In practice, this schedule is called the Child Support Guideline Calculation Table.) The table of child support percentages is set in statute. It was last updated in 2014. It relates to a study

² See Federal Office of Child Support Enforcement. (Dec. 20, 2016). Actional Transmittal (AT-16-06) *Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*. Retrieved from <https://www.acf.hhs.gov/css/policy-guidance/final-rule-flexibility-efficiency-and-modernization-child-support-enforcement>.

³ New Hampshire Office of Legislative Budget Assistant (Oct. 2015). *Department of Health and Human Services Division of Child Support Services: Performance Audit Report*. Retrieved from http://www.gencourt.state.nh.us/LBA/AuditReports/PerformanceReports/DHHS_2015.pdf.

of childrearing expenditures published in 2006.⁴ The guidelines were last reviewed in 2018.⁵ The review did not result in changes to the percentage table.

Statute (NH RSA §§ 458-C:6) also directs DHHS to review the guidelines at least once every four years to determine whether the guidelines result in the determination of appropriate child support award amounts. DHHS shall report its findings and recommendations to the New Hampshire legislature. To conduct the review, DHHS sought assistance from the Center for Policy Research (CPR) because they have expertise with child support guidelines reviews.⁶ CPR subcontracted to Public Knowledge for the analysis of grandparent liability because of Public Knowledge's legal expertise on child support issues. This report is prepared by CPR and Public Knowledge with review and input from DHHS.

NEW HAMPSHIRE CHILDREN AND CHILD SUPPORT

Child support is an important source of income for many New Hampshire children. Based on the U.S. Census American Community Survey, 255,370 children lived in New Hampshire in 2021.⁷ The 2022 KIDS COUNT reports several statistics that are relevant to child support.⁸

- The percentage of New Hampshire children living in poverty is 9%, while it is 17% nationally.⁹
- The percentage of children whose parents lack secure employment is 22% in New Hampshire and 27% nationally.¹⁰
- The percentage of children living in single-parent families is 29% in New Hampshire and 34% nationally.¹¹
- The percentage of New Hampshire female-headed families receiving child support is 32%, while it is 26% nationally.¹²

⁴ The study was conducted for the 2006 Oregon child support guidelines review. It was cited by the University of New Hampshire when it assisted with DHHS with its 2008 guidelines review. See Smith, Malcolm, et al. (Mar. 2009). *2009 New Hampshire Child Support Guidelines Review and Recommendations*. Report to the New Hampshire Department of Health and Human Services Division of Child Support Services. University of New Hampshire Cooperation Extension. p. 47. Retrieved from <http://guidelineeconomics.com/files/NH%202009%20child%20support%20guidelines%20report.pdf>; and PSI. *State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Considerations*, Report to State of Oregon, Policy Studies Inc., Denver, CO. Retrieved from https://justice.oregon.gov/child-support/pdf/psi_guidelines_review_2006.pdf.

⁵ Smith, Kristin, et al. (Nov. 2018.) 2018 New Hampshire Child Support Guidelines Review Report. Submitted to the New Hampshire Department of Health and Human Services Bureau of Child Support Services by The Carsey School of Public Policy at the University of New Hampshire. Retrieved from <https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents/2021-11/css-guidelines-review-2018.pdf>.

⁶ CPR is a non-profit organization based in Denver, Colorado that provides research and evaluation services to government agencies, courts, and foundations. CPR has assisted over 30 states with their guidelines reviews. CPR subcontracted to Public Knowledge to conduct the legal analysis of grandparent liability.

⁷ U.S. Census American Community Survey 2019. Retrieved from <https://data.census.gov>.

⁸ The statistics in the 2022 KIDS COUNT data book averages yearly percentages between 2016 and 2020.

⁹ Annie E. Casey Foundation. (2022). *2022 KIDS COUNT Data Book: State Trends in Child Well-Being*. Appendix B. p.34. Retrieved from <https://assets.aecf.org/m/resourcedoc/aecf-2022kidscountdatatobook-2022.pdf>.

¹⁰ *Ibid.*

¹¹ *Ibid.*, p.37.

¹² Annie E. Casey Foundation. (2018–2020). KIDS COUNT Data center. Retrieved from <https://datacenter.kidscount.org/data/tables/10453-female-headed-families-receiving-child-support>.

Still, many New Hampshire families benefit from child support. In federal fiscal year (FFY) 2021, the state child support agency, which is called the Bureau of Child Support Services (BCSS) and is under the New Hampshire Department of Health and Human Services (DHHS), Division of Economic and Housing Stability (DEHS), served 31,269 cases.¹³ In FFY 2021, BCSS established 2,107 support orders,¹⁴ collected and distributed over \$76 million in child support, and received 64% of the current support due, which is less than the national average of 67%. Other than certain types of public assistance cases, use of BCSS services is not mandated. The number of non-BCSS child support cases, and the collections on those cases are unknown. In general, the number of child support cases established are lower than pre-pandemic amounts at both the state level and national level.

Although state data are not available, a 2015 national study found that without child support, the child poverty rate would be 7.0 percentage points higher.¹⁵ Nonetheless, other national research finds that almost a quarter of nonresidential parents have no or limited reported earnings.¹⁶ These statistics underscore the delicate balance at low incomes where child support can help lift families out of poverty, but must recognize that low-income parents who are not living with the child may have a limited ability to pay. In short, this is the reason that the New Hampshire child support guidelines includes a self-support reserve for the obligor-parent.

FEDERAL REQUIREMENTS

As shown in Exhibit 1, federal regulation imposes many requirements of state child support guidelines and state guidelines review processes. The 2016 Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) rule also expanded requirements of state guidelines.¹⁷ Prior to FEM, states only needed to consider economic data on the cost of raising children and collect and analyze case file data on guidelines deviations. The intent was to use the economic data to update the child support schedule/formula if deemed appropriate by the state, and to use the deviation data to develop guidelines provisions that would keep deviations at a minimum.¹⁸ Besides economic data and deviation data, states are now also required to consider labor market data and use their case file data to analyze their rates of income imputation, defaults, and application of the low-income adjustment, and payment data. States are also required to obtain input from stakeholders specifically low-income parents and the state child support agency as part of the review.

¹³ Federal Office of Child Support Enforcement. (2022). *Office of Child Support Preliminary Report 2022*. Retrieved from <https://www.acf.hhs.gov/css/policy-guidance/fy-2021-preliminary-data-report-and-tables>.

¹⁴ Five years ago, BCSS established over 3,000 orders per year. It is believed that the count is down due to the pandemic and other factors.

¹⁵ Sorensen, Elaine. (Dec. 2016). "The Child Support Program Is a Good Investment." *The Story Behind the Numbers*. Federal Office of Child Support Enforcement. p. 8. Retrieved from https://www.acf.hhs.gov/sites/default/files/documents/ocse/sbtn_csp_is_a_good_investment.pdf.

¹⁶ Sorensen, Elaine. (Feb. 7, 2014). *Employment and Family Structure Changes: Implications for Child Support*. Presentation to the National Child Support Enforcement Association, Washington, D.C.

¹⁷ See Federal Office of Child Support Enforcement. (Dec. 20, 2016). Actional Transmittal (AT-16-06) *Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*. Retrieved from <https://www.acf.hhs.gov/css/policy-guidance/final-rule-flexibility-efficiency-and-modernization-child-support-enforcement>.

¹⁸ 45 C.F.R. § 302.56(h)(2).

In general, the 2016 federal rule changes aim to increase regular, on-time payment to families, to increase the number of obligor-parents working and supporting their children and to reduce the accumulation of unpaid arrears.¹⁹ The federal rule changes were particularly intent on improving child support policies among low-income cases. The expanded data requirements are intended to help arm states with data-based recommendations that will improve their guidelines. States must examine their income imputation rate because the final rule singled out income imputation as an overused approach to determining income among low-income obligor-parents.²⁰

The narrative surrounding the FEM rule also noted the correlation between income imputation and default orders, as well as the importance of engaging both parents in the order establishment process in order to produce more accurate order setting.²¹ This also explains the addition of the federal requirement to consider the state's default rate. The proposed and final rule cited research finding support orders set beyond a low-income parent's ability to pay (particularly when income is imputed above the actual earnings of a low-income parent) go unpaid and result in uncollectible arrears balances.²² This is the impetus for the federal requirement for state guidelines to consider the subsistence needs of the obligor-parent (and the custodial parent, at the state's discretion) and why federal regulation requires the consideration of the rate that the low-income adjustment is applied as part of a state's guidelines.

Additionally, FEM added several requirements to state guidelines: base the guidelines amount on the parent's income and earnings and evidence of ability to pay; consider the basic subsistence needs of paying-parents with limited ability to pay; take into consideration the individual circumstances of the paying-parent when income imputation is authorized; provide that incarceration is not voluntary unemployment; and allow for public coverage (e.g., Medicaid) to be considered healthcare coverage for the purposes of addressing the children's healthcare needs when establishing an order. The timeline for states to meet the requirement is tied to a state's guidelines review cycle. New Hampshire's deadline is January 1, 2024.

¹⁹ U.S. Department of Health and Human Services. (Nov. 17, 2014). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Proposed Rulemaking." 79 *Fed. Reg.* p. 68548. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

²⁰ Department of Health and Human Services Centers for Medicaid Services. (Dec. 20, 2016). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Final Rule." 81 *Fed. Reg.* 244. p. 93520. Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-29598.pdf>.

²¹ U.S. Department of Health and Human Services. (Nov. 17, 2014). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Proposed Rulemaking" 79 *Fed. Reg.* p. 68554. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

²² *Ibid.*, at p.68555.

Exhibit 1: Federal Regulations Pertaining to State Child Support Guidelines

45 C.F.R. § 302.56 Guidelines for setting child support orders

- (a) Within 1 year after completion of the State's next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e), as a condition of approval of its State plan, the State must establish one set of child support guidelines by law or by judicial or administrative action for setting and modifying child support order amounts within the State that meet the requirements in this section.
- (b) The State must have procedures for making the guidelines available to all persons in the State.
- (c) The child support guidelines established under paragraph (a) of this section must at a minimum:
 - (1) Provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay that:
 - (i) Takes into consideration all earnings and income of the noncustodial parent (and at the State's discretion, the custodial parent);
 - (ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State; and
 - (iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.
 - (2) Address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support;
 - (3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders; and
 - (4) Be based on specific descriptive and numeric criteria and result in a computation of the child support obligation.
- (d) The State must include a copy of the child support guidelines in its State plan.
- (e) The State must review, and revise, if appropriate, the child support guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support order amounts. The State shall publish on the internet and make accessible to the public all reports of the guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.
- (f) The State must provide that there will be a rebuttable presumption, in any judicial or administrative proceeding for the establishment and modification of a child support order, that the amount of the order which would result from the application of the child support guidelines established under paragraph (a) of this section is the correct amount of child support to be ordered.
- (g) A written finding or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the child support guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the child support guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.
- (h) As part of the review of a State's child support guidelines required under paragraph (e) of this section, a State must:
 - (1) Consider economic data on the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders;
 - (2) Analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g); and
 - (3) Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV-D of the Act.

ORGANIZATION OF REPORT

Chapter 2 reviews findings from the analysis of case file and labor market data.

Chapter 3 summarizes findings from the web survey administered to parents and other stakeholders.

Chapter 4 covers findings from the economic analysis.

Chapter 5 reviews New Hampshire's compliance with the 2016-added federal requirements.

Chapter 6 provides legal analysis of grandparent liability to support children of unwed minor parents.

Chapter 7 summarizes how other states apply timesharing formulas to their guidelines.

Chapter 8 offers conclusions and recommendations.

CHAPTER 2: FINDINGS FROM THE ANALYSIS OF CASE FILE AND LABOR MARKET DATA

This chapter documents the findings from the analysis of case file data and labor market data, as federally required (*see* 45 C.F.R. § 302.56(h) –(g)). The federal requirements are found in Exhibit 1.

FINDINGS FROM THE ANALYSIS OF CASE FILE DATA

Federal regulation (45 C.F.R. § 302.56(g)) requires the analysis of data as part of a state’s guidelines review. The intent is for states to use the data to inform recommendations that will improve the appropriateness of the guidelines. The specific data are:

- The application of and deviation from the guidelines;
- The frequency of default, income imputation, and application of the low-income adjustment; and
- Payment data by default, income imputation, and application of the low-income adjustment.

Deviations are singled out because federal regulations encourage states to develop guidelines provisions that limit deviations. This requirement has been in place for over two decades. The other data requirements were added in 2016 to modernize government child support programs and better serve low-income families. Of particular concern was the overuse of income imputation and default orders among low-income obligor-parents with limited ability to pay. The premise is that setting orders based on the parent’s actual income (and limiting income imputation) and engaging parents (rather than entering orders by default) will increase on-time payment to families, increase the number of obligor-parents working and supporting their children, and reduce the accumulation of unpaid arrears.²³

Summary of Findings

Case file data were collected from two types of child support petitions: state petitions for support that typically involve the Bureau of Child Support Services (BCSS) and petitions that generally do not involve BCSS. These other petitions consist of divorcing and separating parents or parents seeking the establishment of parenting without BCSS assistance. The findings often differ between these two types of petitions.

This chapter finds that although the New Hampshire deviation rate has decreased since the last guidelines review, it is still very large compared to the deviation rates of other states. The deviation rate among divorce and parenting petitions (61%) is exceptionally high. The primary deviation reason is the parenting-time schedule. New Hampshire is one of nine states that does not have a shared-parenting time formula in its child support guidelines. Almost three-quarters (74%) of divorce and parenting petitions have a parenting plan that provides that the child will be in the physical care of each parent for a significant share of the child’s time.

²³ U.S. Department of Health and Human Services. (Nov. 17, 2014). “Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Proposed Rulemaking” 79 *Fed. Reg.* p. 68548. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

The deviation rate among state petitions (20%) is not of similar concern. The rates of income imputation, default, and application of the low-income adjustment are higher among state petitions than the rates among divorce and parenting orders, and parties to state petitions have considerably less income. Besides the default rate among the state child support caseload (49%), the other rates are not of concern. Still, other data suggests that the self-support reserve (New Hampshire's low-income adjustment) may not be adequate. The only other concern among state petitions is the high proportion of orders for medical support only (36%), particularly when most of the cases appear to be cases where a party is receiving Medicaid and the obligor-parent had no employment-related insurance and is generally low income.

Several tweaks to standard court forms could improve the quality of data collected for the next guidelines review: a checkbox to note whether income was imputed; pulldown menus for deviation reasons; noting whether the children are enrolled in TANF or Medicaid; identifying the relationship of the child to each party (i.e., parent or non-parent); and noting the specific number of overnights per year with each parent if that was a consideration in the order amount, which would be the situation if there was a deviation for parenting time. Ideally, a data field would also be added to the parenting plan to clearly state the number of days with each parent. This could ease the calculation of support when parenting time is factored into the calculation.

Organization of Chapter

This chapter first describes the data used for the analysis, then summarizes the findings from the analysis. The analysis is divided into six topics:

- Characteristics of the parties;
- Factors impacting child support calculation (i.e., number of children, income, and other factors);
- Characteristics of the orders;
- Analysis of federally required data;
- Findings from the analysis of parenting plans; and
- Findings from the analysis of financial affidavits.

Sample Strategy, Data Collection, and Data Limitations

In collaboration with the New Hampshire Department of Health and Human Services (DHHS) Division of Economic and Housing Stability (DEHS), Bureau of Child Support Services (BCSS), data sources were identified. The primary data source consisted of data from the court—specifically, completed court forms from court disposed petitions for child support. Court data contains both BCSS and non-BCSS cases. To fulfill the federal requirement to analyze payment data, BCSS staff extracted payment data from the BCSS automated system for BCSS-sampled orders. There is no data source tracking payments on non-BCSS orders unless a non-BCSS case becomes a BCSS case.

Sampling Strategy

In general, the sampling strategy was like that of the 2018 child support guidelines review.²⁴ Both the 2018 and 2022 reviews:

- Utilized a combination of stratified, cluster, and random sampling;
- Stratified the sample into two groups:
 - state petitions (which are typically BCSS cases); and
 - petitions for divorce, legal separation or union separation with minor children or petitions for parenting (which are petitions to establish parenting and child support but are not typically BCSS cases);²⁵ and
- Relied on cluster sampling—that is, they sampled from some but not all courts.

The 2018 review drew from orders disposed in 2016 while the 2022 review draws from orders disposed in 2021. The 2016 sample clustered courts by five geographic regions and selected a court from each region. The 2022 review grouped courts by the number of actual disposed orders in CY 2021: very small courts with 50 or fewer disposed cases, small courts with 51–100 disposed cases, medium courts with 101–200 disposed cases, and large courts with more than 200 disposed cases. Exhibit 2 shows the categorization of courts and those selected for the sampling.

The strength of grouping courts by the number of actual disposed orders is that it better accounts for the dominant impact that large courts can have on statewide statistics. The sample attempted to include at least one court from each circuit, a proportionate sample of courts by size, and capture different geographical regions. There is an exception for very small courts since the volume may not generate a sufficient sample size for efficient data collection.

Sample Size, Sampling, and Sample Description

There were 1,020 state petitions and 2,091 divorce and parenting cases disposed in 2021. The sample size was determined to test for statistical changes in the deviation rate and other findings from the 2016 sample with a 95% confidence level. The targeted sample size of 500 orders (200 state petitions, noted as IV-D in Exhibit 2 and 300 divorce and parenting petitions, noted as non-IV-D in Exhibit 2), included some oversampling to account for not all disposed court cases resulting in a child support order (e.g., some petitions for child support may be dismissed or the parties may reconcile), as well as other reasons. The sampled state petitions and divorce and parenting petitions, respectively, represent 56% of statewide petitions and 44% of statewide divorce and parenting petitions.

²⁴ Smith, K., Kalinowski, M., Baughman, R., Whitmore, E. (2018). *2018 New Hampshire Child Support Guidelines Review Report*. Carsey School of Public Policy, University of New Hampshire. Retrieved from <https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents/2021-11/css-guidelines-review-2018.pdf>.

²⁵ The label for these orders is reduced to “Divorce and Parenting” for simplicity. In all, there were 2,091 disposed divorce and parenting petitions, of which 26% were petitions for parenting.

Exhibit 2: Size Categorization of Courts and Targeted Sample Size

Size Categorization	Court (Judicial Circuit)	Number of Courts	Total number of disposed cases in 2021 (% of total)	Proposed Number of Sampled Courts	Targeted Sample Size
Very small (1–50 disposed)	1st (Colebrook); 2nd (Haverhill); 2nd (Littleton); 3rd (Conway); 1st (Lancaster); 10th (Hampton)	6 courts	146 (5%)	0 courts	0 orders
Small (51–100 disposed)	9th (Goffstown); 2nd (Lebanon); 10th (Portsmouth); 2nd (Plymouth) ; 5th (Newport); 6th (Hooksett); <i>1st (Berlin)</i> ; 8th (Jaffrey); <i>3rd (Ossipee)</i> ; 9th (Milford); 10th (Candia); 6th (Hillsborough); 5th (Claremont) ; 6th (Franklin); 7th Merrimack)	15 courts	869 (30%)	4 courts	175 orders • 65 IV-D* • 110 Non-IV-D*
Medium courts (101–200 disposed)	10th (Salem); 10th (Brentwood); 4th (Laconia) ; 8th (Keene) ; 10th (Derry) ; 7th (Dover); 6th (Concord)	7 courts	967 (34%)	4 courts	170 orders • 65 IV-D* • 105 Non-IV-D*
Large courts (over 200 disposed)	7th (Rochester) ; 9th (Nashua); 9th (Manchester)	3 courts	889 (31%)	2 courts	155 orders • 70 IV-D* • 85 Non-IV-D*
	Total	31 courts	2,871	10 courts	500 orders • 200 IV-D* • 300 Non-IV-D*

Bold indicates courts sampled for this review. Italics indicates previously-sampled courts.

* IV-D refers to Section IV-D of the Social Security Act that enables state child support programs such as BCSS. State petitions are generally BCSS cases, and divorce and parenting petitions are generally non-BCSS cases.

Once the courts to be sampled were identified, BCSS obtained a list of disposed cases in which child support was an issue. From those lists, CPR selected random samples. Court and BCSS staff then located and sent scans of the following court forms for the requested cases, when available: Uniform Support Order (USO), Child Support Guidelines Worksheet, Parenting Plan, Financial Affidavits, and Uniform Alimony Orders. In addition, order narratives were scanned when applicable and available. In all, the sample consisted of 301 divorce and parenting cases and 200 state petitions. Exhibit 3 shows the total number of orders collected from each court by order type. As shown, of the 200 orders from state petitions received, 129 would have had the guideline calculation table applied to determine financial child support and the other 71 were for medical support only.

Exhibit 3: Number of Sampled Orders by Court

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical-Support-Only orders
	All Orders	Divorce and Parenting	State Petitions (IV-D Orders)	
Courts				
Berlin	37	22	15	4
Claremont	47	35	12	8
Concord	43	30	13	4
Derry	36	29	7	3
Keene	38	22	16	7
Laconia	35	25	10	4
Manchester	68	49	19	26
Ossipee	38	24	14	5
Plymouth	36	29	7	1
Rochester	52	36	16	9
Total Sampled Orders	430	301	129	71

Medical-Support-Only Orders

Medical-support-only cases include the following: at least one child is enrolled in Medicaid, the family is not receiving TANF, there is not sufficient information about the obligor-parent’s employment to suggest that the obligor-parent has employment-related health insurance, and neither parent wanted to pursue financial support. Although New Hampshire does not refer all Medicaid cases to BCSS,²⁶ there are at least three reasons that a state petition for child support may be filed: the petition was filed when the case was a TANF case but is no longer TANF; one party wanted to pursue financial support but changed their mind or did not show up for the hearing, or both; or there is evidence that the obligor-parent is employed or has private insurance. In the latter scenario, private health insurance may be ordered if it is available to the child and reasonable in cost.²⁷ This may include coverage through an employer's group health insurance policy or other group plan.

Regarding the analysis, there is no financial support for medical-support-only orders; hence, medical-support-only orders are analyzed separately and are excluded from the analysis of order amounts and payments for this review. The previous guidelines review did not clearly identify the number of state petitions that resulted in medical-support-only orders, but it appeared to have included medical-support-only orders in its sample.

Order Types and Availability of Forms

The majority (97%) of orders were final orders, and just 2% were temporary orders. Because the extract was generated from the 2021 docket, nearly all orders (98%) were new establishments and only 2% were modifications. The small percentage of modified orders in the sample is not a true reflection of the overall percentage of orders that are modifications. Because of the data restriction that orders be

²⁶ New Hampshire Division of Economic and Housing Stability. (Jun. 2019). Memorandum from Christine Santaniello, Director, Division of Economic and Housing Stability, to All Bureau of Child Support Service Staff. *Subject: Medicaid Referrals to Child Support Services Regarding Medicaid-Eligible Single Parents and Adult Caretakers with Medicaid-Eligible Dependents.*

²⁷ New Hampshire statute (NH RSA § 458-C:3.V) provides that a reasonable medical support obligation for each parent shall not be more than 4% of the parent’s gross income.

entered in 2021, an order modification would only appear in the sample if the modification occurred within the same year as it was established.

Exhibit 4 shows the availability of the requested forms. As shown, all orders had a USO, and most (79% of all financial orders and 58% of medical-only orders) had a child support guidelines worksheet. Parenting plans, order narratives, uniform alimony orders, and financial affidavits were far more likely to be attached to divorce and parenting orders than for state petitions. Financial affidavits did not themselves identify how the party was related to the order and had to be cross-referenced with the names of the parties identified as either the obligor-parent or obligee-parent on the first page of the USO. This is a potential limitation in examining equally shared (50/50) custody cases because the distinction between obligor-parent and obligee-parent can be blurred, particularly when the parents have almost equal income.

Exhibit 4: Availability of Court Forms for Analysis (Percentage of Orders)

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical-Support-Only Orders (N=71)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Percentage with Forms Available				
Uniform Support Order (USO)	100%	100%	100%	100%
Child Support Guidelines Worksheet	79%	76%	88%	58%
Parenting Plan	70%	99%	2%	0%
Order Narrative	8%	10%	2%	0%
Uniform Alimony Order	4%	5%	0%	0%
Financial Affidavit of the Obligor	63%	88%	3%	0%
Financial Affidavit of the Obligee	66%	93%	5%	0%

Findings from the Analysis of Case File Data

The findings from the analysis are grouped into six topics:

- Characteristics of the parties;
- Factors impacting child support calculation (i.e., number of children, income, and other factors);
- Characteristics of the orders;
- Analysis of federally required data;
- Findings from the analysis of parenting plans; and
- Findings from the analysis of financial affidavits.

Characteristics of the Parties

In addition to specific details about the order, the USO also contained some information about the parties, including age and employment. The USO also noted whether the obligor-parent was unemployed and ordered to seek work.

Age of the Parties

Exhibit 5 shows the average ages of the parties. Among divorce and parenting cases, the obligor-parent was generally older than the obligee-parent, though the average ages were relatively close. Among state

petitions, the average age of obligee-parents was significantly higher. Reviews of case file data in other states have also found that the average age of the obligee-parent is higher among IV-D orders because some obligee-parents are non-parent caretakers, such as grandparents. Among medical-support-only orders, there were no differences between the ages of the parties. The average age of the youngest child was slightly higher among divorce and parenting cases than among state petitions (7.5 and 6.6, respectively).

Exhibit 5: Ages of the Parties

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical-Support-Only Orders
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Average Age of the Parties				
Obligor	36.9	38.1	34.2	34.5
Obligee	38.5	36.6	43.0	34.1
Youngest Child	7.2	7.5	6.6	6.0

Obligor-Parent Incarceration

The first page of the USO contains a field for recording the employer information for each party. As this is an open field, it would sometimes be handwritten in if the parent was incarcerated. Obligor-parents had an employer named on the USO for 58% of all orders, 72% of divorce and parenting orders, and 38% of orders from state petitions. Obligor-parent incarceration was written in for 3% of state petitions and no divorce and parenting cases. Federal regulation requires that obligor-parent incarceration not be considered voluntary unemployment in a state’s guidelines.²⁸ Among those orders noting incarceration, 33% were \$0 orders and 50% were \$50 orders, which is the minimum order provided under the New Hampshire guidelines. Only two incarcerated parents had completed worksheets.

Unemployment and Seek Work Orders

The second page of the USO noted if the obligor-parent was unemployed and was required to report efforts to seek employment. This box was checked for 6% of all orders, 3% of divorce and parenting orders, and 10% of orders from state petitions. Among orders where the obligor-parent was required to seek employment, 7% were \$0 orders and 90% were \$50 minimum orders.

Factors Impacting Child Support Order Amounts

The amount of child support ordered is determined using the Guideline Calculation Table and may consider various factors in setting the final order. In general, the guidelines-determined amount for child support in New Hampshire is primarily calculated from the number of children, the incomes of the parties, and allowable deductions from income.

²⁸ While New Hampshire does not have this in their guidelines, there is case law from *Matter of New Hampshire and Cory R. Lounder* (No. 2013-359, Supreme Court of New Hampshire, Jun. 13, 2014),²⁸ in which the court concluded, among other findings, that there was no evidence that the obligor-parent was voluntarily unemployed and that the minimum order should apply, since the obligor-parent’s income was below the self-support reserve. Retrieved from <https://www.courts.nh.gov/documents/2013-0359-matter-state-new-hampshire-and-cory-r-lounder>.

Number of Children on the Order

Exhibit 6 shows that the frequency of orders by the number of children on the order was generally consistent between the 2016 and 2021 samples, with most orders (63% in 2021 and 61% in 2016) being for only one child. State petitions were more likely to be one-child orders than for divorce and parenting cases, with 73% of state petitions being one-child orders, compared to 59% among divorce and parenting orders in the 2021 sample. In the 2016 sample, 78% of state petitions and 48% of divorce and parenting orders were for one child. The finding that a higher percentage of state cases are for one-child orders than for private cases is common among other states.²⁹ Orders for medical support only were not significantly different from all state petitions in terms of the number of children on the order.

Exhibit 6: Number of Children on the Order (Percentage of Orders)

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=71)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Number of Children on the Order				
1 Child	63%	59%	73%	73%
2 Children	31%	35%	20%	17%
3 Children	5%	5%	7%	10%
4 or More Children	1%	2%	0%	0%

Gross Income of the Parties

The incomes of the parties used for the guidelines calculation are recorded on the child support guidelines worksheet. The amount of income used for the guidelines calculation included incomes that were imputed. Worksheets were available for 76% of divorce and parenting orders and 88% of state petitions. Exhibit 7 shows the average incomes of the parties. Consistent with the findings from the previous review, the average incomes of parties with divorce and parenting cases are significantly higher than for parties with state petitions and obligor-parents have significantly higher incomes than obligee-parents.

Exhibit 7: Income Data from the Worksheets

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=71)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Percentage with Worksheets	79%	76%	88%	58%
Number with Worksheets	342	228	114	42
Obligor-Parent’s Gross Monthly Income				
Average	\$3,859	\$4,791	\$1,981	\$2,059
Median	\$3,040	\$4,000	\$1,732	\$2,109
Range	\$0–\$47,322	\$0–\$47,322	\$0–\$6,167	\$0–\$4,780

²⁹ For example, Maine’s most recent case file review found that 70% of IV-D administrative orders were for one child, while 54% of non-IV-D orders were for one child. (Source: Venohr, Jane, & Matyasich, Savannah. (2022). *Review of the Maine Child Support Guidelines*. Center for Policy Research. Retrieved from <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/2022%20Guidelines%20Review.pdf>.

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=71)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Obligee-Parent's Gross Monthly Income				
Average	\$2,446	\$3,374	\$572	\$252
Median	\$2,000	\$3,020	\$0	\$0
Range	\$0-\$22,209	\$0-\$22,209	\$0-\$5,196	\$0-\$4,059

In the 2021 sample, the median gross income of obligor-parents was \$3,040 per month for all orders, \$4,000 per month among divorce and parenting orders, \$1,732 among state petitions, and \$2,109 per month among medical-support-only orders. The median gross income of obligee-parents was \$2,000 per month for all orders, \$3,020 per month among divorce and parenting orders, and \$0 among state petitions and medical-support-only orders. Among obligee-parents with \$0 income, 83% were known to be enrolled in TANF or Medicaid. Zero income could be common among obligee-parents eligible for TANF due to TANF income eligibility criteria.

Exhibit 8 shows only 6% of obligor-parents had zero income amounts, compared to 31% of obligee-parents. The percentage of obligee-parents with zero incomes was 8% among divorce and parenting orders and 78% among state petitions. In the 2016 sample, the percentage of obligee-parents with zero incomes was 8% for divorce and parenting orders and 73% for state petitions. An additional 4% of obligor-parents and 9% of obligee-parents had incomes that fell at or below the self-support reserve (SSR) in the 2021 sample. The SSR for New Hampshire is set at 115% of the federal poverty guidelines for a single person living alone. In 2021, the federal poverty guideline (FPG) for one person was \$12,880 per year, which would amount to a NH SSR of \$1,234 per month. Notably, the income range of \$1,500–\$2,000 was the most common income range for state petitions (34%), while only 5% of obligor-parents with divorce and parenting orders had incomes in this range. One reason for this may be higher rates of income imputation among orders from state petitions, which is discussed as part of the analysis of federal data requirements. Among both obligor-parents and obligee-parents, divorce and parenting orders were significantly more likely to have incomes in the higher ranges than orders from state petitions.

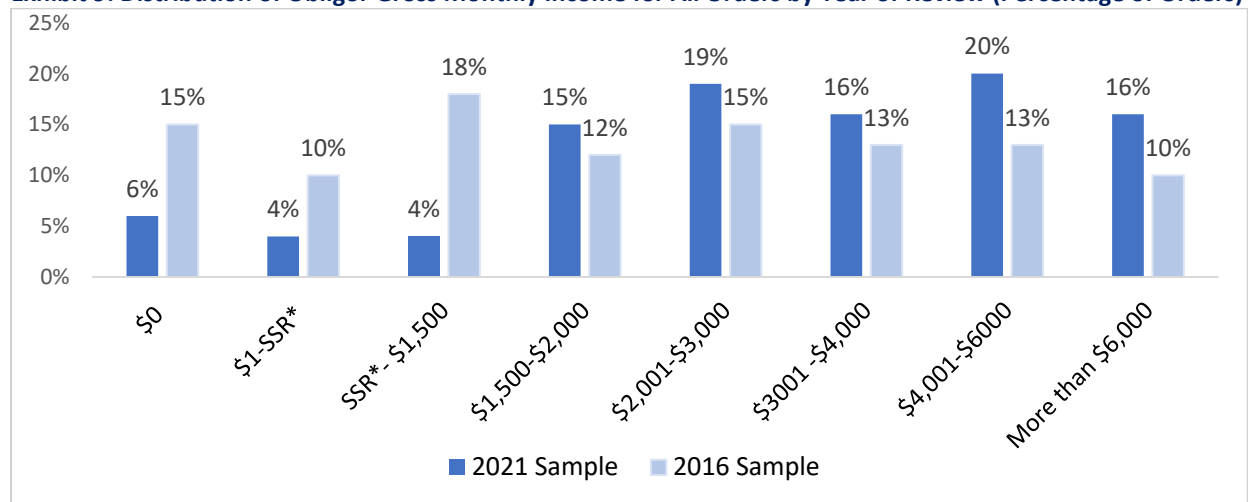
Exhibit 8: Distribution of Sampled Orders by Gross Monthly Incomes of the Parties (Percentage of Orders)

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=71)
	All Orders (N=342)	Divorce and Parenting (N=228)	State Petitions (IV-D Orders) (N=114)	
Obligor-Parent's Gross Monthly Income				
\$0	6%	5%	9%	10%
\$1-\$1,234*	4%	3%	6%	10%
\$1,235-\$1,500	4%	0%	10%	5%
\$1,500-\$2,000	15%	5%	34%	17%
\$2,001-\$3,000	19%	16%	26%	43%
\$3001-\$4,000	16%	19%	10%	10%
\$4,001-\$6000	20%	27%	5%	7%
More than \$6,000	16%	24%	1%	0%
Obligee-Parent's Gross Monthly Income				
\$0	31%	8%	78%	90%
\$1-\$1,234*	9%	12%	4%	2%
\$1,235-\$1,500	2%	3%	1%	0%
\$1,500-\$2,000	7%	10%	3%	0%
\$2,001-\$3,000	13%	16%	8%	5%
\$3001-\$4,000	14%	20%	3%	0%
\$4,001-\$6000	14%	18%	4%	2%
More than \$6,000	9%	13%	0%	0%

* \$1,234 per month is amount of the self-support reserve, which is 115% of the federal poverty guidelines.

Exhibit 9 shows the changes in the obligor-parent's gross income from the 2016 and 2021 samples. In general, it shows that incomes have increased over time and that fewer obligor-parents have incomes of zero or below the SSR.

Exhibit 9: Distribution of Obligor Gross Monthly Income for All Orders by Year of Review (Percentage of Orders)



* The SSR is set at 115% of the FPG, which amounts to \$1,234 for the 2021 sample and \$1,039 for the 2016 sample.

Deductions from Income

Several deductions from income are permissible under the New Hampshire guidelines. These include work-related childcare expenses, medical support for the children, and orders of support for other

children, among others. These costs may be deducted from either or both party’s incomes on the worksheet in order to calculate the child support award. Exhibit 10 shows the percentage of parties in the 2021 sample with deductions by type of deduction.

Exhibit 10: Percentage of Parties with Income Deductions (Percentage of Orders)

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=71)
	All Orders (N=342)	Divorce and Parenting (N=228)	State Petitions (IV-D Orders) (N=114)	
Deduction for Childcare Expenses				
Obligor-Parent	8%	11%	0%	0%
Obligee-Parent	13%	18%	4%	2%
Deduction for Medical Expenses				
Obligor-Parent	17%	25%	2%	0%
Obligee-Parent	14%	20%	1%	0%
Deduction for Other Children				
Obligor-Parent	9%	6%	16%	7%
Obligee-Parent	<1%	<1%	0%	0%

Childcare

Actual amounts expended on work-related childcare may be deducted from income in the guidelines calculation. In the 2021 sample, 8% of obligor-parents and 13% of obligee-parents have deductions for childcare. Childcare deductions are more common in divorce and parenting orders than for state petitions. The average amount of childcare deduction (regardless of the party with the deduction) was \$579 per month, with a median of \$520 per month. Among individual parties with childcare expenses, the average childcare deduction was \$501 per month for obligor-parents and \$595 per month for obligee-parents.

In the 2016 sample, 10% of obligor-parents and 18% of obligee-parents had childcare deductions. The average monthly amount of deduction was \$497 for either party, \$424 for obligor-parents, and \$361 for obligee-parents. The differences in the percentage of parties with deductions across years are not statistically significant. The average dollar deduction for childcare expenses increased 16% since the last sample. This increase in childcare expense amounts is likely due to rising costs of childcare in general for children of all ages. For example, the average full-time weekly cost of childcare for a child of 6–12 months in 2021 was \$259.96, which is a 15% increase from the rate from 2016, which was \$226.08.³⁰

Health Insurance and Medical Expenses

Under the guidelines, parties may deduct medical support for children. Allowable deductions for medical support may be the actual cost of adding the child(ren) to existing health insurance coverage or the difference between individual and family coverage. In the 2021 sample, deductions for medical support for children were recorded for 17% of obligor-parents and 14% of obligee-parents and were considerably more common among divorce and parenting orders. The average monthly deduction for

³⁰ Kalinowski. (2021). *2021 New Hampshire Market Rate Survey*. Retrieved October 18, 2022, from <https://www.nh-connections.org/uploads/2021-MR-FINAL-REPORT-2021-09-06-021.pdf>.

medical support (for any parent) was \$242 and the median was \$180. The average monthly deduction was \$249 for obligor-parents and \$224 for obligee-parents.

In the 2016 sample, 17% of obligor-parents and 12% of obligee-parents had deductions for medical support. The average monthly deduction for medical support was \$250. The average deduction for medical support by obligor-parents was \$227 per month and the average for obligee-parents was \$175 per month. When compared to 2021 statistics, there is little to no change between the sample years.

Court-Ordered Support for Other Children

Additionally, parties may deduct the cost of court-ordered support for their children from other relationships. Deductions for the support of other children were more common among obligor-parents than obligee-parents. In the 2021 sample, 9% of obligor-parents and less than 1% of obligee-parents had deductions for other children. Support for other children was also more common among state petitions than divorce and parenting orders, with 16% of obligor-parents on state petitions and 6% of obligor-parents with divorce and parenting orders having the deduction. The average deduction for support of other children among any party was \$502 and the median was \$433; among obligor-parents and obligee-parents with deductions, the average amounts were \$495 and \$725, respectively. The previous review did not analyze this deduction so are not compared.

Adjusted Gross Income

Exhibit 11 shows the adjusted gross income of the parties as reported on the worksheet. After the deductions from income, the adjusted gross incomes of each parent are determined, then added together. In turn, the combined adjusted gross income is used to look up the child support guideline amount from the Guideline Calculation Table. This is the total amount owed by both parties. Each party is responsible for their proportional share. The proportional share is calculated by dividing each party's income by the sum of their incomes. The obligor-parent's share forms the basis of the child support order.

As with gross incomes, the adjusted gross incomes of obligee-parents are lower than that of obligor-parents. The incomes of both parents are higher among divorce and parenting orders than among parents with state petitions. The fourth row of the exhibit shows that, on average, obligor-parent income made up 68% of the combined adjusted gross income for all orders where the guidelines calculations would apply. The obligor-parent's percentage of combined income was 59% for divorce and parenting orders and 89% for orders from state petitions. Adjusted gross income and the obligor-parent's share of combined income were not examined in the 2018 report.

Exhibit 11: Adjusted Gross Incomes of the Parties

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=41)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Obligor's Adjusted Gross Income				
Average	\$3,662	\$4,519	\$1,941	\$2,025
Median	\$2,944	\$3,828	\$1,732	\$2,078
Range	\$0-\$43,853	\$0-\$43,853	\$0-\$6,167	\$0-\$4,347
Obligee's Adjusted Gross Income				
Average	\$2,312	\$3,185	\$550	\$257
Median	\$1,818	\$2,776	\$0	\$0
Range	\$0-\$22,109	\$0-\$22,109	\$0-\$5,196	\$0-\$4,059
Combined Adjusted Gross Income				
Average	\$5,974	\$7,705	\$2,481	\$2,282
Median	\$5,188	\$7,014	\$1,732	\$2,217
Range	\$0-\$65,962	\$0-\$65,962	\$0-\$9,782	\$0-\$6,224
Average % Share of Combined Adjusted Gross Income*				
	(N=330)	(N=227)	(N=103)	(N=39)
Obligor	68%	59%	89%	93%
Obligee	32%	41%	11%	7%

* The reduction in sample size is due to the elimination of orders where both parties had zero incomes. When both parents have zero incomes, a parent's proportion of income is undefined.

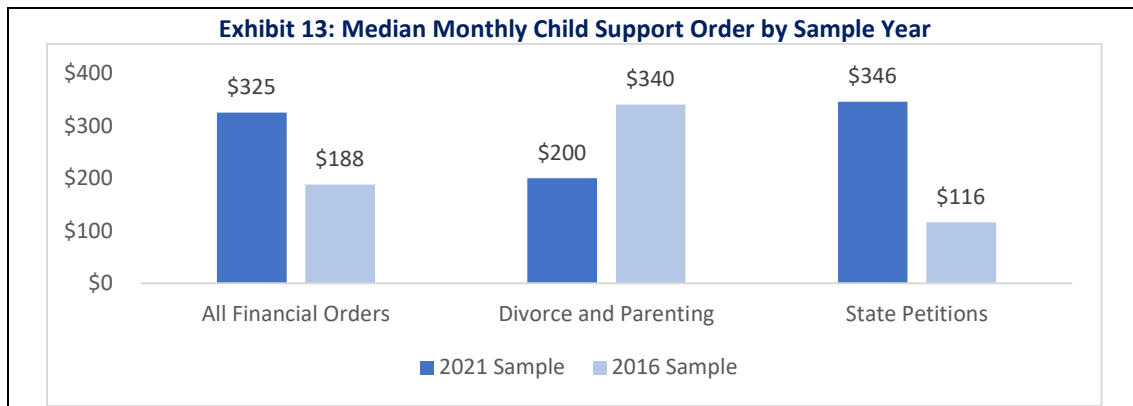
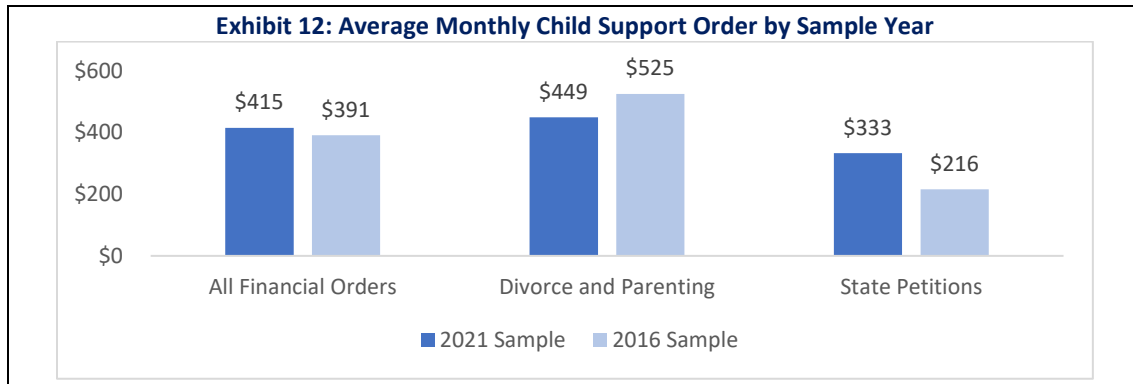
Characteristics of Orders

A child support obligation is the main part of what the court orders. In addition to the obligation for child support, courts may also order arrears, medical coverage and support, and income assignment, and will also note information about special circumstances of the case, if applicable or when appropriate. Additionally, courts may issue a separate order for alimony when appropriate.

Child Support Order Amounts

Child support order amounts were recorded on the first page of the USO along with the frequency to which they were to accrue. Orders for medical support only do not have child support order amounts and are not included in the analysis. In the 2021 sample 62% of orders were to be paid monthly, 34% weekly, and 4% every other week.

All order amounts were converted into monthly amounts for this analysis. Exhibit 12 compares the average monthly child support order between the two reviews, and Exhibit 13 compares the median monthly amounts. As shown, the average order amount appears to have decreased for divorce and parenting orders and risen for state petitions, though these differences are only significant for state petitions. The reason for the increase in order amount for state petitions may be related to the overall increase in incomes, including income imputed at higher amounts because of increased market wages. The lower average order amounts among divorce and parenting orders are likely due to a higher percentage of orders set at zero as a result of deviations for parenting time. This will be examined in greater detail later.



Minimum Orders

Minimum orders shall apply if the obligor-parent’s gross income is less than the self-support reserve (SSR) and the obligor-parent is not voluntarily underemployed or unemployed. For New Hampshire, the “minimum support order” means an order of support equal to \$50 per month unless the court determines that a lesser amount is appropriate under the particular circumstances of the case. In the 2021 sample, the monthly support order was set to exactly \$50 for 12% of all orders, 8% of divorce and parenting orders, and 23% of orders from state petitions. The percentage of state petitions with \$50 orders is significantly higher than the percentage of divorce and parenting orders set at \$50. Among the 2016 sample, 18% of all orders, 5% of divorce and parenting orders, and 34% of state petitions were set between \$1–\$50. It is not known what percentage of the orders with order amounts between \$1–\$50 were exactly \$50 in the 2016 sample.

Predictably, most (82%) of the orders set at the \$50 minimum were orders where the SSR applied. The average monthly gross income of obligor-parents with orders set at \$50 was \$606 and 52% reported no income. The maximum gross income of an obligor-parent with \$50 minimum order was \$2,078 per month.

12% of orders were set at the \$50 minimum order amount and 30% were set at \$0. No orders were set between \$0 and \$50.

Of the orders set at the \$50 minimum, 87% had no employer named on the first page of the USO and an additional 6% indicated that the obligor-parent was incarcerated. Most (93%) orders where the obligor-parent was ordered to seek employment were set at \$50 minimum orders.

Zero Orders

As stated in the guidelines, an order may be set at less than the \$50 minimum order if the court determines that a lesser amount is appropriate under the particular circumstances of the case. Within the 2021 sample 30% of all orders, 42% of divorce and parenting orders, and 2% of orders from state petitions were zero orders.

Within the 2016 sample the percentage of zero orders was 20% for all orders, 31% for divorce and parenting orders, and 5% for orders from state petitions. Between the two samples, the higher percentage of zero orders among divorce and parenting orders in the 2021 sample is statistically significant, but the lower percentage of zero orders for state petitions is not.

The percentage of orders set at zero is considerably higher among divorce and parenting orders than among state petitions. The average gross monthly income of obligor-parents with divorce and parenting incomes with zero orders is \$4,172 and the range is \$0–\$14,468 per month. Among divorce and parenting orders not set at zero, the average gross monthly income of obligor-parents was \$5,125 and the range was \$0–\$47,322 per month. So while the average gross incomes appear to be lower, this difference is not statistically significant, meaning that lower incomes are likely not the primary reason for the high percentage of zero orders among divorce and parenting orders.

One notable finding is that deviations account for a large percentage (94%) of the divorce and parenting orders set at zero. As will be discussed more in the section on deviations, more than half (59%) of deviations among divorce and parenting orders have equal parenting time and 33% of deviations had at least some parenting time but not quite equal. This seems to indicate that among divorce and parenting cases the deviation rate is being inflated by a high percentage of orders being set to zero due to parenting time.

94% of divorce and parenting orders set at \$0 per month are deviations.

Health Insurance and Medical Support

Medical support generally addresses three aspects: how the child’s healthcare coverage will be provided, how parties will pay the insurance premium if there is a cost, and how the parties will share in the child’s unreimbursed medical expenses. Healthcare coverage may include private insurance or coverage from a public source such as Medicaid or the New Hampshire Children’s Health Insurance

Program (CHIP).³¹ If private insurance is ordered, it must be reasonable in cost to the parent providing it and accessible to the child.³²

Private insurance was more commonly ordered for divorce and parenting orders, while public coverage was more common among state petitions. Private insurance was ordered for 40% of all orders, 58% of divorce and parenting orders, and 15% of state petitions. Among divorce and parenting orders with private insurance, the party ordered to provide health insurance was the obligor-parent for 55%, the obligee-parent for 44%, and both for 1%. Among state petitions, the party responsible for providing insurance was the obligor-parent for 33% of orders, the obligee-parent for 7%, and both parties for 60%.

Coverage for uninsured medical expenses was ordered for 75% of all orders, 98% of divorce and parenting orders, and 65% of orders from state petitions. The percentage for which each party was responsible for uninsured medical expenses was equal for 88% of all orders, 92% of divorce and parenting orders, and 76% of orders from state petitions. Equal responsibility for uninsured medical expenses means that each party is responsible for half of the uninsured medical expenses. The obligor-parent was responsible for all uninsured medical costs for 7% of all orders, 3% of divorce and parenting orders, and 24% of orders from state petitions. Since Medicaid pays most uninsured medical expenses that are authorized, the sharing of uninsured expenses is not an issue when the children are enrolled in Medicaid. Public benefits for medical coverage through TANF³³ or Medicaid were noted for 55% of all orders, 31% of divorce and parenting orders, and 90% of orders from state petitions.³⁴

Arrears

Arrears were noted on the USO for 21% of all orders. The average total dollar amount of arrears, when noted, was \$3,289. Arrears were more common among divorce and parenting orders (53%) than for orders from state petitions (8%) and their average amounts were higher. Among divorce and parenting orders, the average amount of arrears was \$4,561, compared to just \$384 among state petitions. When arrears were noted as a recurring payment amount, the average monthly dollar amount of arrears was \$156 for divorce and parenting orders and \$50 for orders from state petitions.

Alimony

Alimony was ordered for 5% of divorce and parenting orders and 0% from state petitions. The Uniform Alimony Order showed that the father was the payer for all alimony orders. Most (73%) of alimony orders were based on agreement. The amount of alimony was also recorded, but it was not collected or analyzed for this review. Alimony was not analyzed in the 2018 review.

³¹ CHIP is a U.S. Department of Health and Human Services program that provides matching funds to states for health insurance for families and children. Each state offers CHIP coverage and has their own rules about who qualifies. In New Hampshire, CHIP coverage is administered through the New Hampshire Department of Health and Human Services.

³² Accessible health insurance means the primary care services are located within 50 miles or one hour from the child(ren)'s primary residence. RSA 461-A:14, IX(b).

³³ Children receiving TANF are presumptively eligible for Medicaid.

³⁴ The field on the USO is only to indicate if the parties sent copies of pleadings to BCSS in cases where the children are enrolled in TANF or Medicaid, and are not a finding of fact of how the child's healthcare needs will be addressed.

Analysis of Federally Required Data

As part of Federal Regulation (45 C.F.R. § 302.56(g)), states are required to analyze case data on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment.

The 2016-added federal regulations require the analysis of rates of income imputation and default. Based on evidence that payments are lower when income is imputed and when orders are set through default, the Flexibility, Efficiency, and Modernization (FEM) rule effectively requires state child support guidelines to limit the use of imputed income. As specifically stated in the draft FEM:

[R]esearch suggests that support orders based on imputed income often go unpaid because they are set beyond the ability of parents to pay them. The result is high uncollectible arrears balances that can provide a disincentive for obligors to maintain employment in the regular economy. Inaccurate support orders also can help fuel resentment toward the child support system and a sense of injustice that can decrease willingness to comply with the law. The research supports the conclusion that accurate support orders that reflect a noncustodial parent's actual income are more likely to result in compliance with the order, make child support a more reliable source of income for children, and reduce uncollectible child support arrearages.³⁵

The deadline for a state to meet the 2016-added federal requirements depends on a state's review cycle. Generally, states have at least two review cycles. With COVID-19 pandemic waivers, some states have extended their timeline for meeting the added requirements to 2025. New Hampshire's target date to meet the FEM requirements is January 1, 2024.

Income Imputation

In New Hampshire, courts have discretion about what to impute income at: they may choose to impute at full-time minimum-wage earnings, a previous wage, or at assumed earnings based on a field or occupation. Like most states, New Hampshire does not have a box on its guidelines worksheet or order form to explicitly track income imputation. However, notes about imputation were sometimes written on either the USO or on the worksheet. Use of these written note to identify income imputation likely understates the rate of imputation. In the future, New Hampshire may want to add a checkbox to the USO, guidelines worksheet, or both to note whether income was imputed. This will improve the accuracy of reported data for future guidelines reviews.

Income imputation was indicated for 16% of all orders, 38% of state petitions, and 3% of divorce and parenting orders.

In all, 16% of all orders had imputation indicated on either the USO or the worksheet. Income imputation was significantly more common among state petitions (38%) than among divorce and parenting cases (3%). Exhibit 14 shows the average income reported on the worksheet for those with

³⁵ U.S. Department of Health and Human Services. (Nov. 17, 2014). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs." 79 *Fed. Reg.* 221, p. 68555. Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

income imputation. As shown, the average gross income of the obligor-parent was \$1,884 for those with income imputed.

In contrast, Maine’s most recent child support guidelines review found an income imputation rate of 11–24% depending on whether it was a IV-D or non-IV-D case or if the party was the obligated or custodial parent.³⁶ The report documenting Massachusetts most recent guidelines review contains a combined rate for deviations, imputed or attributed income or order entry by default.³⁷ They report a combined rate of 11%.

Exhibit 14: Obligor-Parent's Average Gross Income by Whether Income Was Imputed

	Guidelines Calculation Table Applies		
	All Orders (N=342)	Divorce and Parenting (N=228)	State Petitions (IV-D Orders) (N=114)
Obligor-Parent’s Average Gross Monthly Income on the Worksheet			
Not Imputed (N=279)	\$4,300	\$4,876	\$2,155
Income Imputed (N=63)	\$1,884	\$2,445	\$1,803

Most (60%) of obligor-parents with income imputation had gross incomes that fell along distinct groupings:

- 4% of obligor-parents had gross incomes of \$1,256 per month, which is the equivalent of full-time minimum-wage earnings at \$7.25 per hour at 40 hours a week;³⁸
- 8% of obligor-parents had gross incomes of \$1,385 per month, which is the equivalent of full-time earnings of \$8 per hour at 40 hours a week;
- 14% had incomes of \$1,558 per month, or \$9 an hour at 40 hours per week; and
- 34% had gross incomes of \$1,732 per month, which would be \$10 an hour at full-time earnings.

This would mean that income is most commonly imputed at \$10 per hour, and that only 4% are being imputed at full-time minimum wage earnings (\$7.25 per hour).

Income Imputation and Defaults

As income may be imputed when the courts do not have evidence of income, it is thought that income imputation would be more common in cases where the obligor-parent does not appear to present evidence of income or the order is entered by default. An order is deemed to be entered by default if the parents did not agree to the order and the obligor-parent did not appear to the scheduled hearing. Among imputed orders, the obligor-parent did not appear for 82% of scheduled hearings and the default rate was 66%. The correlation between income imputation, default, and non-appearance may be limited

³⁶ Venohr, Jane, & Matyasic, Savannah. (2022). *Review of the Maine Child Support Guidelines*. Center for Policy Research. Retrieved from <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/2022%20Guidelines%20Review.pdf>.

³⁷ Sarro, Mark, Polek, Christine, & Sandy, Shastri. (2021). *Economic Review of the Massachusetts Child Support Guidelines, 2020–2021*. The Brattle Group. Retrieved from <https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2020-2021/download>.

³⁸ New Hampshire’s state minimum wage mirrors the federal minimum wage. The federal minimum wage has been \$7.25 per hour since July 2019. Wage history retrieved from the U.S. Department of Labor at <https://www.dol.gov/agencies/whd/minimum-wage/history/chart>.

to state petition orders. Non-appearance in divorce and parenting cases often means the parents agreed to an order prior to the hearing and agreed to non-appearance.

Default

Defaults are often examined with income imputation because of the correlation between parents who do not provide income information (e.g., financial affidavit, paystub, and tax information) and those who do not show up for their hearing. Additionally, courts may impute if they are unable to obtain accurate and current income or employer information. Although BCSS can obtain income or employment information from a wide range of sources (e.g., quarterly wage data and new hire reports), the case file analysis did not thoroughly explore what income and employment information was and was not available to BCSS. Nonetheless, whatever information BCSS has would have been considered in the state petition.

The default rate was 21% for all orders, 49% for state petitions, and 8% for divorce and parenting orders.

The USO indicated that the order was set by default for 21% of all orders, 49% for orders from state petitions, and 8% for divorce and parenting orders. The percentage of defaults among state petitions is significantly higher than for divorce and parenting orders.

In contrast, Maine’s most recent child support guidelines review found a default rate of 10%.³⁹ As mentioned earlier, the report documenting Massachusetts most recent guidelines review contains a combined rate for deviations, imputed or attributed income, or order entry by default.⁴⁰ Massachusetts reports a combined rate of 11%.

If the parties appeared to the hearing or when filling out a USO in an agreement, the party’s appearance is recorded on the first page of the USO. Exhibit 15 shows the rates of appearance for the parties. In general, obligor-parents and obligee-parents each appeared about half the time among all orders, though they were significantly more likely to appear for a divorce or parenting case than for a state petition. A BCSS representative was recorded as appearing for nearly all (94%) of state petitions and medical-support-only orders (97%).

³⁹ Venohr, Jane, & Matyasic, Savahanna. (2022). *Review of the Maine Child Support Guidelines*. Center for Policy Research. Retrieved from <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/2022%20Guidelines%20Review.pdf>.

⁴⁰ Sarro, Mark, Polek, Christine, & Sandy, Shastri. (2021). *Economic Review of the Massachusetts Child Support Guidelines, 2020–2021*. The Brattle Group. Retrieved from <https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2020-2021/download>.

Exhibit 15: Percentage of Orders for which the Parties Appeared (Percentage of Orders)

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical-Support-Only Orders (N=71)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Appearance of Parties (% of orders)				
Obligor-Parent	48%	52%	38%	44%
Obligee-Parent	51%	58%	34%	22%
BCSS	28%	1%	94%	97%

It was common for orders where the obligor-parent did not appear to be default orders. Among default orders, 93% were cases where the obligor-parent did not appear. When the obligor-parent did not appear for state petitions, 78% were default orders and 6% were agreements. By contrast, when the obligor-parent did not appear for divorce and parenting cases, only 14% were default orders and 76% were agreements.

As noted previously, 16% of all orders noted income imputation. Among all default orders, 50% noted income imputation, which is significantly higher than the average rate of imputation. The average and median monthly gross incomes of obligor-parents were \$1,677 and \$1,732 respectively, for all default orders. The median amount of \$1,732 corresponds to full-time earnings at \$10 per hour, which is the income that appears most commonly among orders with income imputation.

Low-Income and Application of the Self-Support Reserve

Federal regulation requires that a state’s guidelines must, at a minimum, consider evidence of ability to pay in addition to earnings and income, as well as consider the basic subsistence needs of an obligor-parent with limited ability to pay. New Hampshire’s guidelines fulfill the requirement to consider the subsistence needs of the obligor-parent by providing a self-support reserve (SSR) set at 115% of the federal poverty guidelines for a single person living alone.

In 2021, the federal poverty guidelines (FPG) was \$12,880 per year, which amounts to a SSR of \$1,234 per month when adjusted by 115%. There was a notable percentage of worksheets that included a SSR based on the FPG of prior years. This may reflect delays in filing and hearing dates. The delays may have been exacerbated by the COVID-19 pandemic that generally slowed everything in 2020, including BCSS and court processing. In the 2021 sample, 10% of obligor-parents had incomes at or below the SSR. In the 2016 sample, 25% of obligor-parents had incomes at or below the SSR (which was \$1,039 per month). Obligor-parents are always eligible for the SSR adjustment when their income is below the SSR. They may also be eligible for the SSR adjustment if their income is above the SSR.

Specifically, the income that is available for support is determined by subtracting the SSR from the obligor-parent’s adjusted gross income. This amount is then compared to the support amount calculated from the Guideline Calculation Table. If the income available for support is less than the calculated amount, then the SSR would apply and the monthly support amount would be set at the amount of income available for support. If the SSR is applied and the amount of income available for support is less

than the \$50 minimum order, the minimum order applies unless the court determines that a lesser amount is appropriate under the particular circumstances of the case.

The self-support reserve was applied for 21% of all orders, 41% of state petitions, and 11% for divorce and parenting orders.

The SSR applied for 21% of all orders, 11% for divorce and parenting orders, and 41% for orders from state petitions. The SSR was more likely to be applied in orders from state petitions due to lower incomes among parents with state petitions than for those with divorce and parenting orders. The average and median incomes of all orders where the SSR was applied were \$1,071 and \$1,319, respectively. Among orders where the SSR applied, the average order amount was \$167 and the median was \$50. A third (33%) of all orders where the SSR applied were set to the \$50 minimum order, 20% were \$0 orders, and 47% were set at the amount of income available for support.

Deviations

New Hampshire statute outlines appropriate reasons for adjustments to the application of guidelines under 458-C:5 Adjustments to the Application of Guidelines Under Special Circumstances (Exhibit 16).

Exhibit 16: 458-C:5 Adjustments to the Application of Guidelines Under Special Circumstances

- I. Special circumstances, including but not limited, to the following, if raised by any party to the action or by the court, shall be considered in light of the best interests of the child and may result in adjustments in the application of support guidelines provided under this chapter. The court shall make written findings relative to the applicability of the following:
- (a) Ongoing extraordinary medical, dental or education expenses, including expenses related to the special needs of a child, incurred on behalf of the involved children.
 - (b) Significantly high or low income of the obligee or obligor...
 - (c) The economic consequences of the presence of stepparents, step-children or natural or adopted children.
 - (d) Reasonable expenses incurred by the obligor parent in exercising parental rights and responsibilities, provided that the reasonable expenses incurred by the obligee parent for the minor children can be met regardless of such adjustment.
 - (e) The economic consequences to either party of the disposition of a marital home made for the benefit of the child.
 - (f) The opportunity to optimize both parties' after-tax income by taking into account federal tax consequences of an order of support, including the right to claim the child or children as dependents for income tax purposes.
 - (g) State tax obligations.
 - (h) Parenting schedule....
 - (i) The economic consequences to either party of providing for the voluntary or court-ordered postsecondary educational expenses of a natural or adopted child.
 - (j) Other special circumstances found by the court to avoid an unreasonably low or confiscatory support order, taking all relevant circumstances into consideration.

Deviations from the guidelines amount were determined from a field on the second page of the USO, which noted whether the order complied or did not comply with the guidelines-determined amount or if the order was a default. For the purposes of the analysis, those that did not comply were deemed deviations. A Default was not deemed a deviation unless it was specifically written on the form that it was both a guidelines deviation and a default.

As shown in Exhibit 17, the deviation rate was 48% of all orders, 61% of divorce and parenting orders, 20% of orders from state petitions, and 14% of medical-support-only orders. The overall deviation rate of 48% is significantly lower than the findings from the last review, which reported

The deviation rate in 2021 sample was 48%, which is lower than the previous review, which was 63%.

the overall deviation rate of 63% for all orders, 83% for divorce and parenting cases, and 37% from state petitions.

Exhibit 17: Deviations (Percentage of Orders)

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=71)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Deviation				
No	52%	39%	80%	86%
Yes	48%	61%	20%	14%

Deviation Rates in Other States

New Hampshire’s deviation rate of 48% is high compared to nearby states. Of the neighboring and mid-Atlantic states with published deviation rates, Maryland has the highest deviation rate at 35%, and Maine has the lowest, with just 5% among IV-D orders and 16% among non-IV-D orders.^{41,42} Massachusetts’ deviation rate was just 11%, and Pennsylvania was 25%.^{43,44} Delaware’s 2018 report showed a deviation rate of 22%.⁴⁵ Connecticut, Rhode Island, Vermont, and New York do not publish their deviation rates.

Direction of the Deviation

The direction of the deviation could only be determined for those with guidelines calculations on the worksheet. If the amount ordered was lower than the amount calculated on the worksheet, the deviation was deemed to be downward. If the amount ordered was greater than the amount calculated on the worksheet, the deviation was deemed to be upward. The majority (93%) of deviations were downward. Though it appears that downward deviations were slightly more common among divorce and parenting orders (94%) than for state petitions (87%), this difference is not statistically significant.

Deviation Reasons

The USO does not provide a pulldown menu or checkbox option to note the reason(s) for the deviation but instead provides a write-in field for noting the circumstances of the case if the order did not comply with the guidelines amount. Reasons for deviation were written in for 98% of orders with deviations.

⁴¹ Demyan, Natalie, & Passarella, Letitia. (2020). *Maryland Child Support Guidelines: 2015–2018 Case-Level Review*. Public Policy Research. Retrieved from <https://www.ssw.umaryland.edu/media/ssw/fwrtg/child-support-research/cs-guidelines/Maryland-Child-Support-Guidelines-Case-Level-Review-2015-to-2018-2.pdf>.

⁴² Venohr, Jane, & Matyasic, Savahanna. (2022). *Review of the Maine Child Support Guidelines*. Center for Policy Research. Retrieved from <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/2022%20Guidelines%20Review.pdf>.

⁴³ Sarro, Mark, Polek, Christine, & Sandy, Shastri. (2021). *Economic Review of the Massachusetts Child Support Guidelines, 2020–2021*. The Brattle Group. Retrieved from <https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2020-2021/download>.

⁴⁴ Venohr, Jane, & Matyasic, Savahanna. (2021). *Review of the Pennsylvania Child Support Guidelines: Updated Schedule and Preliminary Findings from Analysis of Case File Data*. Center for Policy Research. Retrieved from <https://www.pacourts.us/storage/rules/Preliminary%20Report%20Jan%206%202021%20-%20011012.pdf>.

⁴⁵ Family Court of the State of Delaware. (2018). *The Family Court of the State of Delaware. Delaware Child Support Formula Evaluation and Update*. Retrieved from <https://courts.delaware.gov/forms/download.aspx?id=39228>.

Most, but not all, handwritten notes aligned with the specific deviation criteria provided in the guidelines. Many noted multiple reasons: 42% of divorce and parenting orders and 28% of state petitions had multiple deviation reasons. Still, the detail and terminology used in the handwritten notes were inconsistent across cases. For example, some would note the reason for the deviation was shared-parenting time, while others would note it was not only shared-parenting time but equal shared-parenting time. Future revisions to the USO may want to consider fixed-choice deviation reasons that align with the deviation criteria.

Exhibit 18 shows the percentage of deviations that mentioned specific reasons on the USO. The reasons for deviations varied considerably between divorce and parenting orders and state petition orders. The three most common reasons for deviations among divorce and parenting orders were parenting schedule (52%), consent or agreement (39%), and other (32%). Among divorce and parenting orders, 13% listed both the parenting schedule and agreement of the parents as reasons for deviation.

Exhibit 18: Percentage of Deviations with Specific Reasons (Percentage of Orders with Deviations)*

	All Deviations		
	All Deviations (N=208)	Divorce and Parenting (N=183)	State Petitions (IV-D Orders) (N=25)
% of Deviations Reasons Including:			
Parenting Schedule	46%	52%	13%
Unemployment or Underemployment	12%	12%	16%
To Avoid Confiscatory Order	8%	4%	34%
Marital Home	2%	3%	0%
Healthcare or Childcare	10%	12%	0%
Tax Considerations	3%	4%	0%
Consent or Agreement	35%	39%	16%
College Expenses or Assets	1%	2%	0%
Other Children	2%	0%	13%
Other Reason	31%	32%	25%

* Percentages do not total to 100% due to the selection of multiple deviation reasons.

The four most common reasons for deviation among state petitions are to avoid a confiscatory order (34%), other (25%), unemployment or underemployment (16%), and consent or agreement (16%). The average gross income of obligor-parents with deviations to avoid a confiscatory order among state petitions was \$2,316 per month, while the average gross income of obligor-parents among all state petitions was \$1,981 per month. The range of obligor-parent incomes with deviations to avoid confiscatory orders was \$0–\$5,417. If all obligor-parents with incomes in the lower income ranges had a deviation for confiscatory, it is an indicator that the low-income adjustment needs to be expanded to that income range. However, this suggests that other factors besides the obligor-parent’s income are considered when granting a deviation for a confiscatory order.

There were many other reasons for deviation that could not be classified in any of the categories mentioned above or did not appear in more than a few cases. For example, even though the cost of transporting the child could be considered a deviation criterion because it is a “reasonable expense incurred by the obligor-parent in exercising parental rights,” it was only mentioned once. Divorce and

parenting cases referencing the child's healthcare or childcare expenses did not specify that the expenses were extraordinary or related to special needs as specified in the guidelines deviation criterion. Instead, it appeared to be mentioned to note that these expenses were addressed. Similarly, tax consequences among divorce and parenting cases with deviations did not appear to align with the deviation criterion on tax consequences. New Hampshire's deviation criterion for tax consequences applies to when one or both parents have low incomes. In contrast, cases with actual deviations concerning tax consequences generally did not appear to be low income.

Deviations in Divorce and Parenting Orders

This subsection focuses on deviations in divorce and parenting orders, particularly those with deviations due to the parenting schedule, which was the most common reason for deviation among such orders. What parents and the courts do in these cases can inform how to structure a guidelines adjustment formula for the parenting schedule. Among those with deviations for the parenting schedule:

- 86% had equal or about equal timesharing;
- 13% had a regular schedule, but it was not equal (e.g., every other weekend and one night per week); and
- 1% had another arrangement (e.g., the child was a teenager and could decide where to live, the parents still lived together, or the parents decided not to adhere to a set schedule).

One concern is that the deviation may have considered the timesharing arrangement, but it was not clearly stated on the USO. If not specifically looking at just those with deviations for parenting time and instead looking at all deviations among divorce and parenting orders, 59% had equal parenting time, 33% had some but not equal, 7% had another arrangement, and 1% had none.

Exhibit 19 and Exhibit 20 take a more in-depth look at the circumstances of the divorce and parenting orders with deviations and their timesharing arrangements. Exhibit 19 examines information from the order and Exhibit 20 considers information from the worksheet, so is based on a smaller sample. The first three columns of each exhibit consider any reason for deviation. The last column of each exhibit considers only those where parenting time was mentioned as the specific reason for the deviation.

The major findings from Exhibit 19 and Exhibit 20 are:

- Most deviated orders among divorce and parenting petitions are by agreement between the parties;
- Those with equal parenting time and other arrangements are more likely to have agreements than those with a routine schedule that is less than equal;
- Those with equal parenting time and other arrangements are more likely to have \$0 orders than those with a routine schedule that is less than equal; and
- Age of the child, number of children, and incomes do not appear to explain the difference in parenting-time arrangements.

Exhibit 19: Selected Characteristics of Divorce and parenting Orders with Deviations by Their Timesharing Arrangement (Information from the USO)

	All Deviations with Parenting Plans (N=180)	Timesharing Arrangement in Parenting Plan			Deviations Where Reason Stated Parenting Plan (N=88)*
		Essentially Equal Timesharing (N=107)	Routine Schedule but Not Equal (N=59)	Other Parenting Agreement (N=13)	
Order Entry Method (% of orders)					
Default	1%	1%	2%	0%	1%
Agreement	85%	90%	75%	92%	87%
Hearing	14%	10%	23%	8%	12%
Order Amount					
Average	\$268	\$161	\$391	\$618	\$139
Median	\$0	\$0	\$300	\$0	\$0
Percentage of Orders Set at \$0	64%	74%	42%	77%	76%
Number of Children					
Average	1.5	1.5	1.6	1.5	1.5
Median	1.0	1.0	1.00	1.0	1.0
Age of the Youngest Child					
Average	7.6	6.9	8.1	11.3	7.3
Median	6.7	6.1	6.4	12.3	7.0

* This group is a subset of the 107 orders in the second column that had a deviation and equal timesharing. In other words, there were 19 deviations that did not specifically mention parenting-time as the deviation reason.

Clearly one reason for the high deviation rate in New Hampshire is due to equal or shared-parenting time. Currently, New Hampshire is one of only nine states that does not have an adjustment in its child support guidelines for shared-parenting time.⁴⁶ Information from the parenting plan supports that deviations are being granted for parenting time. Excluding deviations where the parenting schedule was the only rationale for deviating would bring the deviation rate down to 24%, which is the range of deviation rates of other states.

⁴⁶ National Parents Organization. (2022). *2022 Child Support and Shared Parenting Report Card*. Retrieved from <https://www.sharedparenting.org/csreportcard>.

Exhibit 20: Selected Characteristics of Divorce and Parenting Orders with Deviations by Their Timesharing Arrangements (Orders with Worksheets)

	All Deviations with a Completed Parenting Plans (N=132)	Timesharing Arrangement in Parenting Plan			Deviations Where Reason Stated Parenting Plan (N=67)*
		Essentially Equal Timesharing (N=82)	Routine Schedule but Not Equal (N=40)	Other Parenting Agreement (N=10)	
Final Order Compared to Worksheet					
\$0**	60%	71%	58%	67%	73%
Less than guidelines amount but not \$0	36%	28%	34%	22%	24%
More than guidelines amount	4%	1%	8%	11%	3%
Gross Monthly Incomes of Obligor-Parents					
Average	\$4,821	\$4,462	\$5,721	\$4,167	\$4,547
Median	\$4,010	\$4,498	\$3,643	\$3,759	\$4,020
Gross Monthly Incomes of Obligee-Parents					
Average	\$3,697	\$3,340	\$4,137	\$4,868	\$3,259
Median	\$3,135	\$3,110	\$2,905	\$4,354	\$3,000
Obligor's Share of Adjusted Combined Income					
0–39%	15%	11%	20%	30%	8%
40–60%	46%	47%	40%	60%	50%
More than 60%	39%	42%	40%	10%	42%
Percentage with Deductions from Either or Both Parties' Incomes for . . .					
Childcare expense	23%	24%	23%	20%	21%
Medical expense	44%	46%	35%	60%	45%
Other children	5%	4%	8%	0%	6%

* This group is a subset of the 107 orders in the second column that had a deviation and equal timesharing. In other words, there were 19 deviations that did not specifically mention parenting time as the deviation reason.

** The percentage of \$0 orders is less among those with worksheets than all orders, which is shown in the previous exhibit.

Analysis of Payments for Federal Requirements

Analysis of payments by defaults, income imputation, and application of the low-income adjustment are part of the new federal requirements. Six months of payment data from January 1, 2022, through June 30, 2022, was extracted from the BCSS automated system. Payment data are only analyzed for those where the total amount due over the six-month period was greater than \$0. Exhibit 21 shows the availability of payment data for analysis. As shown, payment information was available for 91% of state petitions and 5% of divorce and parenting orders. As payment data would only be available for BCSS cases, this means that the divorce and parenting orders with payment data in the sample became a BCSS case.

The analysis of payments reports the average child support order amount, the average monthly payment, the percentage making any payments, and the average compliance rate (the percentage of total support due that was paid). The percentage of parents making any payments notes if the obligor-parent made any payments during the six-month payment period. Compliance is calculated by dividing the total amount paid by the total amount due.

Exhibit 21: Availability of Payment Data for Analysis (Percentage of Orders)

	Guidelines Calculation Table Applies			State Petitions Resulting in Medical Support Only (N=71)
	All Orders (N=430)	Divorce and Parenting (N=301)	State Petitions (IV-D Orders) (N=129)	
Payment Information Available				
Payment Information Available	30%	5%	91%	0%
Missing or Zero Due	70%	96%	9%	100%

Exhibit 22 shows a selection of payment metrics by the federally required fields for analysis. As shown, payment metrics were worse for default orders, orders set with income imputation, and orders where the self-support reserve applied. These differences were statistically significant.

Exhibit 22: Payment Patterns by Federally Required Fields (Out of Orders with Payment Information, N=129)

	Average Monthly Child Support Due	Average Monthly Paid	% Making Any Payments	Average Compliance
All Orders with Payment Information (N=129)	\$377	\$194	65%	46%
Order Set by Default*				
No (N=73)	\$402	\$294	78%	58%
Yes (N=56)	\$346	\$83	48%	30%
Income Imputation Indicated on the Order*				
No (N=75)	\$382	\$268	81%	60%
Yes (N=54)	\$371	\$91	43%	26%
Self-Support Reserve Applied (\$50)*				
No (N=75)	\$494	\$276	75%	53%
Yes (N=39)	\$234	\$66	44%	29%
Obligor-Parent's Gross Income				
\$0 (N=9)	\$83	\$50	56%	36%
\$1-\$1,234 (SSR) (N=3)	\$178	\$241	100%	84%
\$1,235-\$1,500 (N=11)	\$141	\$35	36%	35%
\$1,500-\$2,000 (N=37)	\$382	\$114	51%	28%
\$2,000-\$3,000 (N=31)	\$426	\$211	71%	50%
\$3,000-\$4,000 (N=16)	\$618	\$410	88%	67%
\$4,000-\$6,000 (N=8)	\$759	\$484	88%	65%
\$6,000 or more (N=1)	\$425	\$850	100%	100%

* Indicates that differences in payment data are significant $\alpha < 0.05$.

Note that the final two rows have a smaller sample size, due to being restricted to those with payments *and* worksheets.

Out of all orders with payment data, 65% made at least some payment over the six-month period and the average compliance rate was 46%. Among default orders, 28% made at least some payment and the average compliance rate was 30%. For orders where the obligor-parent's income was imputed, 43% made any payments and the average compliance rate was 26%. For orders where the self-support reserve was applied, 44% made any payments and the average compliance rate was 26%. Additionally, payment patterns appear to be better among obligor-parents with higher incomes. Among orders where the obligor-parent has income above \$3,000 per month, the percentage making any payments is upwards of 88%, and the average compliance rate is upwards of 65%. Conversely, the worst payment outcomes by income were orders where the obligor-parent's income was between \$1,235 and \$1,500

per month, which would include incomes imputed at the \$7.25 per hour minimum wage or at less than \$9 per hour.

Other Payment Data

As mentioned previously, there were a few (5%) cases that started as a divorce or parenting petition that later became payable to or enforceable by BCSS and thus had payment data available. Payment patterns among these orders appear to be better than other orders from state petitions. Among these orders with payment information, 93% made any payments and paid an average of 63% of the support due. While these payment patterns appear to be better than the average of state petition orders these differences are not statistically significant due to the small sample size.

Orders with income withholding orders (IWO) also had significantly better payment patterns than those without income withholding. Nearly all (99%) IWOs made any payments and paid an average of 74% of the support due. The average monthly support order was \$424, and the average monthly payments were \$330. IWOs are rarely default orders (3%) or orders where the self-support reserve applied (14%) and none have income imputation.

Findings from the Analysis of Parenting Plans

Parenting plans are court orders for how the parties will make decisions about, provide for, and share physical custody of the child(ren). Parenting plans may be either agreed upon by the parties, proposed by either parent, or developed by the court in the absence of an agreement. Parenting plans were available for nearly all (99%) of divorce and parenting orders and a few (2%) orders from state petitions. Most (75%) parenting plans were agreed upon by the parties, 5% were developed by the court, and 19% were proposed for the court's consideration.

Parenting Time

Except in cases where it would not be in the best interest of the child or parties, it is common for the parties to each have parenting time of the child. While New Hampshire presumes equal custody in cases of unmarried parents, there is no legislation for minimum or standard parenting time. The majority (91%) of parenting plans had a schedule for parenting time (including 50/50% equal custody), and only 9% indicated that the child(ren) would reside solely with the obligee-parent. In cases where the court determines sole residence, the parenting plan contains a field for writing in the reason that frequent and continuing contact with the other parent is not in the best interest of the child. The specific reasons were not analyzed for this review however the safety of the parties may be a factor. For sole-residence orders, 12% indicated a history of domestic violence or stalking, and 60% required that parenting time with the obligor-parent take place at a supervised visitation center with safety requirements.

When the parenting plan allows for scheduled parenting time, parties stated the amount of time with the child(ren), including how holidays, vacations, and time with the child would be allocated. This varied widely from case to case. The standardized parenting plan did not summarize the number of overnights. Data entry only considered four scenarios: about equal timesharing, a specified schedule that was less than equal timesharing, other forms of timesharing, and no timesharing. Parenting plans with other forms of timesharing included circumstances where the parents lived together or the child was older so

the parents agreed to allow the child to decide, the parents agreed not to adhere to a specific schedule so the child could flip back and forth between each parent’s home, and other arrangements.

The estimated time with each parent was:

- Approximately equal for 44% of parenting plans;
- Less than equal for 42%;
- Some other agreement for 7%; and
- No timesharing agreement for 7%.

In the 2018 review, 31% of orders were for essentially equal time, 44% were for less than equal, and 25% were for no parenting time.

Exhibit 23 and Exhibit 24 examine some of the characteristics of orders by the amount of parenting time on the plan. Exhibit 22 examines information from the order. Exhibit 24 examines information from the worksheet so has a slightly smaller sample size.

Exhibit 23: Characteristics of Divorce and Parenting Orders by Parenting Time

	All Divorce and Parenting Orders with Parenting Plans (N=294)	Timesharing Agreement			
		Essentially Equal Time (N=128)	Some but Not Equal (N=124)	Other Parenting Agreement (N=20)	No Parenting Time (N=22)
Percentage with Deviation	61%	84%	48%	65%	5%
Reason for the Deviation (% of orders)*					
Parenting Schedule	52%	74%	20%	9%	0%
Un/Underemployment	12%	13%	13%	0%	0%
To Avoid Confiscatory Order	4%	2%	6%	9%	0%
Marital Home	3%	1%	6%	9%	0%
Healthcare or Childcare	11%	9%	17%	9%	0%
Tax Considerations	4%	4%	4%	9%	0%
Consent or Agreement	39%	34%	43%	64%	100%
College Expenses or Assets	2%	1%	2%	9%	0%
Other Reason	31%	25%	48%	18%	32%
Order Amount					
Average	\$442	\$271	\$561	\$912	\$346
Median	\$197	\$0	\$481	\$0	\$50
Percentage of \$0 Orders	42%	65%	21%	55%	14%
Number of Children					
Average	1.5	1.5	1.5	1.6	1.4
Median	1.0	1.0	1.0	1.5	1.0
Number of children (% of orders)					
1 Child	59%	59%	59%	50%	68%
2 Children	35%	36%	34%	40%	27%
3 or More Children	7%	6%	7%	10%	5%
Age of the Youngest Child					
Average	7.4	6.8	7.6	11.6	6.4
Median	6.3	5.6	6.3	13.3	4.3

* Percentages do not total to 100% due to multiple responses.

Most (84%) orders with equal timesharing were deviations, with the most common deviation reason being the parenting schedule. Sixty-five percent were zero orders. Orders with some but not equal time still had high rates of deviation (48%), but the deviation rate was lower than those with equal time and only 21% were zero orders. Parenting plans with other parenting agreements had higher rates of deviation than those with some or no parenting time, with a deviation rate of 65% and 55% of orders being zero. Among those with no parenting time agreement, only 5% were deviations and 14% were zero orders. The difference between deviation rates and zero orders was only statistically significant between equal timesharing and routine but not equal schedule.

Exhibit 24: Characteristics of Divorce and Parenting Orders by Parenting Time

	All Divorce and Parenting Orders with Parenting Plans (N=222)	Timesharing Agreement			
		Essentially Equal Timesharing (N=98)	Some Time but Not Equal (N=97)	Other Parenting Agreement (N=14)	No Parenting Time (N=13)
Number with Worksheets	222	98	97	14	13
Gross income of the Obligor					
Average	\$4,751	\$4,723	\$4,883	\$5,500	\$3,167
Median	\$4,000	\$4,791	\$3,637	\$4,110	\$3,118
Gross income of the Oblige					
Average	\$3,362	\$3,283	\$3,430	\$4,301	\$2,442
Median	\$3,000	\$3,082	\$2,804	\$3,750	\$1,945
Obligor’s Share of Combined Adjusted Gross Income (AGI)					
Average	59%	59%	59%	57%	54%
Median	58%	59%	57%	53%	57%
Obligor’s Share of Combined AGI (% of orders)					
Less than 40%	14%	10%	16%	21%	23%
40–60%	41%	43%	40%	43%	31%
61–100%	44%	46%	43%	36%	46%

Orders with other parenting time agreements show that the average age of the youngest child is significantly higher than for the other timesharing groups with the average and median ages of the youngest child being 11.6 and 13.3, respectively. Parties with no parenting time appeared to have slightly younger children and lower incomes than orders with parenting time, though these differences were not statistically significant.

Other Provisions of the Parenting Plan

The New Hampshire parenting plan form is very thorough and comprehensive. While the analysis of the parenting plan mostly focused on what was most relevant to the child support guidelines calculation, it also addresses a wide range of possible issues over time that may not have ever been contemplated (e.g., the situation if one parent moves). Some of these other provisions are highlighted below.

- **If Child is Left in Daycare Beyond Regular Schedule.** Just under half (45%) of parenting plans stated that if the child would be left in childcare for longer than regularly scheduled daycare, the other parent should be offered the opportunity to parent the child.

- **Major Decision-making.** The second page of the parenting plan outlines how the parties will make major decisions, (i.e., the child’s education, health, religion, etc.), as well as if there are any other special provisions concerning decision-making about the child. Day-to-day decisions for the child are made by each parent during the time that the child is in their care. The majority (80%) of parenting plans allowed joint decision-making regarding major decisions for the child and for 20% one party had sole authority for major decision-making regarding the child. Only 5% of parenting plans had additional special provisions regarding decision-making for the child, such as needing to consult with the other parent for emergency decisions.
- **Communication Between Parents and Child.** Having the ability to communicate freely can be one way that parents can stay involved in their child’s life. The parenting plan noted that the majority (83%) of obligor-parents were allowed to communicate with the child by phone freely so long as it was at reasonable times, 3% indicated the obligor-parent was only allowed to communicate by phone at specific times/dates, 7% had some other restriction, and 7% had no restrictions on communication by phone. Written or email communication at reasonable hours was allowed for 85% of parenting plans, 10% had no restriction, and only 5% had specific agreements about such communications.
- **Legal Residence for School.** The legal residence of a child for school attendance purposes was with the obligee-parent for 71% of parenting plans, the obligor-parent for 11%, and equal custody or both residences for 15%.
- **Scheduled Activities.** Ensuring that that the child attends their regularly scheduled activities was the responsibility of either party while the child was in their care for 78% of parenting plans.
- **Child’s Clothing.** Most (67%) of parenting plans stated that each parent was responsible for supplying appropriate clothing for the child for their time with the other parent.
- **Responsibility for Transporting the Child for Parenting Time.** Only 26% of parenting plans stated how the transportation costs for the child would be shared. Of these, costs were split equally for 16% and 74% stated some other way of sharing costs.
- **Temporary Adjustments to the Parenting Plan.** Parties may need to make temporary adjustments to parenting schedules around emergencies, illness, or other commitments. In such cases, 88% of parenting plans note that the parties are expected to act in good faith and ask the other parent about temporary adjustments as soon as possible. The majority (83%) of parenting plans had the parties agreeing to be flexible in making reasonable adjustments to the parenting schedule as the child matures. Most parenting plans (97%) stated that any changes to the parenting plan should include grounds for modification and be filed with the courts, while 3% had some other procedure for adjusting the parenting plan. Other methods for review were not examined.

Findings from the Analysis of Financial Affidavits

Financial affidavits (FAs) provided another source of information. FAs were only analyzed for divorce and parenting cases because few state petitions had FAs.⁴⁷ Exhibit 25 shows some select characteristics of FAs for obligor-parents and obligee-parents.

Exhibit 25: Select Characteristics from Financial Affidavits

	Obligor-Parents (N=256)	Obligee-Parents (N=280)
Tax Return Information Attached?		
No	32%	35%
Yes	68%	65%
Paystub Attached?		
No	65%	70%
Yes	35%	30%
IRS Schedule C (Profit or Loss from Business) attached?		
No	97%	95%
Yes	3%	5%
Highest Level of Educational Attainment		
Less than high school	2%	4%
Diploma or GED	51%	40%
Some college	8%	12%
College degree or trade school	25%	29%
Master's degree or doctorate	5%	7%
Missing	9%	8%
Job Skills Listed		
No	32%	23%
Yes	68%	77%
Shelter (Housing) Expenses		
Mortgage	19%	22%
Rent	46%	44%
Other	3%	3%
None	5%	7%
Missing	27%	24%

Among obligor-parents and obligee-parents with FAs, 73% of obligor-parents and 72% of obligee-parents provided paystubs or tax returns with FAs. This is an important and reliable source of income. It is not clear whether those who did not provide paystubs or tax returns were self-employed or had inconsistent employment records. Among obligor-parents who did not have a paystub or tax return, 54% appeared to the hearing or agreed to the USO before the hearing was scheduled. This is not significantly different from the percentage appearing for those obligor-parents that did provide such information (56%).

Parties who provided paystubs or tax returns reported a broad range of jobs and employment skills in a variety of fields while those who did not provide paystubs or tax returns tended to have a higher concentration of service jobs, manual labor, or hourly wage work. Obligee-parents without paystubs or tax returns listed jobs and skills such as childcare, hairstylist, bartender, restaurant server, teacher,

⁴⁷ Only 3% of orders from state petitions had FAs for the obligor, and 5% had FAs from the obligee. Among divorce and parenting orders, 88% had FAs for the obligor and 93% had FAs for the obligee.

nursing assistant, sales, and reception. Obligor-parent without paystubs or tax returns often reported construction or labor-related jobs and skills such as fencing, mechanic, roofing, and general construction, but some also noted that they were cashiers, cooks, sales, housekeeping, restaurant server/bartender, and even an attorney.

Among obligor-parents with FAs, less than half noted education beyond a high school degree or the equivalent. The FAs also asked about a party's housing expenses. Rent was the most common shelter expense.

Finally, the FAs ask parents to list all their income and expenses. When comparing them, the average expense to income ratio for obligor-parents was 109% and the average for obligee-parents was 151%. Many parents (42% of obligor-parents and 66% of obligee-parents) noted expenses exceeded income.

One possible improvement to the FA is to ask more questions that could be used in the consideration of income imputation (e.g., length of employment at most recent job; typical number of hours worked per week when employed; wage and occupation if the parent had another employer in the last year; and whether the parent was unemployed or did not receive a paycheck for any week in the last year, and, if so, why). The FA could also be expanded to probe on some of the specific barriers listed in the federal requirement (45 C.F.R. § 302.56(c)(1)(iii)) of state guidelines to consider the specific circumstances of the parent when income imputation is authorized. Some of the factors listed in the federal requirement are already included on the FA (e.g., job skills and educational attainment), but others are not (e.g., noncustodial parent's assets, residence, employment and earnings history, literacy, age, health, criminal record and other employment barriers, and record of seeking work).

FINDINGS FROM THE ANALYSIS OF LABOR MARKET DATA

Federal regulation (45 C.F.R. § 302.56(h)(1)) requires the analysis of labor market data as part of a state's guidelines review. This review of labor market information is necessary to support recommendations for child support guideline provisions for income imputation and the low-income adjustment. The major data source of the New Hampshire labor market statistics is the State of New Hampshire Employment Security, Economic & Labor Market Information Bureau.⁴⁸ It is the source of all New Hampshire statistics, unless noted.

Although New Hampshire-specific data is not available, recent national research found that over one-third (35%) of parents who do not reside with their children had incomes below 200% of poverty.⁴⁹ These low-income nonresidential parents were more likely not to work full-time and year-round than moderate and higher-income nonresidential parents were. About a quarter (27%) of low-income,

⁴⁸ Information from the New Hampshire Employment Security, Economic & Labor Market Information Bureau is available from its website: <https://www.nhes.nh.gov/>.

⁴⁹ U.S. Congressional Research Service. (Oct. 2021). *Demographic and Socioeconomic Characteristics of Nonresident Parents*. Retrieved from <https://crsreports.congress.gov/product/pdf/R/R46942>.

nonresidential parents worked full-time year-round, compared to 73% of moderate and higher-income nonresident parents. An examination of labor market data helps inform why this occurs.

Unemployment, Employment, and Labor Force Participation

There are several terms used in labor market analysis that have a precise meaning and which are helpful to understanding that “unemployed” and “not employed” are not the same thing, as well as why changes in labor force participation can affect unemployment rates. The following are definitions used within this report, as defined by the U.S. Bureau of Labor Statistics:⁵⁰

- **Labor force:** the sum of employed and unemployed persons.
- **Labor force participation rate:** the labor force as a percentage of the civilian non-institutional population.
- **Unemployment rate:** the percentage of people within the labor force who do not have a job, have actively looked for work in the prior four weeks, and are currently available for work.
 - To be considered actively looking for work, an individual must have submitted a resume or application, used an employment service, discussed employment with an employer, or met other criteria within the designated time.
- **Employment:** people who did any work for pay or profit during the survey reference week; persons who did at least 15 hours of unpaid work in a family-operated enterprise; and persons who were temporarily absent from their regular jobs because of illness, vacation, bad weather, industrial dispute, or various personal reasons.
- **U-3 unemployment measure:** the official unemployment measure, which does not include underemployed and discouraged workers.
 - Underemployment is the condition in which people in the labor force are employed at less than their abilities and economic needs.⁵¹ Discouraged workers want a job but have given up looking due to the belief that there are no jobs available.⁵²

Unemployment

While the United States unemployment rate (seasonally adjusted)⁵³ increased from 3.5% in July 2022 to 3.7% in August 2022,⁵⁴ New Hampshire’s unemployment rate followed similarly with an increase to 2.0% unemployment rate in August 2022 from 1.9% in July 2022. In comparison, the August 2021 unemployment rate was 3.4% (seasonally adjusted). This reduction follows a recovery from the COVID-

⁵⁰ U.S. Bureau of Labor Statistics. Retrieved November 11, 2022, from

<https://www.bls.gov/cps/lfcharacteristics.htm#laborforce>.

⁵¹ “Underemployment.” (n.d.). In *The Merriam-Webster.com Dictionary*. Retrieved October 24, 2022, from

<https://www.merriam-webster.com/dictionary/underemployment>.

⁵² Ravikumar, B., & Shao, Lin. (2014). “Discouraged Workers: What Do We Know?” Economic Synopses. Federal Reserve Bank of St. Louis. Retrieved from <https://research.stlouisfed.org/publications/economic-synopses/2014/03/14/discouraged-workers-what-do-we-know/>.

⁵³ Seasonal adjustment refers to a statistic that accounts for any seasonal influences on the economy, such as boosts in consumption during holiday seasons. A non-seasonal adjustment does not account for seasonal influences.

⁵⁴ U.S. Bureau of Labor Statistics Data. (n.d.). Retrieved October 25, 2022, from <https://data.bls.gov/timeseries/LNS14000000>.

19 pandemic, which left a peak unemployment rate of 14.7% in April 2020 in New Hampshire and 14.8% throughout the United States.

The unemployment rate by county, labor market area, and other regions in New Hampshire remained between 2.0 and 2.5%, with three areas exceeding 3.0%: Hinsdale Town Labor Market Area (3.4%), Pelham Town Lowell-Billerica-Chelmsford New England City & Town area (3.1%), and Berlin City (3.4%). One exception to this trend was an unemployment rate of 6.0% in the Colebrook, NH-VT Labor Market area. Exhibit 26 depicts the unemployment rate (August 2022) of some New Hampshire Counties, Labor Market Areas, and Metropolitan/Micropolitan Areas. It shows some of the areas with mid-level unemployment rates and the area with the highest rate.

Exhibit 26: Unemployment Rates of Selected Areas in New Hampshire (August 2022)

	Total Civilian Labor Force	Unemployed Population	Unemployment Rate
Geographical Area			
State of New Hampshire	782,800	17,880	2.3%
Hillsborough County	246,550	5,730	2.3%
Sullivan County	23,170	530	2.3%
Rockingham County	193,510	4,600	2.4%
Colebrook Labor Market Area, NH portion	2,490	150	6.0%
Dover-Durham New England City & Town Area, NH portion	74,030	1,550	2.1%
Franklin NH Labor Market Area	10,830	250	2.3%

Employment

New Hampshire nonfarm employment⁵⁵ remained stable in September 2022, only decreasing by 300 jobs, although this stability may be due to increased fall tourism in the state. In contrast, United States total nonfarm employment rose by 431,000 (not seasonally adjusted) in September 2022, according to a U.S. Bureau of Labor Statistics survey.⁵⁶ New Hampshire made up less than 1% of the nation’s employed population in September 2022, with relatively little change from the preceding month. In comparison, New Hampshire maintains less than 1% of the overall United States population.

Industries were affected differently in New Hampshire in September 2022. Some New Hampshire industries lost less than 1,000 jobs, such as mining, logging, and construction (400), information services (200), financial activities (700), professional and business services (800), and other services (100). Some New Hampshire industries lost more than 1,000 jobs, including manufacturing (1,200) and trade, transportation, and utilities (1,700). Leisure and hospitality lost 9,600 jobs. Only two service industries gained more jobs in September: education and health services (2,300 job gains) and government (12,100 job gains). Despite the decrease in jobs, only financial activities saw a lower amount of employment in 2022 as compared to September 2021.

⁵⁵ “Nonfarm employment is a survey-based estimate of employment by place of work. It does not include the self-employed, unpaid family members, or agricultural workers.” New Hampshire Employment Security. Retrieved December 1, 2022, from <https://www.nhes.nh.gov/elmi/statistics/ces-data.htm>.

⁵⁶ U.S. Bureau of Labor Statistics Data. (n.d.). *Labor Force Statistics from the Current Population Survey*. Retrieved from <https://data.bls.gov/timeseries/LNS14000000>.

Labor Force and the Labor Force Participation Rate

The New Hampshire civilian labor force increased to approximately 782,800 people as of August 2022, an increase of 3,600 people from the month prior. The total labor force participation rate in August 2022 was 65.9% (seasonally adjusted), as compared to 65.8% in July 2022.⁵⁷ The state labor force was higher than the national average, which increased from 62.1% in July to 62.4% in August.⁵⁸ Overall, the labor force participation rate in New Hampshire and the United States exceeded their labor force participation rates from the year prior, which were 65.3% and 61.7%, respectively, and both have yet to return to their pre-pandemic levels (February 2020) of 68.1% for New Hampshire and 63.4% for the United States,⁵⁹ both seasonally adjusted.

COVID-19 Pandemic Effects on Labor Force Participation in 2022 by Demographics

The labor force participation rate for all states significantly dropped during the COVID-19 pandemic, largely in part due to the shutdown of any business deemed non-essential. According to the New Hampshire Governor's office, "essential businesses" referred to agricultural and food, healthcare, energy, waste management, transportation, information technology, and other community-based businesses.⁶⁰ As a result of this economic shutdown, people who were either employed or actively seeking employment were unable either to maintain employment (due to their place of work being deemed non-essential) or to find employment, resulting in a massive wave of individuals leaving the labor force. For non-essential industries with lower wages, such as leisure and hospitality, the effects of COVID-19 could have affected obligor-parents' ability to pay child support.

The effects of the shutdown, while small, are still felt by workers in certain socioeconomic groups in September 2022. Approximately 815,000 out of 127,165,000 (0.6%) of United States workers aged 25–54 years old were unable to work due to their employer closing or losing business due to COVID-19.⁶¹ While it is unknown how many of the workers were parents with child support cases, it is important to understand these statistics could be a factor that affects incomes for low-earning parents who pay child support.

Nationally, men aged 16 years and over who were unable to find work in September 2022 due to their employer closing or their businesses shutting down made up for approximately 0.6% (711,000 male workers nationally) of their respective population. Men aged 25–54 were hurt the most within this demographic. Similarly, 729,000 women aged 16 years and over who were unable to find work made up approximately 0.5% (729,000) of their respective population, with women aged between 25–54

⁵⁷ Federal Reserve: St. Louis Bank. (Oct. 2022). *Labor Force Participation Rate for New Hampshire*. Retrieved from <https://fred.stlouisfed.org/series/LBSSA33>.

⁵⁸ Federal Reserve: St. Louis Bank. (Oct. 2022). *Labor Force Participation Rate*. Retrieved from <https://fred.stlouisfed.org/series/CIVPART>.

⁵⁹ U.S. Bureau of Labor Statistics. (n.d.). *Civilian labor force participation rate*. Retrieved from <https://www.bls.gov/charts/employment-situation/civilian-labor-force-participation-rate.htm>.

⁶⁰ Sununu, Chris. (New Hampshire Governor). (n.d.). *Exhibit A to Emergency Order #17*. Retrieved from <https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/emergency-order-17-ex-a.pdf>.

⁶¹ U.S. Bureau of Labor Statistics. (n.d.). "Table 3. Persons unable to work at some point in the last 4 weeks because their employer closed or lost business due to the coronavirus pandemic by receipt of pay from their employer for hours not worked and selected characteristics." *Supplemental Data Measuring The Effects Of The Coronavirus (COVID-19 Pandemic On The Labor Market*. Retrieved from <https://www.bls.gov/cps/effects-of-the-coronavirus-covid-19-pandemic.htm>.

suffering the most of all. Out of 19,689,000 Americans aged 25 and older who had no high school diploma as of September 2022, 184,000 were unable to find work because of the pandemic.

These statistics underscore the importance of considering the actual circumstances of a parent and local labor market conditions when imputing income. If low-skilled workers were more adversely affected by the pandemic and have not recovered jobwise, this should be considered when income is imputed. Some state guidelines have provisions that address extreme circumstances, like pandemics or hurricanes that share some similarities to the pandemic. For example, the Louisiana guidelines specifically mention that a party temporarily unable to find work or temporarily forced to take a lower-paying job as a direct result of Hurricanes Katrina or Rita shall not be deemed voluntarily unemployed or underemployed.⁶²

Other Unemployment Measures

The above measures of unemployment reflect the official U-3 unemployment rate, which measures the total percentage of the civilian labor force that is unemployed and excludes discouraged workers and underemployment. About a decade ago, the U.S. Bureau of Labor Statistics began tracking and publishing alternative measures that better reflect all persons who are unemployed, including those not included in the U-3. The U-6 unemployment rate reflects all persons who are unemployed, including those who are marginally attached workers (i.e., those who want to work but are discouraged and not looking) and workers employed part-time but who would work full-time if they could. The national average U-6 unemployment rate (seasonally adjusted) was 7.6% as of September 2022, whereas New Hampshire's average U-6 unemployment rate (seasonally adjusted) was 5.0% as of September 2022.⁶³

Hours Worked and Income Imputation

Average hours worked per week can be used to inform income imputation policies. When income imputation is authorized, depending on the state or court or judge, an assumption about the number of hours worked per week also must be made. For instance, South Dakota used labor market data on hours worked to reduce the presumption of a 40-hour work week when imputing income, which is part of its child support guideline, to 35 hours per week. In the United States, private industry employees worked an average of 34.5 hours per week in September 2022.⁶⁴ In New Hampshire, the average work week for private industries in September 2022 was 33.6 hours per week. This is a difference of 0.3 hours lower than August 2022 (33.9 hours per week) and 0.2 hours lower than in September 2021 (33.8 hours per week). However, some industries differed. Nationally, goods-producing private employees worked 39.9 hours per week in September 2022, whereas private service-providing employees worked 33.5 hours per week. Mining and logging, a private goods-producing industry, had the highest number of average hours worked for employees, at 46.2 hours per week. Leisure and hospitality had the lowest, with an average of 25.6 hours worked per week.

⁶² Louisiana Revised Statute 9:315.11 C.(1).

⁶³ U.S. Bureau of Labor Statistics. (n.d.). *Alternative Measures of Labor Underutilization for States*. Retrieved from <https://www.bls.gov/lau/stalt.htm>.

⁶⁴ U.S. Bureau of Labor Statistics. (Oct. 2022). *Table B-2. Average weekly hours and overtime of all employees on private nonfarm payrolls by industry sector, seasonally adjusted - 2022 Q03 Results*. Retrieved from <https://www.bls.gov/news.release/empsit.t18.htm>.

Exhibit 27 shows the hours worked per week for New Hampshire industries with over 50,000 employees in September 2022. The variation in the average hours worked by industry suggests that a standard number of hours for income imputation across the state may not be appropriate but instead the average hours in the industry where the parent normally works should be considered when income imputation is authorized.

Exhibit 27: Average Hours Worked by New Hampshire Industry (September 2022)

	Number of Jobs	Average Weekly Hours Worked
Industry (employees greater than 100,000)		
Manufacturing	68,600	40.5
Transportation	138,100	32.1
Professional and Business Services	95,500	37.7
Education and Health Services	121,200	34.0
Leisure and Hospitality	71,900	25.6
Goods Producing	101,800	39.6

Minimum Wage and Low-Wage Occupations

Unlike most states, New Hampshire does not provide a minimum wage above the federal minimum wage of \$7.25 per hour. Nonetheless, several common low-wage occupations pay more in New Hampshire. For example, as of June 2022, the New Hampshire entry level wage was \$11.83 per hour for retail sales person, \$11.03 for a fast food cook, and \$13.31 per hour for janitors and cleaners.

Factors Affecting Full-Time, Year-Round Work Among Low-Wage Earners

There are several factors that contribute to a lack of full-time, year-round work. One factor is the employability of a parent. According to New Hampshire Employment Security, barriers to employment could include “lacking adequate housing, clothing, food, limited English speaking ability, a criminal record, a lack of education, work experience, credentials, transportation or child-care arrangements.”⁶⁵ A multi-site national evaluation of obligor-parents in a work demonstration program provides some additional insights on this.⁶⁶ It found that 64% of program participants had at least one employment barrier that made it difficult to find or keep a job. Common employment barriers included problems getting to work (30%), criminal records (30%), and lack of a steady place to live (20%). Other factors pertain to the structure of low-wage employment. In 2021, for example, people aged 25 years and older comprised 80.1% of hourly workers aged 16 and older.⁶⁷ Of the total hourly paid population, 1.4% were paid below or at the federal minimum wage (New Hampshire’s minimum wage is \$7.25 per hour, which is the federal minimum wage). For low-wage earners who pay child support, this should be considered

⁶⁵ New Hampshire Employment Security. (n.d.). *My Reemployment Plan*. Retrieved from <https://www.nhes.nh.gov/forms/documents/setting-a-plan.pdf>.

⁶⁶ Canican, Maria, Meyer, Daniel, & Wood, Robert. (Dec. 2018). *Characteristics of Participants in the Child Support Noncustodial Parent Employment demonstration (CSPED) Evaluation*. p20. Retrieved from <https://www.irp.wisc.edu/wp-content/uploads/2019/05/CSPED-Final-Characteristics-of-Participants-Report-2019-Compliant.pdf>.

⁶⁷ U.S. Bureau of Labor Statistics. (Jan. 2022). *Wage and Salary Workers Paid Hourly Rates With Earnings at or Below the Prevailing Federal Minimum Wage By Selected Characteristics*. Retrieved from <https://www.bls.gov/cps/cpsaat44.htm>.

when deciding on whether to impute income because a low-wage worker could be prevented from paying both child support and meeting their own needs.

According to a 2021 Congressional Research Service study that investigated the demographic and socioeconomic characteristics of nonresidential parents “more than one-third of nonresidential parents (3.4 million) reported having low income,” which is defined as a family income less than 200% of the official poverty thresholds in 2017.⁶⁸ The report also showed that low-income, nonresidential parents were more likely to be female (although males made up 75% of the overall population of nonresidents), non-Hispanic Black, and with two or more childbearing unions; report less formal education; and were less likely to have worked full-time, year-round. Additionally, while child support payments were less likely to be paid by low-income nonresidential parents, their payments were “more likely to be large relative to their income.”⁶⁹

Low-wage jobs do not always provide consistent hours week to week or an opportunity to work every week of the year. This causes unpredictable and erratic income, which can affect child support compliance. Some industries, as seen by Exhibit 27, work less hours. These lower hours can create vulnerable, unstable work for low-income parents required to pay child support. A Brookings Institute study defined vulnerable workers as those earning less than median earnings and having no healthcare benefits.⁷⁰ Most vulnerable workers are concentrated in the hospitality, retail, and healthcare sectors. There is considerable turnover in some of these industries. NHES reported that in 2021 demand for work in these sectors reached a three-year high, with healthcare and social assistance demanding the highest amount: 25,879 new job postings for New Hampshire in 2021. This trend was similar to the United States demand for labor in these sectors.

Employee benefits are often less available for lower-wage workers. In March 2019, the U.S. Bureau of Labor Statistics reported that 24% of private industry workers in the lowest 10% wage category had access to employer-sponsored medical plans, whereas 94% of workers with an average wage in the highest 10% did have access to such plans.⁷¹ Quality-of-life benefits are work benefits that increase flexibility for employment, such as increased time, flexible work hours, wellness programs, childcare, and vacation time. In March 2022, less than 10% of private businesses and establishments that had between 100 to 499 employees were able to provide childcare services. For parents in vulnerable industries, this can affect the time necessary to take care of children and potentially result in single-parent, low-wage earners exiting the labor force.

⁶⁸ U.S. Congressional Research Service. (Oct. 2021). *Demographic and Socioeconomic Characteristics of Nonresident Parents*. Retrieved from <https://crsreports.congress.gov/product/pdf/R/R46942>.

⁶⁹ Ibid.

⁷⁰ Jund-Mejean, Martina, & Escobari, Marcela. (Apr. 2020). *Our Employment System Has Failed Low-Wage Workers. How Can We Rebuild?*. Brookings Institute. Retrieved from <https://www.brookings.edu/blog/up-front/2020/04/28/our-employment-system-is-failing-low-wage-workers-how-do-we-make-it-more-resilient/>.

⁷¹ U.S. Bureau of Labor Statistics. (Mar. 2020). *Lower-wage workers less likely than other workers to have medical care benefits in 2019*. TED: The Economics Daily. Retrieved from <https://www.bls.gov/opub/ted/2020/lower-wage-workers-less-likely-than-other-workers-to-have-medical-care-benefits-in-2019.htm>.

Factors that Influence Employment Rates and Compliance

Federal regulation requires the consideration of factors that influence employment rates and compliance. While there is older academic research that finds child support can affect employment among obligor-parents,⁷² there is no current research other than the impact of arrears on employment. (That research finds mixed results including that labor-force attachment can impact employment more than the amount of the arrears). Nonetheless, although child support agencies have access to a wide range of electronic data on income and earnings (e.g., quarterly wage data reported to a state's department of labor), anecdotes suggest some parents quit work or fail to report income from all employment sources (e.g., income from the underground labor economy) to affect the income used in the calculation of the child support order or to avoid wage garnishment.

There are no recent studies pertaining to New Hampshire regarding factors that influence employment rates and child support compliance. Moreover, the impact of child support on employment may be overshadowed by the effects of the pandemic on employment rates. Another concern is unreported employment as new web-based opportunities are becoming available, including part-time opportunities for workers who already have a job. Modern employment with unreported income includes earnings from rideshare services, food delivery services, and streamer services such as Twitch, in which people who "stream" rely on viewer donations. These types of jobs operate under what is considered the "gig economy," or labor markets that are known for their short-term contracts and freelance jobs in preference to permanent work. While more is being done to understand these gig economies, the earnings from unreported employment are often inconsistently identified in surveys exacerbating any attempt to study them within a short period.

⁷² Holzer, Harry J., Offner, Paul, & Sorensen, Elaine. (Mar. 2005). *Declining employment among young black less-educated men: The role of incarceration and child support*. *Journal of Policy Analysis and Management* Vol. 24, No. 2 (Spring 2005) p. 329–350.

CHAPTER 3: FINDINGS FROM SURVEY OF PARENTS AND OTHER STAKEHOLDERS

To obtain input from a variety of stakeholders, particularly parents, a web-based survey was made available for almost four weeks (approximately October 17 to November 14, 2022). The survey also sought input from the judiciary (i.e., judges, attorneys, and court personnel), advocates for parents and children, Department of Health and Human Services (DHHS), Division of Economic and Housing Stability, Bureau of Child Support Services (BCSS) staff, legislators, and others with an interest in the New Hampshire child support guidelines. Appendix A provides a copy of the survey.

The survey was announced through several sources: the BCSS website and the DHHS's Facebook page and Twitter account. BCSS offices and courts posted a flyer announcing the survey with a scannable QR (Quick Response) code that linked to the survey. Appendix B provides a copy of the flyer. Listservs for various stakeholders (e.g., family law attorneys through the state bar association) were also used to solicit responses.

The major guidelines topics included:

- General questions about the importance of both parents in the lives of their children and about financial responsibility;
- The consistency that the guidelines is applied and the appropriateness of deviations from the guidelines;
- Appropriateness of the guidelines amounts;
- Adjustments for other children;
- Income imputation and court appearance;
- The low-income adjustment (which consists of a self-support reserve and a minimum order);
- Shared-parenting time adjustments and childrearing expenses when the child spends a significant amount of time with each parent;
- Grandparent liability; and
- Recommendations for improving the guidelines.

Consistency of guidelines applications, deviations, adequacy and appropriateness of the guidelines amounts, income imputation, court appearance/defaults, and the low-income adjustment are or have been issues identified as federal concerns. Issues with the shared-parenting time adjustment and adjustments for other children were identified in the case file data. The provisions for grandparent liability were identified in a NH Legislative Performance Audit completed by the Office of Legislative Budget Assistant (LBA).⁷³

The remainder of this chapter addresses each of these topics separately, as well as the data analysis methodology and survey respondents. Many of the exhibits and findings in this chapter report average agreement scores of responses on a 1–5 scale, with 1 being strongly disagree and 5 being strongly agree.

⁷³ Office of Legislative Budget Assistant, State of New Hampshire, Health and Human Services, Division of Child Support Services. (Oct. 2015). *Re: Oct 2015 LBA Audit of Child Support; Semi-Annual Status Report*. Retrieved from <https://www.nh.gov/transparentnh/audit/health-human/documents/2016-02-css.pdf>.

Average scores around 2.0 would be some disagreement, 3.0 would be neutral, and 4.0 would be some agreement. The chapter closes with a summary of the recommendations made by survey respondents.

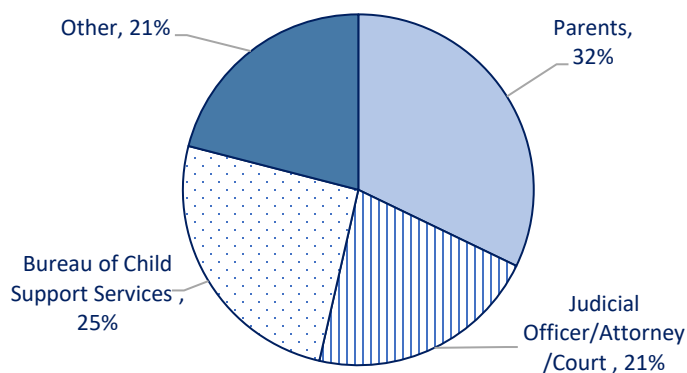
Data Analysis Methodology

The data analysis looked for common themes and differences among respondent types. Unfortunately, statistical differences between some respondent subgroups cannot be detected (e.g., parents who both receive and pay child support and other parent subgroups) due to the small number of respondents in some categories. Still, similarities and differences among subgroups are noted when relevant to the discussion.

SURVEY RESPONDENTS

There were 224 survey respondents. Exhibit 28 shows the breakdown of respondents by major categories. Almost a third (32%) of respondents were parents. The general category “parents” consisted of individuals paying support (13%, N=29), individuals receiving support (12%, N=27), individuals who both pay and receive support (2%, N=4), and parents with minor children who do not receive or pay child support (5%, N=12). Respondents in the “other” category consisted of individuals without minor children or a grandparent who does not owe or receive support (5%, N=11); representatives of organizations that advocate for children (4%, N=9); legislators or government officials (2%, N=4); mediators (1%, N=2); individuals who previously had orders (2%, N=4); individuals who fit more than one category (1%, N=2); and other citizens, workers in related fields, or unspecified other (6%, N=15).

Exhibit 28: Percentage of Respondents by Type



The survey asked more detail of the parents. On average, parent respondents had 2.1 children, which is generally more children than what was found in the analysis of case file data. Most parent respondents reported that their child support payments were collected by the state then sent to the parent who was supposed to receive support (43% of parent respondents) or paid directly from one parent to the other (38%). Among the 12 parent respondents without child support orders, they reported they did not have an order because they and the other parent agreed to no order (33%), the parents have equal custody and share childrearing expenses (17%), were still married (17%), or there was no other parent (17%); and the remaining 17% had a variety of other reasons (e.g., the judge decided or BCSS closed the case), but none of these reasons comprised more than 10% of those with no orders.

Parent respondents reported that the paying parent's⁷⁴ actual contact with the child was:

- About equal for 29% of the parent respondents;
- About 6–10 days per month (which is about every other weekend and one night per week) for 22% of the parent respondents;
- Another 22% of parent respondents reported no contact; and
- The remaining 27% had a variety of other arrangements (e.g., parents still lived together, or the child was a teenager who got to decide).

Parent respondents were also asked to think about whether the paying parent's contact with the child over the past six months matched what was in their parenting plan. The responses varied by whether the parent paid or received child support. Among paying parents, most (63%) said that it was pretty much the same as the parenting plan, 11% said it was less, and 26% said it was more. Among parents receiving child support, only 23% said that it was pretty much the same as the parenting plan, while most (59%) said it was less, 9% said it was more, and 9% were unsure.

Some parent respondents explained why the actual contact did not match what was in the parenting plan. The reasons varied by whether the respondent was a paying parent or receiving parent, and no reason constituted a majority. The most frequently identified reason was noncooperation of the other parent: 40% of paying-parents identified that as the reason. Receiving parents also had problems with paying parents not cooperating, and some paying-parents and receiving parents also volunteered they themselves were not cooperating. Other stated reasons were that the child did not want to spend time with the other parent (26%), the paying-parent was not paying or interested in seeing the children (15%), there were domestic violence concerns (7%), and vacation or work schedules were a factor (7%).

GENERAL STATEMENTS ABOUT CHILD WELL-BEING AND CHILD SUPPORT

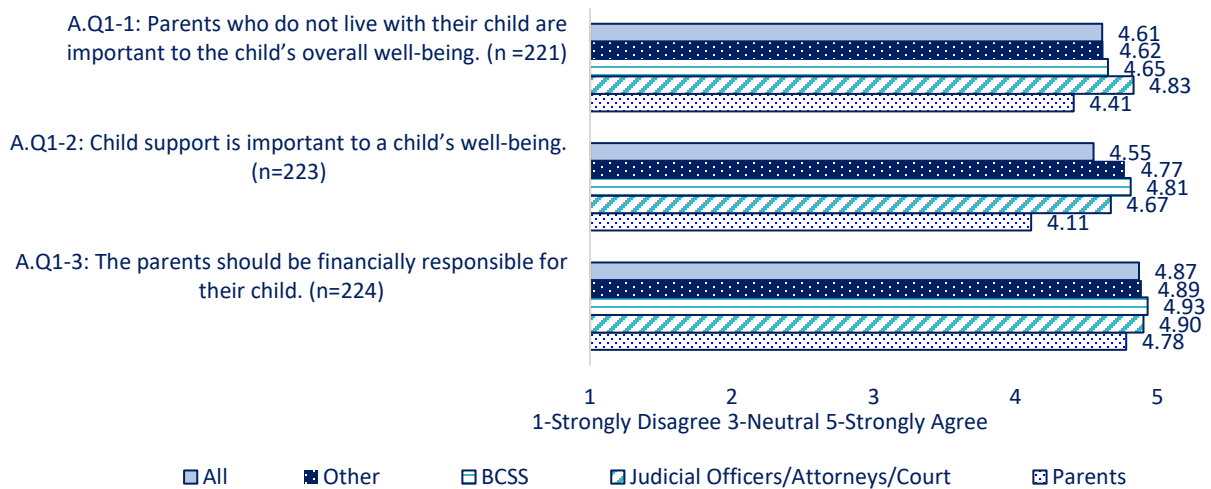
The survey opened with several statements about the connections between parents and child support to child well-being. Respondents were asked to rank their agreement with a range of statements on a scale of 1–5, with 1 being strongly disagree and 5 being strongly agree. Average scores around 2.0 would be some disagreement, 3.0 would be neutral, and 4.0 would be some agreement. Exhibit 29 shows that, on average, the four groups of respondents agreed/strongly agreed to these general statements. Respondents could also select “don't know,” though this response was excluded from the analysis.

Specifically, Exhibit 29 shows agreement with the statements about the parents not living with the child being important to child-being and child support being important to child well-being (Q1-1 and Q1-2); and the statement that parents should be financially responsible for their child (Q1-3). The average agreement level with the statement about nonresidential parents being important was 4.61, which is between a score of 4.0 for some agreement and 5.0 for strong agreement.

⁷⁴For the purposes of this chapter, the term, “paying-parent” is used instead of “obligor-parent” because paying-parent better reflects the wording of survey questions. Similarly, “receiving-parent” could be used instead of “obligee-parent,” but it was unnecessary to use either term in this Chapter.

Although on average, all subgroups agreed with these statements, there were some subgroups that had more or less agreement than other subgroups. For example, judicial officers/attorneys/court staff had a stronger level of agreement (4.81 on average) with the statement about the importance of nonresidential parents to child’s overall well-being, while parents had the lowest level of agreement with that statement (4.41 on average).

Exhibit 29: Average Agreement Score on General Statements about Child Well-Being and Child Support (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



Open-Ended (Written) Responses Relevant to General Statements

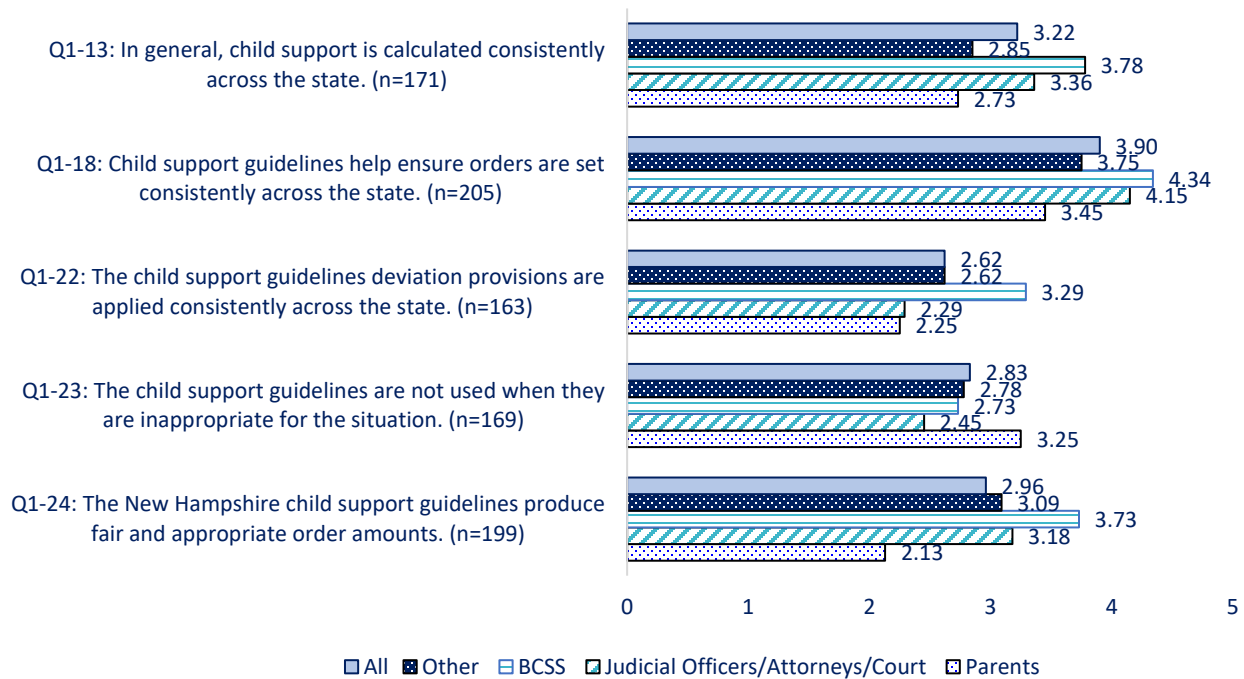
There were few written responses that expanded on these general statements. Often, those who did discussed how timesharing arrangements should affect the order calculation. One statement that was more general suggested that the guidelines should be simple, child-centered, and set the expectation that both parents have income to support their child. Further, this respondent opined that it is not the financial responsibility of the state to support the child. Other respondents also suggested simplicity and child-centered guidelines.

CONSISTENCY OF GUIDELINES CALCULATION AND DEVIATIONS

One purpose of presumptive child support guidelines is to provide for the consistent treatment of similarly situated cases across the state. Federal regulation requires each state to set their own deviation criteria that are appropriate and just that consider the best interest of the child. Further, federal regulation encourages states to keep deviations at a minimum.

Exhibit 30 shows the average agreement level on a 1–5 scale for a range of statements concerning the consistency that the guidelines are applied and whether deviation criteria are used appropriately. The average level of agreement varied by subgroups. Generally, parents were more likely to have some disagreement, while BCSS respondents were more likely to have some agreement. There were a few exceptions for some statements.

Exhibit 30: Average Agreement Score on Statements about Guidelines Calculations (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



Although most were neutral or somewhat agreed with the statements that child support is consistently applied across the state (average agreement level of 3.22 among all respondents to Q1-13) and that guidelines help ensure orders are consistently applied across the state (average agreement level of 3.90 among all respondents to Q1-18), parents had the lowest level of agreement with these statements (e.g., an average agreement level of 2.73 with the statement about child support being consistently calculated across the state). A score of 3.0 would mean neither agreement or disagreement, and a score of 2.0 would indicate some disagreement.

Exhibit 30 shows the average agreement levels for the other three statements (Q1-22, Q1-23, and Q1-24) were generally just below 3.0. On average, there was some disagreement with the statement: the deviation provisions are applied consistently among all groups except BCSS respondents who were more likely to believe that the deviation criteria were applied consistently. All groups on average except parents also disagreed with the statement that the guidelines are not used when they are inappropriate for the situation. Average agreement scores were the most diverse among respondent subgroups for question Q1-24, which states that the New Hampshire child support guidelines produce fair and appropriate amounts. Judicial officers/attorneys/court staff had an average score indicating agreement (an average score of 3.73). In contrast, parents had an average score of 2.13, which indicates some disagreement.

Open-Ended (Written) Responses Relevant to Consistency and Deviation

There were two opportunities to provide written responses regarding consistency of the application of the guidelines and deviations from the guidelines. All respondents could write something in their final

recommendation. Attorneys, judges, court staff, and BCSS staff were also asked how to improve the consistent application of the guidelines. Few mentioned consistency and deviation as part of their general recommendation. However, most of the responses to how to achieve more consistency in the application of the guidelines mentioned a standard formula for shared-parenting time. A few indicated attorney/judicial/BCSS training or focus groups.

A few respondents underscored the importance of giving judges the discretion to deviate because of unique case circumstances. A couple of respondents expressed their concern with the inconsistent application of the guidelines among courts. One respondent (who identified as a judge/hearing officer) thought too many deviations are being granted. A specific recommendation was to eliminate the term, “fixed cost” that appears in the guidelines deviation criterion:

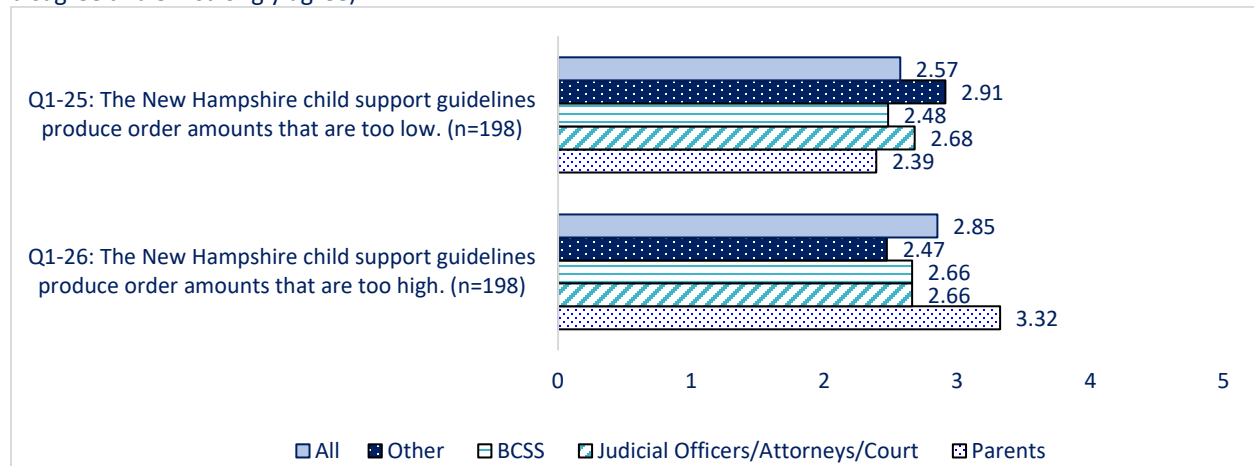
(B) Whether the obligor parent has established that the equal or approximately equal residential responsibility will result in a reduction of any of the fixed costs of childrearing incurred by the obligee parent.

Instead, the respondent suggested the criterion consider the ability of the parent to provide a lifestyle for the child similar to what the other parent could provide.

GUIDELINES AMOUNTS

At the core of any state guidelines is the guidelines amount. Exhibit 31 shows the average agreement level on statements that the guidelines produce amounts that are too low/high. On average, there is slight disagreement that the guidelines are too low, with the average agreement level at 2.57 for all respondents. There is also some disagreement that the guidelines are too high (2.85 for all respondents). Parents were a notable exception: they had some agreement with the statement that the guidelines produced order amounts that are too high (3.32). Among subgroups, paying parents were even more likely to agree with the statement that the guidelines produced amounts that were too high.

Exhibit 31: Average Agreement Score on Statements about Guidelines Amounts (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



Open-Ended (Written) Responses Relevant to Order Amounts and Income

None of the comments made sweeping statements about the guidelines being too high or low; rather, most comments focused on the appropriate guidelines amount in timesharing situations and the income used for the child support calculation. There were several comments suggesting reduced guidelines amounts are appropriate when there is a shared-parenting time arrangement. There were a few comments directed at verified or better-quality income information (e.g., verifying the income information on the financial affidavit). A few comments thought the percentages at high income were inappropriately too high. (The previous guidelines review recommended lower percentages at high incomes based on economic data on the cost of raising children that were not adopted by the legislature.) One respondent suggested that the guidelines amount should consider the child's needs, not income. Another respondent suggested that the income of the party's live-in partner should be considered in the calculation of support.

LOW-INCOME ADJUSTMENT, INCOME IMPUTATION, AND DEFAULTS

In 2016, federal requirements of state guidelines were expanded to better address the needs of low-income families. The expansion included a federal requirement for state guidelines to consider the subsistence needs of obligor-parents with limited ability to pay and another requirement to consider the specific circumstances of the obligor-parent when income imputation is authorized. Those specific circumstances include the obligor-parent's individual circumstances affecting employability (e.g., highest educational attainment and whether the parent had reliable housing) and whether the local community had jobs readily available that matched the parent's employment qualifications and circumstances. The intent is to impute income at an amount that the parent can reasonably earn. Default is also of concern because it goes hand in hand with income imputation. Income is often imputed if the parent did not provide financial information and did not show up for the court hearing. The court hearing presents another opportunity for the parent to provide financial information through verbal testimony or other evidence.

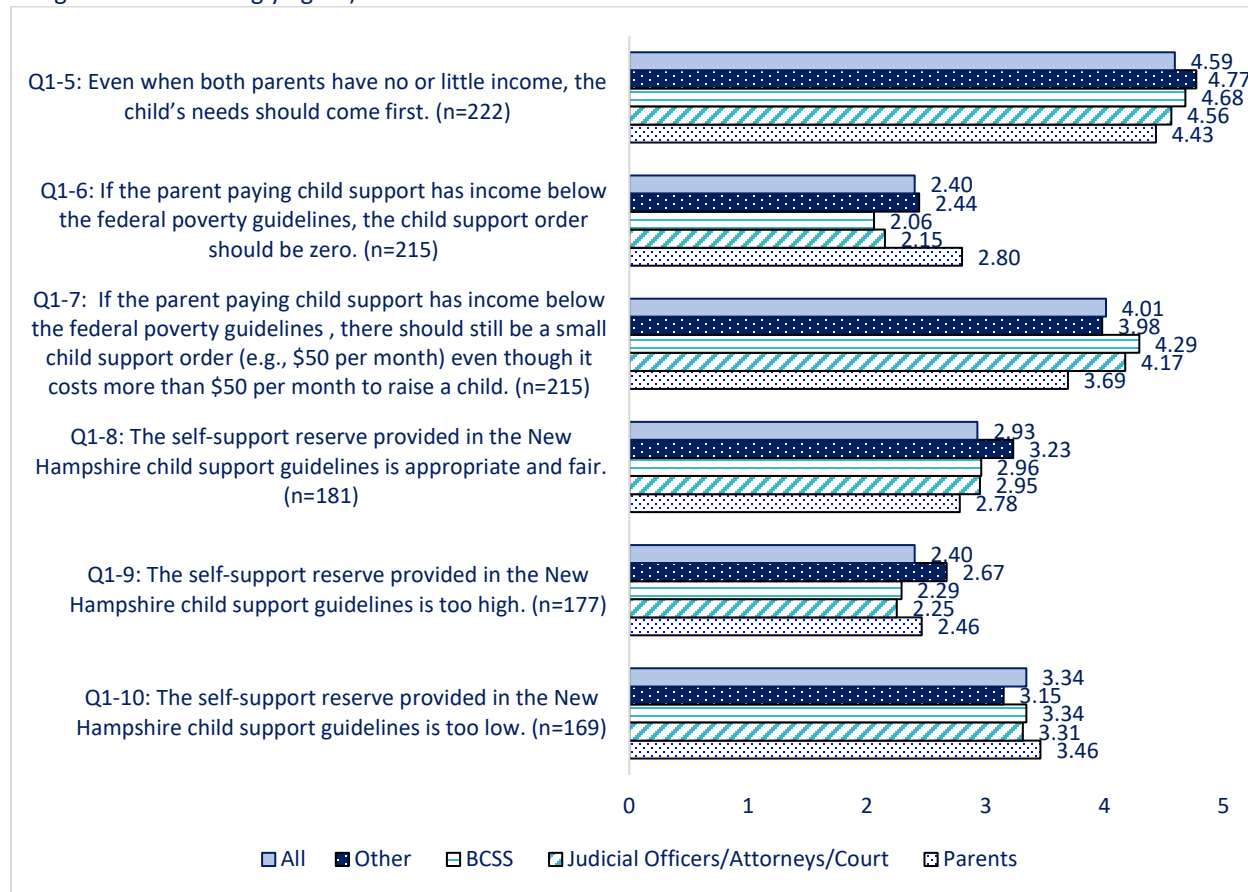
Low-Income Adjustment/Self-Support Reserve (SSR)

Exhibit 32 shows the average agreement scores on statements about adjustments for low income. The existing New Hampshire child support guidelines provide a self-support reserve (SSR) equivalent to 115% of the federal poverty guidelines for one person. If the obligor-parent's income is below the SSR, the guidelines provide for a minimum order of \$50 per month. If the obligor-parent's income is above the SSR, the guidelines provide that the order is never more than the difference between the obligor-parent's income available for support and the SSR.

The low-income adjustment mechanism and whether to have a minimum order are state policy decisions. Further, if a state decides to use a SSR adjustment, a minimum order, or both, the amounts of the SSR and the minimum order are also policy decisions. Some states do not provide a minimum order; rather, if the obligor-parent's income is below the SSR (or that state's low-income threshold), the order amount is zero or at the court's discretion. Most states with a SSR relate the amount to the federal poverty guidelines (FPG) for one person. Some states use more than the FPG, and other states use less than the FPG. One justification for using less is the state has below-average income. One justification for

using more is that many public assistance programs (e.g., the Supplemental Nutrition Assistance Program (SNAP) use more than the FPG to determine income eligibility: SNAP uses 130% of the FPG).

Exhibit 32: Average Agreement Score on Statements about Low-Income Adjustment (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



As shown in Exhibit 32, the average agreement level was 4.59 (which indicates strong agreement) among all respondents to the statement (Q1-5) that even when both parents have no or little income, the child's needs should come first. The average agreement level was 2.4 (some disagreement) among all respondents with the statement (Q1-6) that the order should be zero among paying parents with below-poverty incomes. There was some agreement (an average agreement score of 4.01 among all respondents) to the statement (Q1-7) that the guidelines should provide a minimum order (e.g., a minimum order of \$50 per month) when the obligor-parent had below-poverty income. The average scores to these three questions suggest that New Hampshire should continue using a \$50 minimum order.

The last three statements (Q1-8, Q1-9, and Q1-10) shown in Exhibit 32 address the appropriateness of the SSR amount. Taken together, the responses to these questions suggest New Hampshire's SSR amount is about right, but could be a little higher. The average agreement score was almost neutral, with a slight tip to disagreement among all respondents to the statement (Q1-8) about the existing SSR being appropriate and fair. Among all groups, the average agreement score is 3.34 to the statement (Q1-

10) about the SSR being too low, suggesting there is some agreement that New Hampshire's existing SSR is too low.

Another question asked of parents aimed to inform what an appropriate level for the SSR should be. The question asked, "In your opinion, how much income does a single adult with no children need in New Hampshire to pay for basic needs such as food, shelter, and other basic living expenses?" Over half (61%) of valid responses reported more than \$2,000 per month. The response varied by parent subgroups, where 58% of receiving parents reported more than \$2,000 per month and 67% of paying parents reported more than \$2,000 per month.

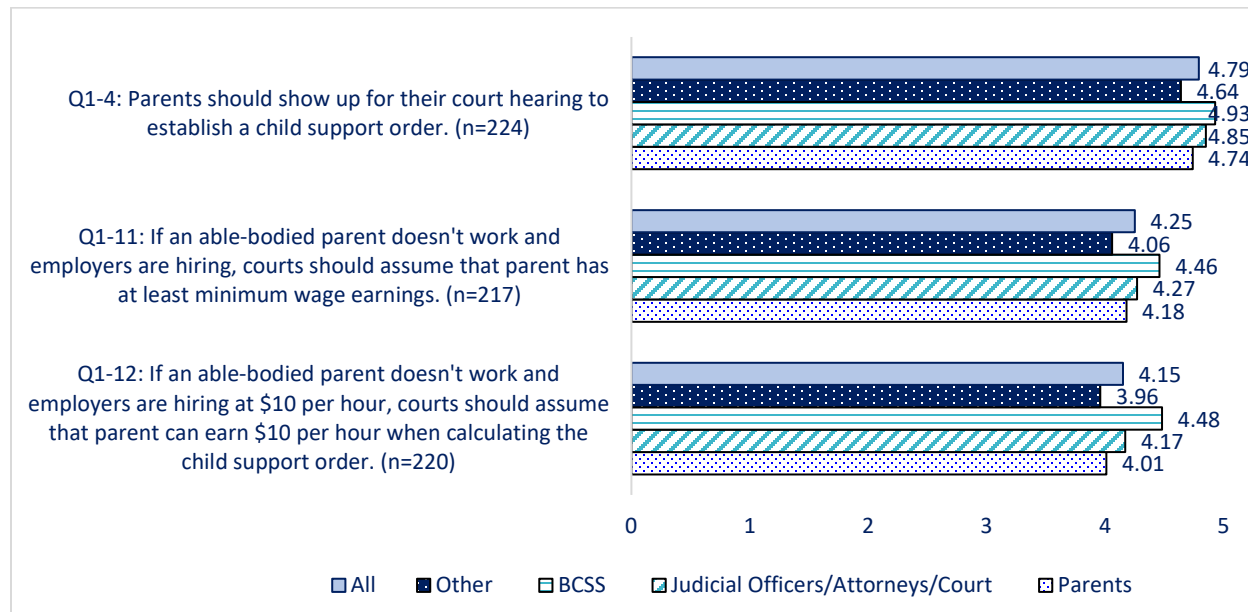
Parents were also asked to think about whether they typically had enough money to meet their basic needs each month over the last year. Over half (57%) reported not always, rarely, or never. The response also varied by parent subgroup. Most paying-parents (52%) reported that they definitely or usually had enough resources to meet their needs each month, compared to just 22% of receiving parents. In contrast, parents without orders had a different opinion of their ability to meet their basic needs: most parents without orders (77%) said they definitely or usually had enough each month.

Income Imputation and Default

Exhibit 33 shows the average agreement scores on statements about income imputation and default. Income is often imputed in default orders. In state petitions, parents who do not complete and return financial affidavits often do not show for their child support hearings as well. The scheduled hearing provides another opportunity to present income information. Nonetheless, what often happens in default orders is income is imputed. On average, there is strong agreement with the statement that parents should show up for their court hearing to establish a child support order (Q1-4). This response speaks to the appropriateness of entering an order by default in this circumstance.

The last two statements shown in Exhibit 33 (Q1-11 and Q1-12) essentially address what is the appropriate level to use for income imputation, particularly when there is no evidence of barriers to employment other than limited education and skills and there are local employment opportunities available for low-skilled and entry-level workers. The difference between the two statements is the level of earnings. Unlike most states, New Hampshire does not have a state minimum wage above the federal minimum wage of \$7.25 per hour, but the New Hampshire labor market reveals that low skilled and entry level jobs often pay more than the minimum wage. The analysis of the case file data also found that income imputation at \$10 per hour was the most common wage used. The average agreement score for income imputation at federal minimum wage is 4.25 (more than somewhat agree) and 4.15 (somewhat agree) at \$10 per hour. In short, there is a lot of agreement about income imputation at federal minimum wage and just a tad less agreement about income imputation at \$10 per hour. The average agreement level differed statistically among subgroups.

Exhibit 33: Average Agreement Score on Statements about Income Imputation (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



Open-Ended (Written) Responses Relevant to SSR and Income Imputation

A few respondents specifically wrote in that the SSR amount needs to increase, and another respondent implied that it should be increased based on New Hampshire’s higher housing costs. There were no other comments specifically mentioning the low-income adjustment, income imputation, or default.

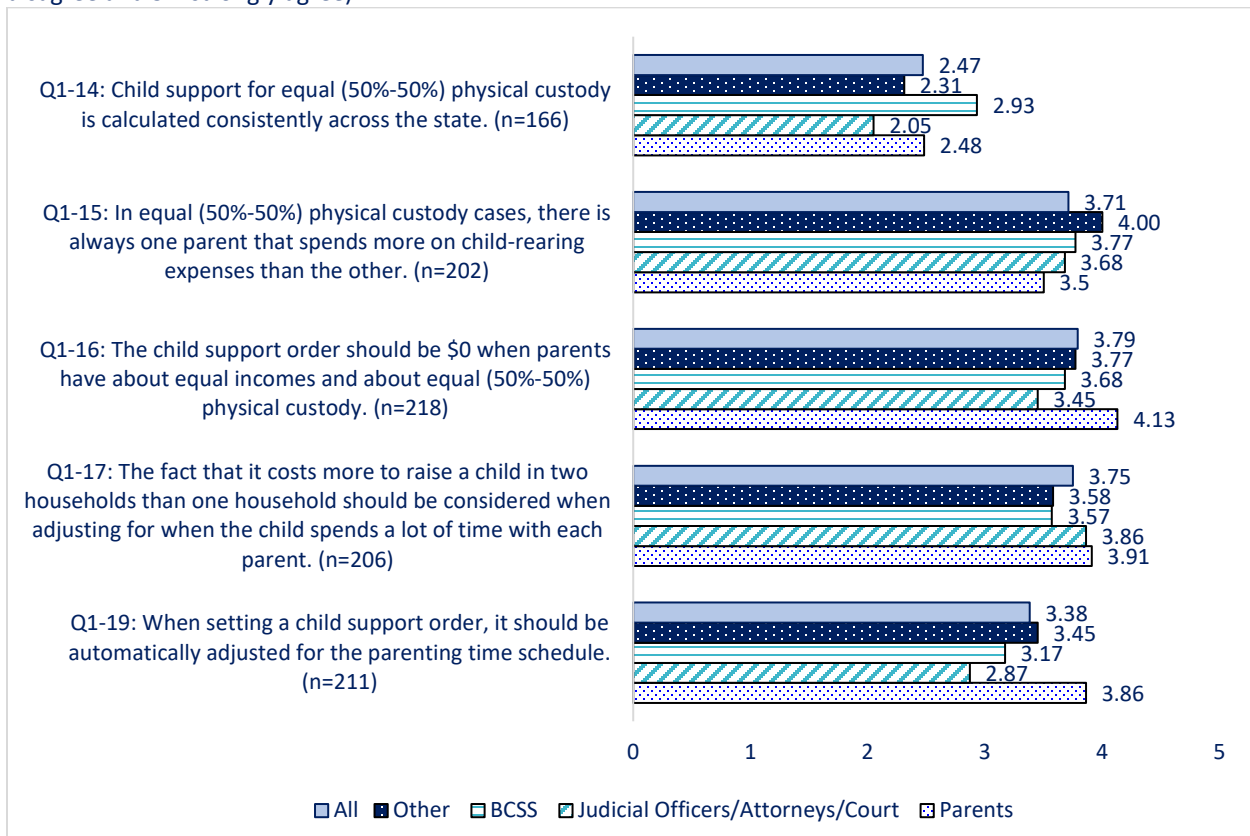
PARENTING TIME AND THE AMOUNT OF THE CHILD SUPPORT ORDER

New Hampshire is one of the few states that does not provide a formula to adjust for parenting time in its child support guidelines. Instead, it is treated as a deviation factor. The survey contained numerous questions addressing whether New Hampshire should provide a formula and, if so, how that formula should be crafted. There are almost two dozen different ways that states provide formulas for parenting time in their child support guidelines. A challenge to crafting formulas is that there is little to no data tracking childrearing expenditures when the child is cared for a significant amount of time in more than one household, as is the situation in equal physical custody. The questions attempted to narrow down which way was appropriate for New Hampshire.

As shown in Exhibit 34, statement Q1-14 addresses the need for a parenting time adjustment formula, by assessing whether respondents believe that child support is calculated consistently in equal (50/50) physical custody cases across the state. The average agreement level among all respondents is 2.47, suggesting some disagreement with the statement. The middle three statements (Q1-15, Q1-16, and Q1-17) indirectly solicit opinions on how to structure the parenting time adjustment formula. On average, the level of agreement is some agreement for all respondents for each of these statements. Of concern is that statements Q1-15 and Q1-16 have about the same level of agreement, but they can conflict in structuring the formula. The former statement suggests that there is always one parent who

incurs more childrearing expenses than the other when there is equal (50/50) physical custody; hence, the policy suggestion is that a zero order is not always warranted in equal (50/50) physical custody situations. The latter statement suggests there should be a zero order when there is about equal custody and about equal income. The latter statement has more agreement, particularly among parents. It also includes the circumstances of “about equal income.” There were also several written comments that timesharing adjustments should consider other factors besides the time the child is with the other parent. Income or disparate income was a commonly named, other factor.

Exhibit 34: Average Agreement Score on Statements Involving Parenting Time (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



There are some parenting time formulas (i.e., Indiana, Missouri, and New Jersey) that do not provide for a zero order when there is equal income and equal custody. These states believe that there is always one parent who incurs more expenses (e.g., one parent may purchase a winter coat for the child, school supplies, or the cell phone).

Exhibit 34 also shows the level of agreement with an automatic adjustment for parenting time. On average, there was some agreement for this automatic adjustment, but it varied significantly among subgroups. Parents had more agreement and judicial officers/attorneys/courts were neutral, with a slight tip to disagreeing with the statement. The average agreement level did not vary statistically by subgroup, probably because there was variation among the different types of parents. Paying parents were more likely to agree with this statement than parents receiving child support.

Open-Ended (Written) Responses Relevant to Parenting Time Adjustments

There were over 30 written recommendations relevant to parenting time adjustments constituting over 30% of all written recommendations. Most of these comments favored a parenting time adjustment. There were many comments suggesting what the adjustment should be and under what circumstances. Many clearly stated that a parenting time adjustment is appropriate in equal (50/50) timesharing, but the details were insufficient to know whether there was consensus about applying the parenting time adjustment to less than equal physical custody. One respondent suggested that every other weekend and every other holiday was not the norm and challenged the questions that included that scenario. Among those that did provide more detail about the amount of the adjustment, several suggested that setting the order at zero when there was equal (50/50) timesharing and several others suggested that income disparity and other circumstances of the case should be considered. One respondent specified they did not support a parenting time adjustment because it only creates a cycle where an abusive parent can use the children against the victim to not pay child support and continue their abuse.

Other Questions about Parenting Time Adjustments

Attorneys, judges, and BCSS respondents were also asked the frequency that a party requests an adjustment for their parenting schedule. Among attorneys, under half (47%) said that more than 50% of parties request an adjustment to their child support order for their parenting schedule. More than half of judges (54%) said that more than 50% of parties request adjustments for the parenting schedule. Among BCSS respondents, only 16% said that more than 50% of cases requested adjustments for parenting time, 24% said 26%–50% of cases had requests for adjustments, and 60% said that less than quarter of their cases requested adjustments. The question did not try to identify differences between divorce and parenting cases and state petition cases. This may explain the disparity among the responses from attorneys, judges, and BCSS. BCSS respondents would be more familiar with state petition cases.

Split custody is a special type of shared custody. Split custody can occur if there are at least two children, and one child lives with one parent and another child lives with the other parent. Sixty percent of valid attorney responses indicated they encountered at least one case where there was a request or a consideration of split custody in the last year. Judges and BCSS respondents reported higher rates (i.e., 92% among judges and 88% among BCSS respondents).

Judges were also asked how often they deviate for shared residential responsibility and split custody. Among judges who noted specific amounts, half noted they make a deviation for parenting time in 25% or less of their cases and the other half noted they make a deviation for parenting time more often. Only one responding judge indicated they deviated more than half the time for parenting time. Deviations for split custody were less frequently noted. Almost half of the responding judges reported they deviated for split custody in about 1%–5% of the cases.

New Hampshire has very specific deviation criteria pertaining to deviations for equal residential responsibility. Judges were asked to rate the usefulness of three provisions using a 1–5 scale, where 1 is not at all useful and 5 is very useful.

- Most judge respondents (84%) believe that the deviation criterion that states, “In cases of equal or approximately equal residential responsibility, the parents have agreed to the specific apportionment of variable expenses for the children (e.g., school supplies and childcare expenses),” is somewhat or very useful.
- Most judge respondents (62%) believe that the deviation criterion stating, “Whether the obligor-parent has established that the equal or approximately equal residential responsibility will result in reduction of any of the fixed costs of childrearing by the obligee parent,” is not useful.
- Most judge respondents (92%) believe that the deviation criterion stating, “Whether the income of the lower earning parent enables that parent to meet the costs of childrearing in a similar or in a style to which they have become accustomed,” is somewhat or very useful.

In the comment section of the survey, one respondent clarified why the provision about fixed cost is not that useful: a fixed cost by definition (such as housing expenses) cannot be reduced, so the deviation requirement cannot be applied.

The survey asked several other questions aimed at structuring a parenting time formula: this includes the type of formula, addressing specific types of childrearing expenditures, and the level of timesharing that should be reached before applying the timesharing formula.

Type of Formula

One of the survey questions asked what adjustment for shared physical custody made the most sense, and is appropriate, fair, and practical to apply. The options included formulas used by other states and the option for respondents to write in. Exhibit 35 shows there was no overwhelming consensus on which formula would be best. The most frequently favored formula was the cross-credit formula, which is the option that starts with a “Calculate a theoretical order for each parent” The cross-credit formula is the most used parenting time formula in state child support guidelines. Almost one-third (32%) of respondents favored it. It was the top choice among all subgroups except BCSS respondents. BCSS respondents favored a sliding scale percentage more so than the other options.

There were over a dozen suggestions in the other category. Only one was a specific formula. It called for an adjustment based on a per-diem cost of the child, but also considered which expenses would be picked up by one parent (e.g., cell phone plan). Most of the other suggestions were actually concepts. Concepts mentioned more than once concerned how to treat equal (50/50) custody, advocated for an adjustment that considered both time and income, or suggested that some expenses that are only incurred by one parent be treated separately. A few suggested splitting the cost when there is equal (50/50) physical custody, but there was no consensus. Some suggested that income should also be considered when there was equal (50/50) physical custody or that the quality of living be equalized.

Exhibit 35: Percentage of Responses to “Thinking about how to apply an adjustment for shared physical custody, which adjustment makes the most sense, is appropriate, fair, and practical to apply?”

Type of Adjustment	All Respondents (N=221)	Parents (N=70)	Judicial Officers, Attorneys, Courts (N=48)	BCSS (N=57)	Other (N=46)
A simple percentage reduction that does not vary with the amount of time.	8%	10%	4%	12%	4%
Sliding scale percentages that vary with the amount of time.	25%	26%	17%	37%	22%
Calculate a theoretical order for each parent, adjust it for the child’s time with the other parent, then offset it. The parent with the larger amount owes the other parent a difference.	32%	31%	48%	26%	26%
There should be no standard formula.	13%	16%	17%	12%	4%
Other	7%	9%	2%	2%	17%
Don’t know/Don’t have an opinion	13%	9%	13%	11%	26%

Judges were also asked what formula they actually applied. Among the judges responding to this question, most used the cross-credit formula. For split custody, responding judges overwhelmingly noted that they calculate a theoretical order for Parent A for the children living with Parent B and a theoretical order for Parent B for the children living with Parent A, then offset the two theoretical orders with the difference being the order owed by the parent with the larger theoretical order.

Childrearing Expenses Considered in Timesharing Formula

Some timesharing formulas used in state guidelines recognize that some types of childrearing expenditures are time-dependent (e.g., food expenses depend on which parent has the child during meal time), that some may be duplicated (e.g., housing), and others are incurred by only one parent (e.g., cell phone plan). A challenge to using this approach is categorizing each type of childrearing expense by whether it is time dependent, duplicated, or incurred by one parent only. To this end, the survey included a question that listed 13 different types of childrearing expenses and asked respondents their opinion on how often paying parents pick up that expense. Exhibit 36 shows the results of that question. It shows the three most frequent childrearing expenses incurred by the -paying parent when the child is with the paying parent every other weekend and every other holiday are food for the child, cost of the bedroom, and clothing. It also shows the three least frequently incurred expenses are a car for the child, cell phone plan, and transportation to school. A dozen respondents listed other expenses. School expenses and college were mentioned more than once. Examples of responses that were only mentioned once were pet supplies, therapy, and utilities.

Exhibit 36 not only identifies which expenses the paying parent is believed to incur, but how that perspective varies by type of respondent. There was no statistical difference among the perspectives of subgroups for about half of the items listed in Exhibit 36 (i.e., food, extracurricular activities, car, cell phone plan, medical expenses, and other), and some weak statistical difference among subgroups for the other half of the items listed in Exhibit 36. Those items that varied among respondent subgroups at a 95% confidence level were transportation to school, bedroom for the child, and clothing. Those items

that varied at a 90% confidence level were transportation to events, toys and books, and transportation between the parents for timesharing.

Another way to look at the issue is the reduction in childrearing expenses incurred by the receiving parent (i.e., the parent with more time with the child) because the paying parent is incurring them when the child is with the paying parent. For example, if food is time-variable, we would expect to see a \$1-for-\$1 reduction in food costs.⁷⁵ Still another example is housing. Since housing is a fixed cost, we would expect to see no reduction in housing cost.

Exhibit 36: Perceived Average Frequency that Paying Parent Picks up Childrearing Expense when the Child is with the Paying Parent Every Other Weekend and Every Other Holiday

Childrearing Expense	Average Frequency Based on Opinion of Respondent (based on a 1–5 scale, where 1 = never, 2 = rarely, 3 = sometimes, 4 = usually, and 5 = always)				
	All Respondents (N=224)	Parents (N=72)	Judicial Officers, Attorneys, Courts (N=48)	BCSS (N=57)	Other (N=47)
Food for the child	(N=194) 3.4	(N=65) 3.5	(N=44) 3.6	(N=48) 3.5	(N=37) 3.0
Transportation to school	(N=189) 2.7	(N=66) 3.0	(N=41) 2.5	(N=46) 2.6	(N=36) 2.2
Transportation to child events (e.g., sports, birthday parties, music lessons, etc.)	(N=190) 2.8	(N=68) 3.1	(N=43) 2.7	(N=43) 2.8	(N=36) 2.5
Bedroom for the child	(N=193) 3.6	(N=66) 3.7	(N=43) 3.8	(N=47) 3.7	(N=37) 3.1
Clothing for the child	(N=193) 3.3	(N=68) 3.6	(N=41) 3.1	(N=46) 3.3	(N=38) 2.9
Medical expenses	(N=188) 3.1	(N=66) 3.2	(N=41) 3.2	(N=44) 2.9	(N=37) 2.8
Extracurricular expenses	(N=194) 2.9	(N=68) 3.0	(N=42) 2.7	(N=46) 3.0	(N=38) 2.7
Toys and books	(N=193) 3.2	(N=68) 3.5	(N=41) 3.2	(N=46) 3.1	(N=38) 2.9
Bike for the child	(N=181) 3.0	(N=66) 3.1	(N=35) 3.1	(N=43) 2.8	(N=37) 2.7
Car for the child	(N=168) 2.6	(N=59) 2.9	(N=33) 2.5	(N=40) 2.5	(N=36) 2.5
Cost of transportation between parent's houses	(N=197) 3.1	(N=68) 3.4	(N=43) 3.0	(N=48) 3.2	(N=38) 2.7
Cell phone plan	(N=174) 2.7	(N=59) 2.7	(N=40) 2.8	(N=39) 2.6	(N=36) 2.8
Other	(N=23) 2.8	(N=10) 3.0	(N=3) 3.0	(N=5) 2.8	(N=5) 2.4

⁷⁵ This is the convention used in timesharing adjustments. Still other states (e.g., New Jersey and the previous Pennsylvania adjustment) assumed that there wasn't a \$1-for-\$1 transfer in food expenses for the child due to volume discounting. For example, the obligee-parent may have bought a gallon of milk, but only buys a quart because the child is with the other parent for the weekend. The per-ounce price differential between a gallon of milk and a quart of milk may skew this perceived \$1-for-\$1 cost of food.

Exhibit 37 shows the results from that question. There is some concern that the question was misunderstood because the results show that most respondents believe there is no (\$0) or a small reduction in the receiving parent’s childrearing expenditures when the child is with the paying parent. For example, 77% of respondents thought there was a \$0 or small reduction in the receiving parent’s food costs for the child when the child is with the other parent. (As an aside, parents were the least likely to believe there is no or a small reduction.) If respondents did not misunderstand the question and the responses are taken at face value, it would suggest little adjustment for timesharing if the policy objective were to keep an adequate level of support in the receiving parent’s household for the children.

Exhibit 37: Percentage Believing There is a \$0 or Small Reduction in the Childrearing Expense Incurred by the Receiving Parent (Parent with More Time) when the Child is with the Paying Parent Every Other Weekend and Every Other Holiday

Childrearing Expense	Percentage of Respondents That Believe that There is a \$0 or Small Reduction in the Expense to the Receiving Parent when the Children Are with Other Parent				
	All Respondents (N=224)	Parents (N=72)	Judicial Officers, Attorneys, Courts (N=48)	BCSS (N=57)	Other (N=47)
Food for the child	(N=191) 77%	(N=64) 61%	(N=43) 86%	(N=48) 83%	(N=36) 89%
Transportation to school	(N=186) 80%	(N=63) 60%	(N=39) 90%	(N=48) 87%	(N=36) 92%
Transportation to child events (e.g., sports, birthday parties, music lessons, etc.)	(N=190) 79%	(N=64) 59%	(N=42) 90%	(N=48) 87%	(N=36) 89%
Bedroom for the child	(N=186) 78%	(N=62) 63%	(N=41) 85%	(N=47) 87%	(N=36) 83%
Clothing for the child	(N=188) 78%	(N=64) 63%	(N=41) 88%	(N=47) 81%	(N=36) 89%
Toys and books	(N=188) 78%	(N=64) 63%	(N=41) 88%	(N=47) 83%	(N=36) 89%
School supplies	(N=185) 77%	(N=63) 62%	(N=40) 85%	(N=46) 80%	(N=36) 89%
Entertainment fees	(N=189) 76%	(N=63) 57%	(N=43) 91%	(N=47) 85%	(N=36) 78%
Extracurricular fees	(N=189) 74%	(N=64) 61%	(N=41) 80%	(N=48) 77%	(N=36) 83%
Other	(N=33) 73%	(N=15) 53%	(N=2) 100%	(N=6) 83%	(N=10) 90%

Regarding which expenses picked up by the paying parent during timesharing reduced the receiving parent’s expenses, there was even more variation among subgroups. There were some statistical differences for each type of expense listed in Exhibit 37, except extracurricular fees and other.

Timesharing Threshold for Applying the Formula

Several states guidelines require a certain level of timesharing before the timesharing formula can be applied (e.g., 92 overnights or 25% timesharing). It is usually at the point where it is believed that the paying parent incurs a substantial amount of childrearing expenditures and the receiving parent realizes

a reduction in childrearing expenditures because the child is with the other parent.⁷⁶ One survey question asked respondents their opinion about how many days should a paying parent have with the child before the child support order is reduced. Another question asked survey respondents their opinion on how many days it takes for the child to be with the paying-parent before the receiving parent experiences a reduction in childrearing costs. Exhibit 38 summarizes the responses to those survey questions. It shows the average number of days being 10.4 to 13.5, depending on the respondent category and the specific question. In other words, this is about 30%–45% timesharing. On average, parents reported a lower level, while the “other” respondent group opined a higher amount. The difference is statistically significant among subgroups.

Exhibit 38: Perceived Average Number of Days per Month Required for Timesharing Adjustment and Actual Reduction in Childrearing Expenses

Number of Days per Month that Child is with Paying Parent	Average Number of Days According to the Opinions of the Respondents				
	All Respondents (N=224)	Parents (N=72)	Judicial Officers, Attorneys, Courts (N=48)	BCSS (N=57)	Other (N=47)
Required for paying parent to have a reduced child support order	(N=184) 11.8	(N=61) 10.4	(N=38) 12.4	(N=51) 12.1	(N=34) 13.5
When the primary parent begins to see a reduction in childrearing costs	(N=182) 11.5	(N=60) 10.2	(N=41) 11.6	(N=49) 12.1	(N=32) 12.6

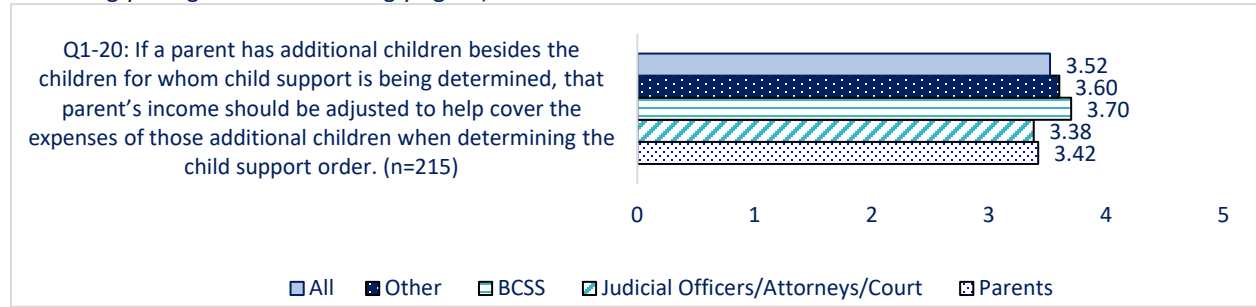
SUPPORT OF ADDITIONAL CHILDREN

One of the findings from the analysis of case file data was that deviations in state petitions for a parent’s other children were being made. Although not clear from the data, it is assumed that these other children were not subject to a child support order and probably lived with the parent. The New Hampshire guidelines provide an income adjustment for other children when there is a court order to support those other children, but does not provide an adjustment for children without a child support order (other than a deviation), such as the circumstance when the children are living with the parent.

Exhibit 39 shows the average agreement score on statements regarding consideration for support of additional children. On average, there was some agreement by all respondents that a parent’s income should be adjusted. The statement did not consider whether the children were subject to a child support order.

⁷⁶ There is not definitive research on this issue largely because there is no data set tracking childrearing expenditures of matched households where the child spends a significant amount of time in each parent’s household.

Exhibit 39: Average Agreement Score Regarding Adjustment for Support of Additional Children (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



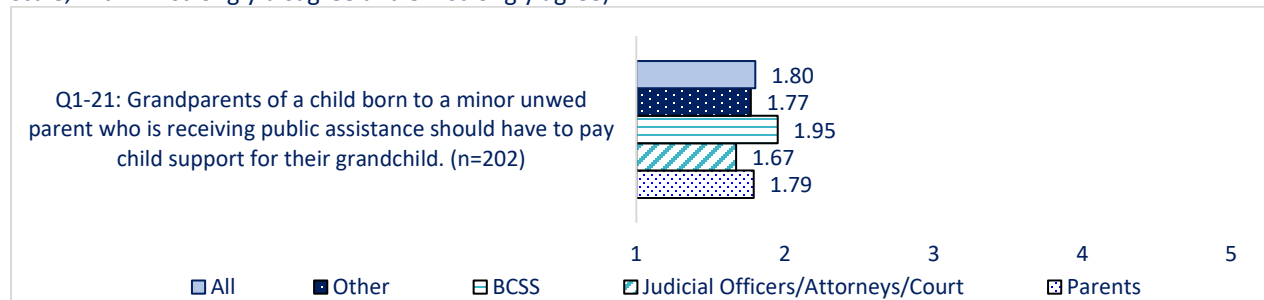
Open-Ended Responses Relevant to Support for Additional Children

There were only a few comments specifically mentioning additional dependents. A couple of respondents favored income adjustments for additional children and spoke of the economic burden of supporting more than one child when the children live with different parents. One respondent suggested eliminating all adjustments for additional dependents because the paying-parent made the choice to have more children.

RESPONSIBILITY OF GRANDPARENTS

One survey question asked of all survey respondents was about the responsibility of grandparents for support of a child born to unwed parents receiving public assistance. This question refers to N.H. Rev. Stat. § 167:3-a, which addresses grandparent liability for public assistance when such assistance is provided to a child born to an unwed minor.⁷⁷ On average, all respondents disagreed with the statement. Responses between groups did not vary significantly.

Exhibit 40: Average Agreement Score on Responsibility of Grandparents for Support for Minor Parents (1–5 scale, with 1 = strongly disagree and 5 = strongly agree)



There were several other questions directed to judges/hearing officers, attorneys, and BCSS staff and administrators on grandparent liability. Some aimed to gain information about how frequently these cases occurred and other questions solicited policy perspectives or how to address the issue.

⁷⁷ New Hampshire Revised Statute § 167:3-a.

- **Cases with Possible Grandparent Liability are Infrequent.** Among the judges, attorneys, court staff, and BCSS staff that were asked how frequently they encounter cases where grandparent liability is an issue, the majority (67%) had encountered no such cases in the past five years. Another 15% reported that they did not know. A very small percentage (3%) had encountered more than 20 grandparent liability cases in the past five years.
- **Judges Responding to the Survey Never Impose Grandparent Liability.** None of the 27 judges responding to the survey had imposed grandparent liability.
- **When Addressed, The Basis of the Support Order Amount Against the Grandparents Is Mixed.** Only 10% of respondents provided detail based on the support order amount against grandparents. The small percentage undoubtedly reflects low occurrence of grandparent liability cases. It was the amount of the public assistance grant among 4% of orders and the guidelines calculation based on the income of the parents among 6% of orders.
- **When Addressed, It Was Usually a Secondary Liability—That is, Support from the Biological Parent Was First Sought.** An even smaller percentage of respondents (7%) provided detail on secondary liability. Here too the small percentage undoubtedly reflects low occurrence of grandparent liability cases. Most (5% of all respondents) sought support from the biological parent first. Only 2% of all respondents answering this question did not. Most responding to this question (60%) had never imposed liability, and another 29% did not know.

Open-Ended Responses (Comments) Relevant to Grandparent Liability

There were two opportunities to provide written comments about grandparent liability. The last question asked for written recommendations. Grandparent liability was not mentioned in the written recommendation. Another question asked of attorneys, judges, court staff, and BCSS staff solicited their opinions on the statute. Over half of the written responses did not favor it. Some elaborated on why they did not favor it: grandparents are already burdened enough caring for aging parents and helping grandchildren avoid foster care and other burdens, and a grandparent cannot control a child’s lack of judgment. About a third favored it. Judges tended to favor it more than other subgroups. They usually suggested it was appropriate in some circumstances. One respondent took a pragmatic view by identifying the time and resources necessary to develop implementation rules (e.g., what formula to use, how to account for the parent’s contribution, and how to address grandparents receiving assistance).

OTHER COMMENTS AND RECOMMENDATIONS

Unequivocally, adjustments for shared-parenting time were the most common topic in the written comments. There were numerous other comments and recommendations with some frequency among respondents. They are summarized below.

- **Make the Guidelines Simple and Improve Parent Understanding of the Guidelines.** There were several suggestions to keep the guidelines simple and easy for guidelines users to understand.

There were at least two specific suggestions to help educate parents. One respondent suggested that educating parties of varying cultures and languages (e.g., Spanish, French, and Portuguese) and using public forums or training videos would be helpful.

- **Improve Enforcement.** There were several comments suggesting that more needs to be done to enforce and collect child support orders. Most of these comments came from individuals who were supposed to receive child support payments or attorneys.
- **Consider Regional Cost Differences.** There were a few comments mentioning regional cost differences in housing and other expenses should be considered, particularly in what the paying-parent could afford.
- **Eliminate Disincentive to Work.** There were a few comments about how the current guidelines create an economic incentive to work less or earn less money. The logic was based on the parent with lesser income receiving the child support order.
- **Require Child Support Accounting.** There were a few recommendations to require documentation on how the child support money was spent.

CHAPTER 4: ECONOMIC DATA ON THE COST OF RAISING CHILDREN AND GUIDELINES PERCENTAGES

This chapter fulfills the federal requirement to consider the economic data on the cost of raising children as part of a state’s child support guidelines review. The data is compared to the New Hampshire child support formula contained in statute (N.H. Rev. Stat. § 458-C:3). Shown in Exhibit 41, the formula is referred to as the guidelines percentages throughout this chapter. The economic data is also used to prepare updated percentages. The updated percentages are about the same or less than the existing percentages for about half of the income bands. The 2018 guidelines review arrived at a similar finding for all income bands. Moreover, the updated economic data suggest that increases are appropriate for two and more children, particularly in the low to middle-income bands. Based on case examples using New Hampshire incomes, this would increase order amounts by about \$40–\$75 per month. These amounts are not trivial; they could make a difference in the children’s financial well-being.

Exhibit 41: Percentage of Combined Income to Be Devoted to Child Support according to Statute

Net Annual Income	1 Child	2 Children	3 Children	4 or more Children
\$15,000 or less	25.6%	35.5%	42.5%	45.0%
\$25,000	25.0%	35.0%	42.0%	44.5%
\$35,000	24.0%	33.5%	40.5%	43.0%
\$50,000	23.0%	31.5%	38.0%	40.5%
\$60,000	22.0%	30.5%	36.5%	39.0%
\$70,000	21.5%	30.0%	36.0%	38.5%
\$80,000	21.0%	29.0%	35.0%	37.5%
\$90,000	21.0%	28.5%	34.5%	37.0%
\$100,000	20.0%	27.5%	33.0%	35.5%
\$125,000 or more	19.0%	26.0%	31.0%	33.5%

OVERVIEW OF THE EXISTING SCHEDULE AND ITS BASIS

State statute directs the Department of Health and Human Services (DHHS) to calculate and publish a schedule of child support amounts based on guidelines percentages. In practice, this is called the “Child Support Guideline Calculation Table.” State statute requires that the schedule must be in at least \$1,000-income increments and provide gradual changes between the income bands and their respective percentages.⁷⁸ Exhibit 42 shows an excerpt of the current table. The actual table is 98 pages long. No other state provides a table in a similar format or length. As an illustration of use, assume that the obligor-parent’s gross income is \$2,600 per month and the obligee-parent’s gross income is \$2,000 per month. Their combined gross income per month is \$4,600. As shown in Exhibit 42 the combined monthly net income equivalent for \$4,600 per month is \$3,841.87. The total support obligation owed by both parents is calculated using the percentage shown in the last column of Exhibit 42 (23.260%)

⁷⁸ For example, the amounts for combined net incomes between \$25,000 and \$35,000 per year are interpolated between 24.0 and 25.0%. To further illustrate, the percentage at a combined net income between \$30,000 per year would be 24.5% because the income is halfway between the two income ranges and the percentage is halfway between the percentages.

multiplied by a net income (\$3,841.87), which yields a total child support obligation of \$893.62 per month. This amount is also shown in the second to the last column in Exhibit 42. Each parent is responsible for their prorated share. The obligor-parent's prorated share is their adjusted gross income divided by the combined income of the parents (\$2,600 divided by \$4,600), which is 56.5%. When multiplied by \$893.62, it yields \$505 per month. This is the basis of the child support order assuming no

Exhibit 42: Excerpt of 2022 Schedule Meeting State Statutory Requirements (also called the Child Support Guideline Calculation Table in practice)

COMBINED ADJUSTED MONTHLY GROSS INCOME		MEDIAN COMBINED ADJ. MONTHLY GROSS INCOME	TAX DEDUCTIONS*		COMBINED MONTHLY NET INCOME	ONE CHILD	
			FEDERAL TAXES	FICA/MEDICARE		AMOUNT	% OF NET
4600	- 4609	4,604.50	410.39	352.24	3,841.87	\$893.62	23.260%
4610	- 4619	4,614.50	412.59	353.01	3,848.90	\$895.25	23.260%
4620	- 4629	4,624.50	414.79	353.77	3,855.94	\$896.63	23.253%
4630	- 4639	4,634.50	416.99	354.54	3,862.97	\$898.01	23.247%
4640	- 4649	4,644.50	419.19	355.30	3,870.01	\$899.39	23.240%
4650	- 4659	4,654.50	421.39	356.07	3,877.04	\$900.77	23.233%
4660	- 4669	4,664.50	423.59	356.83	3,884.08	\$902.14	23.227%
4670	- 4679	4,674.50	425.79	357.60	3,891.11	\$903.78	23.227%
4680	- 4689	4,684.50	427.99	358.36	3,898.15	\$905.15	23.220%
4690	- 4699	4,694.50	430.19	359.13	3,905.18	\$906.52	23.213%

other factors such as an income deduction for work-related childcare expenses or a deviation for shared physical custody. The Bureau of Child Support Services (BCSS) supplies an automated calculator that mimics the worksheet.⁷⁹ BCSS periodically updates the gross-to-net income conversion. The net incomes are used to update the amounts and percentage for one child, two children, three children, and four or more children.

According to the report documenting the 2018 review,⁸⁰ the existing percentages became effective in 2014. As shown in Exhibit 43, which considers one-child percentages,⁸¹ they were partially based on the recommendations that the University of New Hampshire made in their 2009 guidelines review.⁸² The report also proposed updated percentages in 2018 but they were not adopted.

Before the 2014 change, the percentages did not decline with more income. The report clarified that the percentages should be decreasing with income because they mimic actual expenditures patterns—that is, as income rises, the percentage devoted to childrearing expenditures declines. In its 2018 report, the report noted that the legislated percentages are larger for higher-income families than the 2009 recommended percentages. The report did suggest one possible rationalization for adopting higher amounts: the small sample size of higher income families increases the margin of error for higher incomes. In other words, the percentages may still be in the statistical range of their respective point estimate given the margin of error.

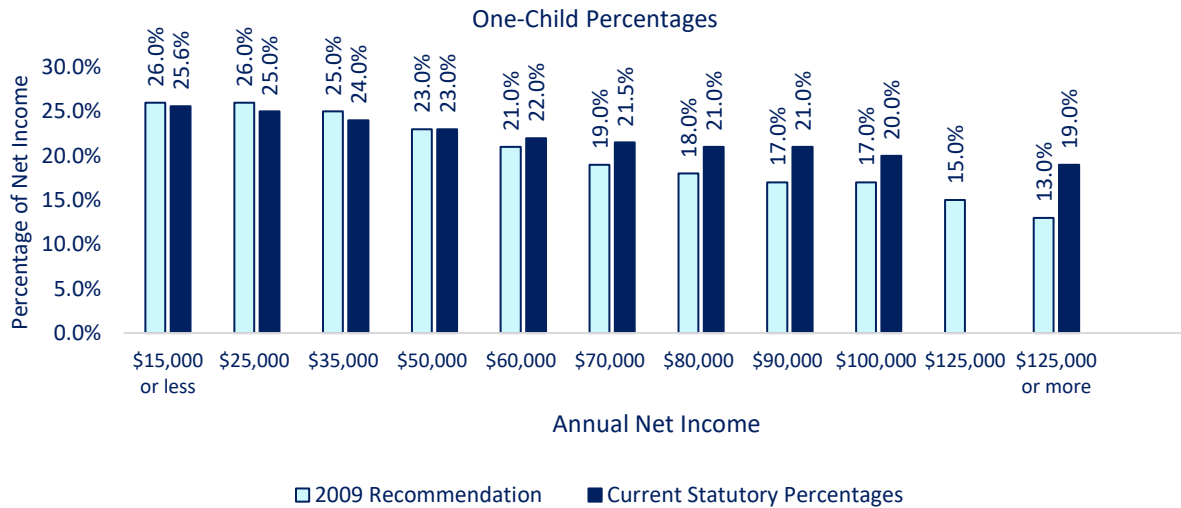
⁷⁹ The automated calculator is available at https://business.nh.gov/dhhs_Calculator/.

⁸⁰ Smith, Kristin, et al. (Nov. 2018). *2018 New Hampshire Child Support Guidelines Review Report*. Submitted to the New Hampshire Department of Health and Human Services Bureau of Child Support Services by The Carsey School of Public Policy at the University of New Hampshire. Retrieved from <https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents/2021-11/css-guidelines-review-2018.pdf>.

⁸¹ Similar differences exist for two and more children.

⁸² Smith, Kristin, et al. (Nov. 2018). University of New Hampshire. p. 52.

Exhibit 43: Comparison of 2009 Recommendation and the Current Statutory Percentages



Economic Basis of Current New Hampshire Percentages

The adoption of percentages that decrease with higher income was a major shift from the previous percentages. Prior to the 2014 changes, the percentage of net income at any level were:

- 25% for one child;
- 33% for two children;
- 40% for three children; and
- 45% for four or more children.

Besides the larger margin of error at higher incomes, adopting percentages higher than the recommendations may have also been a compromise with the prior percentages. Regardless, what matters today is how the existing percentages compare to the current economic evidence on childrearing expenditures. This is discussed later in this chapter.

The 2009 recommendations⁸³ were based on measurements of childrearing expenditures in the report from Oregon’s 2006 child support guidelines review.⁸⁴ As part of the Oregon review, Professor David Betson, University of Notre Dame, estimated childrearing expenditures by applying the Rothbarth methodology to expenditure data collected by families surveyed in 1998–2004. An economic methodology, such as Rothbarth, is needed to separate the child’s share of expenditures from total household expenditures. Dr. Jane Venohr (who is also the economist for New Hampshire’s 2022

⁸³ Smith, Malcolm, et al. (Mar. 2009). *2009 New Hampshire Child Support Guidelines Review and Recommendations*. Report to the New Hampshire Department of Health and Human Services Division of Child Support Services. University of New Hampshire Cooperation Extension. p. 47. Retrieved from <http://guidelineconomics.com/files/NH%202009%20child%20support%20guidelines%20report.pdf>.

⁸⁴ PSI. *State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Considerations*, Report to State of Oregon, Policy Studies Inc., Denver, CO. Retrieved from https://justice.oregon.gov/child-support/pdf/psi_guidelines_review_2006.pdf.

guidelines review and was the project director for the 2006 Oregon study) converted the Betson-Rothbarth (BR) measurements to a format that could be used by Oregon and other states for their child support schedule/percentages. Venohr's conversion table is cited as the recommended percentages in the 2009 University report.

The BR measurements relied on the Consumer Expenditure (CE) Survey⁸⁵ definition of expenditures at the time, which includes hundreds of items but excluded mortgage principal payments. Expenditures include mortgage interest, rent, utilities, HOA fees, and other housing expenses. At the time, payment of mortgage principal was considered savings. This premise was consistent with other economic principles that recognize a physical building (e.g., a home) is an investment (that can be used to create other economic goods) and can possibly be sold. At the time, home equity was more prevalent and often addressed in property settlements among divorcing couples. The data underlying childrearing expenditures now includes mortgage payments including payment of any second mortgage and home equity loans as well as mortgage interest, rent, and other housing expenses.

The adjusted BR measurements underlying the New Hampshire percentages consider 2005 price levels. These BR measurements were also adjusted to exclude average childcare expenses and average, out-of-pocket medical expenses for the children except the first \$250 per child per year. Childcare expenses and most healthcare expenses are excluded from child support schedules/percentages because the actual amounts are considered in the child support calculation on a case-by-case basis. The actual amount of work-related childcare expenses is considered because some families do not incur any childcare expenses, while others may incur significant amounts. Healthcare expenses also vary considerably from case to case. The New Hampshire guidelines provide that work-related childcare expenses and the cost of insuring the child be subtracted from the income of the parent incurring the expense. In most state guidelines, \$250 is retained in the schedule/percentages to cover a nominal amount of out-of-pocket healthcare expenses (e.g., cold medicine and copays) that are likely to be incurred.⁸⁶ The New Hampshire guidelines do not explicitly identify that the guidelines percentages include \$250 per child per year for ordinary out-of-pocket medical expenses. However, it does provide that ongoing, extraordinary medical expenses (likely to include expenses exceeding \$250 per year, e.g., the out-of-pocket expense to cover asthma treatments) are a deviation factor.

The 2006 Oregon study also found that childrearing expenditures as a percentage of total expenditures was consistent across all income ranges, but when childrearing expenditures were examined as a

⁸⁵ More information about the Consumer Expenditure Survey can be found at <https://www.bls.gov/cex/>.

⁸⁶ Most state guidelines do not provide these as income deductions. In contrast, most state guidelines provide that the actual amount expended for work-related childcare, the cost of insuring the child, and any out-of-pocket healthcare expenses in excess of \$250 per child per year be prorated between the parents. (This approach is often called "add-ons" to the basic obligation from the guidelines table. It is a more equitable approach than an income deduction. The income deduction approach results in the parent incurring the expense paying more than their prorated share.) Using the add-on approach, if the obligee-parent incurs the expense, the obligor-parent's prorated share is added to the base support order. Similarly, if the obligor-parent incurs the expense, the obligor-parent receives a credit to their base support order for the obligee-parent's share of childcare or out-of-pocket healthcare expenses. In the few states that exclude *all* healthcare expenses from the child support table/percentages, the expectation is that the parents will share all the child's out-of-pocket healthcare expenses. This may entail more sharing of receipts, record-keeping, and information sharing than when \$250 per child per year of healthcare expenses are included in the child support table/percentages.

percentage of after-tax income, the percentage declined with more income. This is because higher-income families tend to spend less and save more of their after-tax income, spend more on mortgage principal, and make more expenditures outside of the home (e.g., charitable donations and gifts). In short, the expenditures to after-tax income ratio declines with more income. This fact is what drives the declining percentages in the guidelines.⁸⁷

NEW STUDIES AND STUDIES USED IN STATE GUIDELINE SCHEDULES/PERCENTAGES

Eleven different studies of childrearing expenditures currently form the basis of state child support guidelines. The studies vary in data years and the methodology used to separate the child's share of expenditures from total household expenditures. Almost half of the studies in use are one of five Betson-Rothbarth (BR) studies. The first BR study was published in 1990 and used expenditures data from the 1980s;⁸⁸ the most recent BR study was published in 2021 and uses expenditures data from 2013–2019.⁸⁹ The New Hampshire percentages are based on the third BR study that relied on expenditure data collected in 1998–2004. In all, 33 states rely on one of the five BR studies.

The 2021 BR study is used by six states: Alabama, Arizona, Iowa, Missouri, Pennsylvania, and South Dakota. Several other states have recommendations and are proposing legislation to adopt guidelines schedules/percentages based on the fifth BR (BR5) study. There is also a Florida study⁹⁰ that uses the same data years as the BR5 study but is not used by any state as the basis of its guidelines. The choice of a study or even using a study for guidelines is a state policy decision. For the purposes of this report the BR5 will be used to develop updated New Hampshire percentages because they are the most current and are used by other states.

Exhibit 44 compares the findings from most studies underlying state guidelines.⁹¹ The findings are expressed as the average percentage of total expenditures devoted to childrearing expenditures for one, two, and three children. The average is across all income ranges. Most economists estimate childrearing expenditures as a percentage of total expenditures not after-tax or gross income to avoid any methodological issues that stem from an equation treating both as variables that explain expenditures

⁸⁷ Although this ratio of declining expenditures is incorporated in the economic data underlying most state guidelines, the District of Columbia rejected it in the development of its child support schedule. It was rejected based on public comment from a former guidelines Commission member. They argued that because of District of Columbia's extraordinarily high housing costs, families with child support cases save less. They need that extra savings for housing expenses. See *Report of the District of Columbia Child Support Guideline Commission: Part II*. (Jul. 2004).

⁸⁸ Betson, David M. (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.

⁸⁹ Betson, David M. (2021). "Appendix A: Parental Expenditures on Children: Rothbarth Estimates." In Venohr, Jane, & Matyasic, Savannah. (Feb. 23, 2021). *Review of the Arizona Child Support Guidelines: Findings from the Analysis of Case File Data and Updating the Child Support Schedule*. Report to the Arizona Supreme Court Administrative Office of the Courts. Retrieved from <https://www.azcourts.gov/Portals/74/FCIC-CSGR/SupplementalPacket-030121-FCIC-CSGRS.pdf?ver=2021-02-26-161844-187>.

⁹⁰ Norribin, Stefan C., et al. (Nov. 2021). *Review and Update of Florida's Child Support Guidelines*. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>.

⁹¹ Exhibit 4 does not include Kansas study, which is an older study that is only used by Kansas. It is excluded because its findings are not presented in a way that is comparable to the other studies.

when having children and number of children are related to income. Exhibit 44 also includes a few studies not in use by any state.

Overview of Economic Methodologies and State Usage

Exhibit 44 shows the three major economic methods for measuring childrearing expenditures: Rothbarth, Engel, and USDA. Besides the 33 states that rely on BR measurements, New Jersey relies on a Rothbarth estimate developed by Professor William Rodgers of Rutgers University. About a half a dozen of states rely on Engel estimates. Apart from Georgia, which uses the average of an Engel estimate and a BR estimate, all states relying on the Engel estimate use the 1984 Espenshade study.

Minnesota and Maryland are the only states to use the USDA study. (Maryland uses a BR study for lower incomes and the USDA study for higher incomes.) All New England states except Massachusetts rely on a BR study. The developers of the Massachusetts schedule specifically note that they did not adhere to any one study when recommending changes; rather, they factored in “a range of legal, policy and practical considerations.”⁹² New York and a few other states use the van der Gaag (1981) study.⁹³ It should be noted that the van der Gaag study was not original research but rather a literature review.

As shown in Exhibit 44, the USDA amounts are typically the highest. Most conventional economists believe that the Rothbarth methodology understates actual childrearing expenditures. Until recently, it was believed that the USDA and Engel methodologies overstated actual childrearing expenditures. Recent research conducted for the Georgia child support guidelines review found that the Engel methodology no longer overstates childrearing expenditures and attributes the decline to a technical issue concerning the measurement of food and more discretion in food expenditures as a budget item than when food was deemed purely a necessity item in a household budget.

States rarely adapt study results verbatim. They tend to adjust a study’s estimate of childrearing expenditures to exclude childcare expenses and out-of-pocket healthcare expenses for the child as described previously, account for the state’s cost-of-living or income when a state’s levels differ remarkably from the national average, consider the obligor-parent’s direct cost of the child during parenting time, consider another factor, or consider a combination of factors. A few states combine study results to form their guidelines schedule/percentages.

⁹² Sarro, Mark, Polek, Christine, & Sandy, Shastri. (Jul. 23. 2021). *Economic Review of the Massachusetts Child Support Guidelines 2020–2021*. Prepared for Commonwealth of Massachusetts Executive Office of the Trial Court 2020–2021 Child Support Guidelines Task Force. Page 2. Retrieved from <https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2020-2021/download>.

⁹³ van der Gaag, Jacques. (1981). *On Measuring the Cost of Children*. Discussion Paper 663-81. University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.

Exhibit 44: Comparison of Findings from Studies of Childrearing Expenditures⁹⁴

Economic Methodology	Economist and Data Years	Average Childrearing Expenditures as a Percentage of Total Expenditures		
		1 Child	2 Children	3 Children
Point estimate from literature review	van der Gaag (no year specified)	25.0%	37.5%	50.0%
Rothbarth	Betson ⁹⁵			
	2013–2019	24.9%	38.4%	47.0%
	2004–2009	23.5%	36.5%	44.9%
	1998–2004	25.2%	36.8%	43.8%
	1996–1998	25.6%	35.9%	41.6%
	1980–1986	24.2%	34.2%	39.2%
	Rodgers/Replication of Betson ⁹⁶			
	2004–2009	22.2%	34.8%	43.2%
	Rodgers ⁹⁷			
	2000–2015	19.2%	24.1%	30.8%
	2004–2009	21.5%	24.4%	33.4%
	2000–2011	21.0%	25.0%	31.0%
Florida State University ⁹⁸				
	2013–2019	21.3%	33.4%	41.4%
2009–2015	24.9%	38.3%	46.9%	
Engel	Florida State University ⁹⁹			
	2013–2019	21.5%	33.6%	41.6%
	2009–2015	20.3%	32.6%	41.4%
	Betson ¹⁰⁰			
	1996–1998	32.0%	39.0%	49.0%
	1980–1986	33.0%	46.0%	58.0%
Espenshade ¹⁰¹				
	1972–73	24.0%	41.0%	51.0%
USDA ¹⁰²	2011–2015	26.0%	39.0%	49.0%

⁹⁴ Adapted from Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 2022*. San Francisco, CA. Exhibit 9, p. 52. Retrieved from <https://www.courts.ca.gov/documents/Review-of-Uniform-Child-Support-Guideline-2021.pdf>.

⁹⁵ Betson, David M. (2021). "Appendix A: Parental Expenditures on Children: Rothbarth Estimates." *Review of the Arizona Child Support Guidelines: Findings from the Analysis of Case File Data and Updating the Child Support Schedule*. Report to the Arizona Supreme Court Administrative Office of the Courts. Retrieved from <https://www.azcourts.gov/Portals/74/FCIC-CSGR/SupplementalPacket-030121-FCIC-CSGRS.pdf?ver=2021-02-26-161844-187>.

⁹⁶ Rodgers, William M. (2017). "Comparative Economic Analysis of Current Economic Research on Childrearing Expenditures." In Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 2017*. San Francisco, CA. Retrieved from <http://www.courts.ca.gov/documents/lr-2018-JC-review-of-statewide-CS-guideline-2017-Fam-4054a.pdf>.

⁹⁷ *Ibid.*

⁹⁸ Norribin, Stefan C., et al. (Nov. 2021). Review and Update of Florida's Child Support Guidelines. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>. The third quintile is used for the average in the Florida studies because they do not report an average. Rather, they report quintiles. The third is the midpoint.

⁹⁹ *Ibid.*

¹⁰⁰ Betson (2021).

¹⁰¹ Espenshade, Thomas. (1984). *Investing in Children: New Estimates of Parental Expenditures*. Urban Institute Press: Wash. DC.

¹⁰² Lino, Mark, et al. (2017). *Expenditures on Children by Families, 2015*. Misc. Pub. No. 1528-2015. U.S. Dept. of Agriculture, Center for Nutrition & Policy Promotion, Washington, D.C. Retrieved from https://cdn2.hubspot.net/hubfs/10700/blog-files/USDA_Expenditures%20on%20children%20by%20family.pdf?t=1520090048492.

Most studies only prepare estimates for one, two, and three children. There are few households with four or more children to reach the sample size necessary to produce reliable estimates. Instead, equivalence scales are used to adjust child support schedules/formulas for more children.¹⁰³ Most state guidelines consider up to six children. New Hampshire considers up to four children and applies the amounts for four children to five and more children. The analysis of New Hampshire case file data found only 1% of orders were for four or more children.

Premises of the Different Methodologies

The requirement for presumptive state child support guidelines was passed by Congress through the Family Support Act of 1988. The Act also mandated the U.S. Department of Health and Human Services to conduct a study analyzing expenditures on children and explain how the analysis could be used to help states develop child support guidelines. This was completed by two reports that were both released in 1990. One was by Professor David Betson of the University of Notre Dame.¹⁰⁴ Using five different economic methodologies to measure childrearing expenditures, he concluded that the Rothbarth methodology was the most robust and recommended that it be used for state guidelines.¹⁰⁵

At the time of Betson's 1990 study, most states were using Engel estimates developed in 1984 by Dr. Thomas Espenshade, referenced in Exhibit 44. The Espenshade study formed the basis of the prototype income shares model developed through the National Child Support Guidelines project published in 1987.¹⁰⁶ New Hampshire did not adapt the prototype income shares model, but many New England states did. Betson also estimated childrearing expenditures using the Engel methodology for his 1990 study.

The Engel and Rothbarth methodologies are considered marginal cost approaches: they consider the expenditure differences between a couple with children versus a couple without children where the couples are equally well off.¹⁰⁷ In the most recent BR study, only couples where the adults were ages 18 through 65 were selected. The difference in expenditures is deemed to be childrearing expenditures. The Engel and Rothbarth methodologies use different indicators of equally well-off families. The Engel

¹⁰³ Equivalence scales are often used to adjust for family sizes when comparing poverty levels in international research. An equivalence scale published by National Academy of Science publication is commonly used. Citro, Constance F., & Robert T. Michael (eds.). (1995). *Measuring Poverty: A New Approach*. National Academy Press. Washington, D.C.

¹⁰⁴ Betson, David M. (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.

¹⁰⁵ The term "robust" in statistics is used to mean that the statistics yield good performance that are largely unaffected by outliers or sensitive to small changes to the assumptions.

¹⁰⁶ 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.

¹⁰⁷ The concept of equally well off is used in the economic sciences to calculate compensating differentials.

methodology uses food shares while the Rothbarth methodology relies on expenditures for adult goods to determine equally well-off families.¹⁰⁸

The USDA methodology is considered a direct approach to measuring childrearing expenditures, while both the Rothbarth and Engel methodologies are considered indirect approaches. Direct approaches attempt to enumerate expenditures for major categories of expenses (e.g., housing, food, transportation, clothing, healthcare, childcare and education, and miscellaneous expenses), then add them together to estimate the total cost of raising children. The major limitation to a direct approach is that there is still a need for a methodology to separate the child's share of expenditures from the household total, such as the situation for the child's housing expenses.

Exhibit 44 also shows that application of one methodology can produce different results depending on the economist applying it and the data years. For example, Rodgers' attempt to replicate the BR results applied to 2004–2009 expenditure data are about one to two percentage points different. This may result from Betson and Rodgers using different functional forms when estimating childrearing expenditures.¹⁰⁹ Data years can also make a difference whether there are actual changes in childrearing expenditures over time or the result of improvements to the CE over time.

Consumer Expenditure (CE) Survey: Overview and Changes over Time

Apart from van der Gaag's literature review, all studies noted in Exhibit 44 rely on CE data. Conducted by the U.S. Bureau of Labor Statistics (BLS), the CE is a comprehensive and rigorous survey with over a hundred-year history.¹¹⁰ Today, the CE surveys about 6,000 households per quarter on hundreds of expenditures items.¹¹¹ Households stay in the survey for four quarters and rotate in and out each quarter. The primary purpose is to calibrate the market basket of economic goods that government economists use to measure changes in price levels over time.¹¹² The sampling is not designed to produce state-specific measurements of expenditures.¹¹³ To expand the CE so it could produce state-specific measurements would require a much larger sample and other resources and would take several years. Economists typically pool multiple data years to obtain an adequate sample size.

One concern is the impact that the COVID-19 pandemic has on childrearing expenditures. The pandemic began in Spring 2020, and the most current estimates consider CE data through 2019. Consumer

¹⁰⁸ Specifically, Betson uses adult clothes, whereas earlier studies applying the Rothbarth estimator use adult clothing, alcohol, and tobacco, regardless of whether expenditures are made on these items. Betson has conducted sensitivity analysis and found little difference in using the alternative definitions of adult goods.

¹⁰⁹ For example, Betson allows for a non-linear relationship, which allows for expenditures to change at a non-constant rate.

¹¹⁰ U.S. Bureau of Labor Statistics (BLS). (Jun. 28, 2018). *130 Years of Consumer Expenditures*. Retrieved from <https://www.bls.gov/cex/csxhistorical.htm>.

¹¹¹ There are two components to the CE survey. Each starts with a sample of about 12,000 households. One component is a diary survey, the other an interview survey. The results from the interview survey are the primary data source for measuring childrearing expenditures. Nonetheless, the BLS uses both components to cross-check the quality of the data. More information can be found at U.S. Bureau of Labor Statistics. (n.d.). *Handbook of Methods: Consumer Expenditures and Income*. p. 16. Retrieved from <https://www.bls.gov/opub/hom/cex/pdf/cex.pdf>.

¹¹² Inflation is measured by changes in the cost of the market basket. The market basket is recalibrated periodically to reflect changes in taste (e.g., it may include white shirts until white shirts go out of style).

¹¹³ The BLS has recently begun conducting statewide surveys in the five largest states.

expenditures in general declined 9.8% in the first year of the pandemic and were 15.7% higher in the second year.¹¹⁴ The change varied considerably by expenditure item. For example, there was more variation in the amount expended for food away from home in the two years than there was for healthcare. It may take years to collect and analyze the data before the true impact is known. As is, updated estimates of childrearing expenditures are not routinely conducted, which is a problem for states that want to periodically update their guidelines. One state usually initiates a study (e.g., Arizona initiated the BR5 Study and California initiated the BR4 study). This process can further delay when new estimates become available.

Changes in the CE over Time

Committed to producing data that are of consistently high statistical quality, relevance, and timeliness, the BLS closely monitors and continuously assesses the quality of the CE and makes improvements when appropriate. Some of these improvements have occurred in between BR studies and thus affect differences in results among BR study years.

Changes in the CE that affect Differences between the BR3 and BR4 Estimates

In between the BR3 and BR4 estimates, the BLS improved how it captured income data and began measuring outlays which includes mortgage principal payments.

- **Improved measure of income.** Noticing that on average low-income families spend more than their after-tax income, the BLS improved how it measures income. The improvements appeared to reclassify some lower income households as having more income in the BR4 and BR5 samples than would have been classified previously as low income in earlier BR samples. Indirectly, this may explain some of the decreased amounts at low incomes from the BR3 study to the BR4 and BR5 studies shown in the next subsection.
- **Switch to outlays (and consequentially include mortgage principal payments).** The BR4 and BR5 studies use outlays instead of expenditures like the earlier BR studies did. Expenditures track closely with how gross domestic product (GDP) is measured. GDP considers houses to be investments (physical capital), so the BLS did not consider mortgage principal payments to be an expenditure item. It did include and continues to include mortgage interest, HOA fees, rent, utilities, and other housing expenses. Outlays consider all monthly expenses (e.g., mortgage principal payments and interest, and payments on second mortgages and home equity loans) and installment payments (e.g., for major appliances and automobiles). Expenditures include the total price of an item at the time of purchase (yet Betson did an adjustment for automobile purchases in the BR1, BR2, and BR3 studies). In short, outlays more accurately reflect how families spend and budget on a monthly basis. The impact of the switch appears to be increased expenditures on children at higher incomes from the BR3 studies to the BR4 and BR5 studies. This is likely because higher income families are

¹¹⁴ U.S. Bureau of Labor Statistics. (May 2022). *Changes to Consumer Expenditures during the Covid-19 Pandemic*. Retrieved from <https://www.bls.gov/opub/ted/2022/changes-to-consumer-expenditures-during-the-covid-19-pandemic.htm>.

more likely to purchase items via installments, have higher installment payments, and more mortgage principal that they are paying down.

Changes Beginning with the BR5

The major change with the BR5 study was an improvement in how taxes were measured. In prior surveys, households would self-report taxes. The BLS learned that families underestimated taxes paid, particularly at high incomes. Beginning in 2013, the BLS began using their internal tax calculator to calculate each household’s taxes. Although this improved the measure of after-tax income, it also effectively reduced the after-tax income available for expenditures. Another indirect impact was the average ratio of expenditures to after-tax income increased. The ratio is used to convert a measurement of child-rearing expenditures to a child support schedule or percentages. The ultimate impact was an increase from the BR4-based child support schedules/percentages to the BR5-based child support schedules/percentages for high-income families because they pay a higher amount of taxes.

In addition, a small improvement to the child’s share of healthcare expenses was made for BR5. It better reflects the child’s share of the family’s total out-of-pocket expenses. This results in nominal increases at very low incomes and nominal decreases at very high incomes.

Variation in BR Measurements over Time and Income

Exhibit 45 shows small variation in the percentage of total expenditures devoted to one child over time. The existing New Hampshire percentages are based on BR3. The updated New Hampshire percentages are developed from BR5.

Exhibit 45: Comparisons of Betson-Rothbarth (BR) Measurements over Time

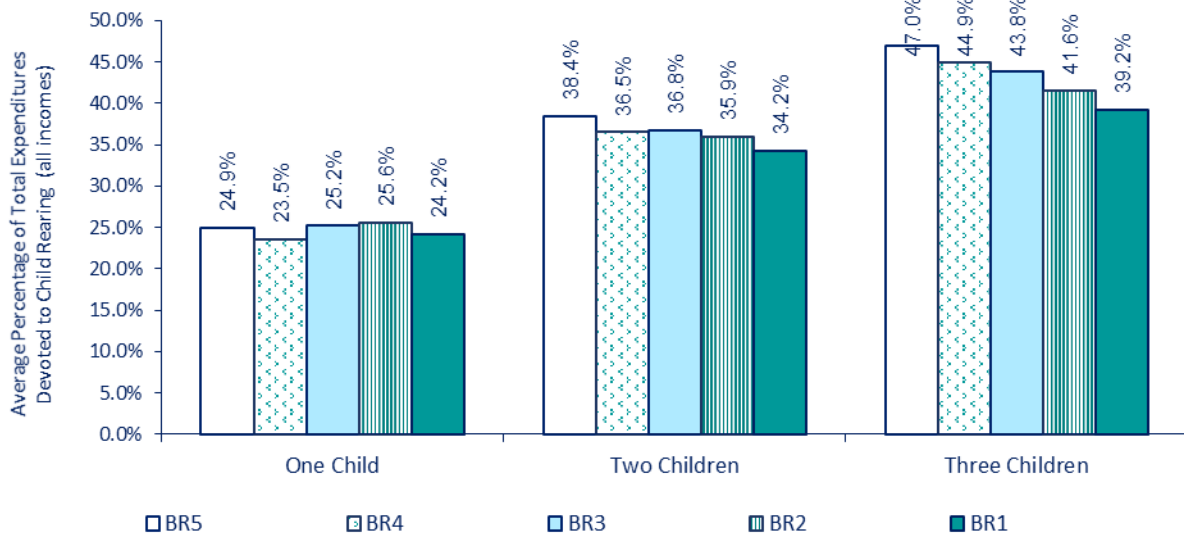


Exhibit 45 suggests small differences in the one-child percentages over time. The difference between the lowest and the highest estimate for one child is less than two percentage points. This is less than the standard deviation in the estimates due to sampling variation.

For two and three children, Exhibit 45 shows the percentage of total expenditures devoted to childrearing expenditures increasing slightly over time. However, Betson suggests that expenditures for two and three children should be examined in context of marginal expenditures—that is, starting with expenditures for the first child, how much more was spent for the second child? If the same amount is spent, the marginal increase in expenditures is 100%. If the amount is less than 100%, there is some economies of scale to having more children. The BR studies find that the marginal increase in expenditures from one to two children is about 40%–55%, depending on the age of the study, and that the marginal increase in expenditures from two to three children is about 15%–23%, depending on the age of the study. Generally, the older studies have smaller marginal increases, while the more recent studies have larger marginal increases. This suggests that the economies of scale of having more children is decreasing slightly. In turn, this suggests slightly larger increases to updated percentages for more children.

Comparisons of BR Measurements by Income Ranges

Exhibit 46, Exhibit 47, and Exhibit 48 compare the BR measurements for one, two, and three children over time by net income range. It shows that BR5 percentages are generally less than the BR3 percentages at low incomes and the BR5 percentages are generally more than the BR3 percentages at high incomes. The decreases at low income may result from the BLS's improved income measure. The increases at high incomes may be the result of the switch from expenditures to outlays. Higher incomes are more leveraged and thus more likely to have larger home mortgages and consumption items purchased through installment plans.

Development of the Comparisons

There are several adjustments made to make the comparison. Due to these adjustments, the percentages shown in the exhibits are not comparable to those in Exhibit 45, which compares the BR measurements as a percentage of total expenditures. Total expenditures equal net income only if the household spends all its after-tax income and not more and not less. If it spends more than its after-tax income, the household is borrowing or using credit. If it spends less than its after-tax income, it typically has savings as illustrated in Exhibit 49. For the purposes of comparisons, expenditures were converted to a net income basis using the expenditures to after-tax income ratios from the same subset of families Betson considers when developing his measurements of childrearing expenditures. For each study, Betson found that, on average, low-income families spend more than their after-tax income and high-income families spend less than their after-tax income. When childrearing expenditures as a percentage of total expenditures are converted to a percentage of after-tax income by adjusting them for average expenditure to income ratios, it produces the downward sloping trend line evident in Exhibit 46, Exhibit 47, and Exhibit 48. If converted to gross income, the downward trend becomes steeper because federal income tax rates are progressive.

Due to reasons relating to economic theory and modeling, Betson must measure childrearing expenditures as a percentage of a household's total expenditures rather than income. For purposes of analyzing how childrearing expenditures vary with income, Betson develops measurements of childrearing expenditures and the ratio of expenditures to after-tax income for about 25 income ranges,

with the actual number varying by study year. (See Appendix D for the income ranges using the same data set used for the BR5 study.)

Exhibit 46: Comparisons of BR Measurements by After-Tax Income for One Child

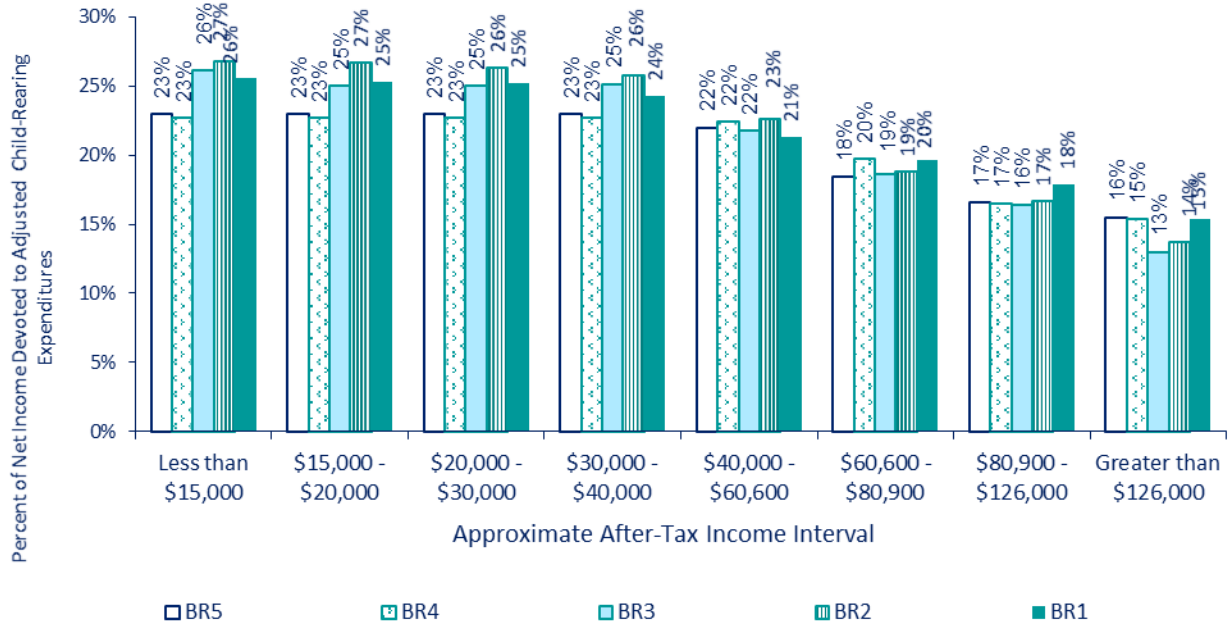


Exhibit 47: Comparisons of BR Measurements by After-Tax Income for Two Children

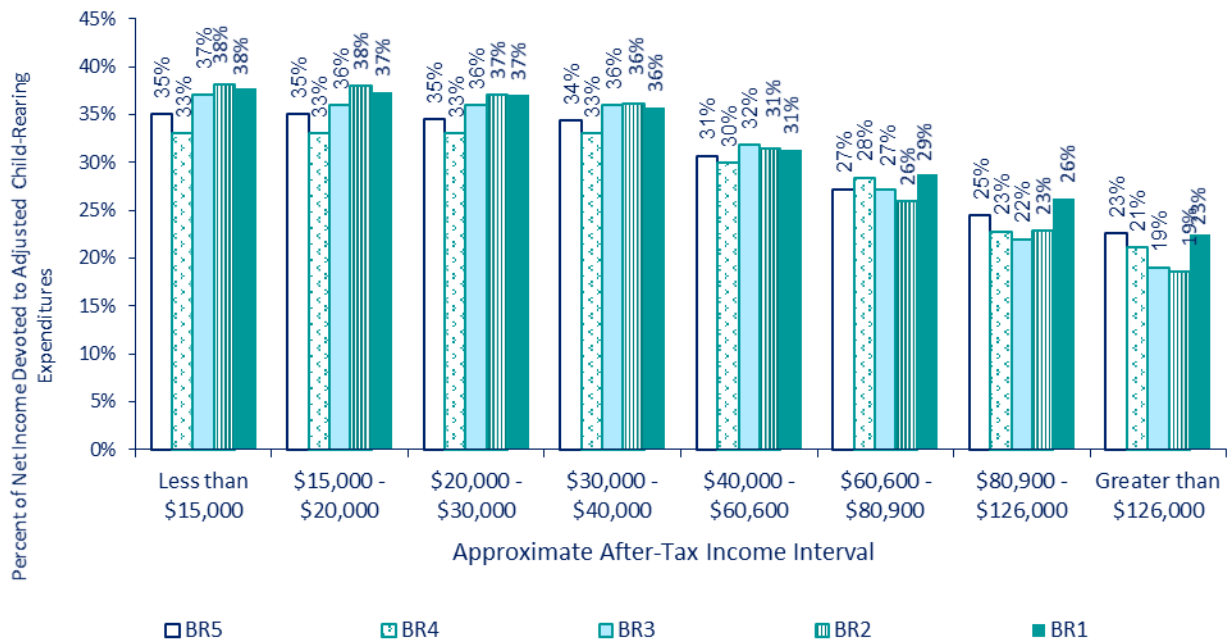
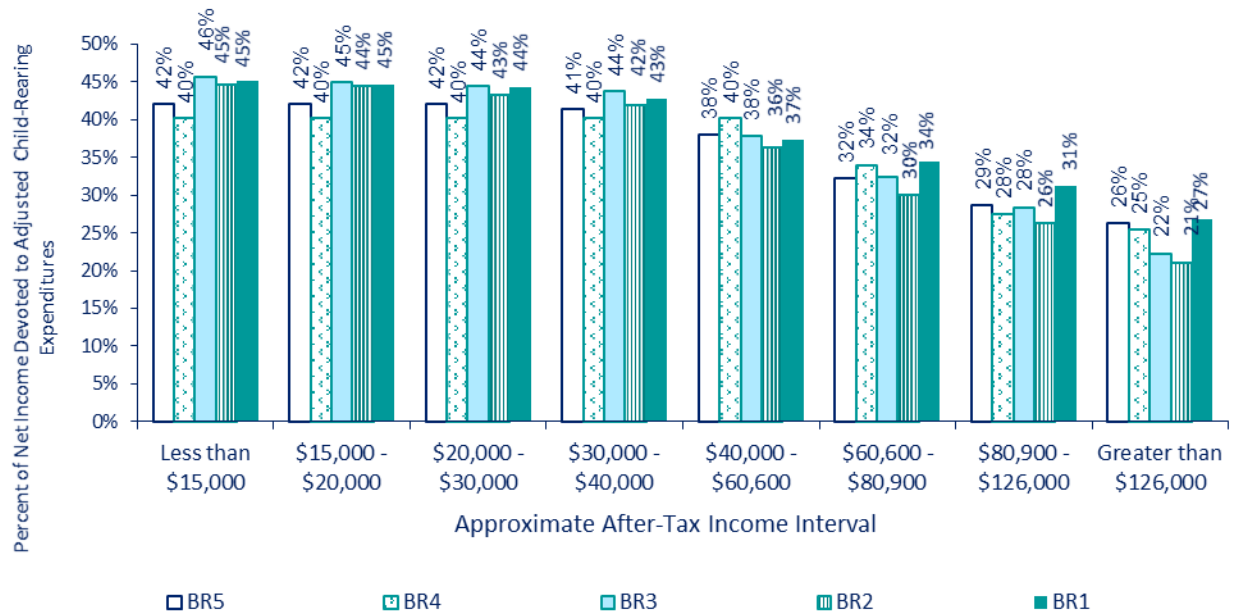


Exhibit 48: Comparisons of BR Measurements by After-Tax Income for Three Children



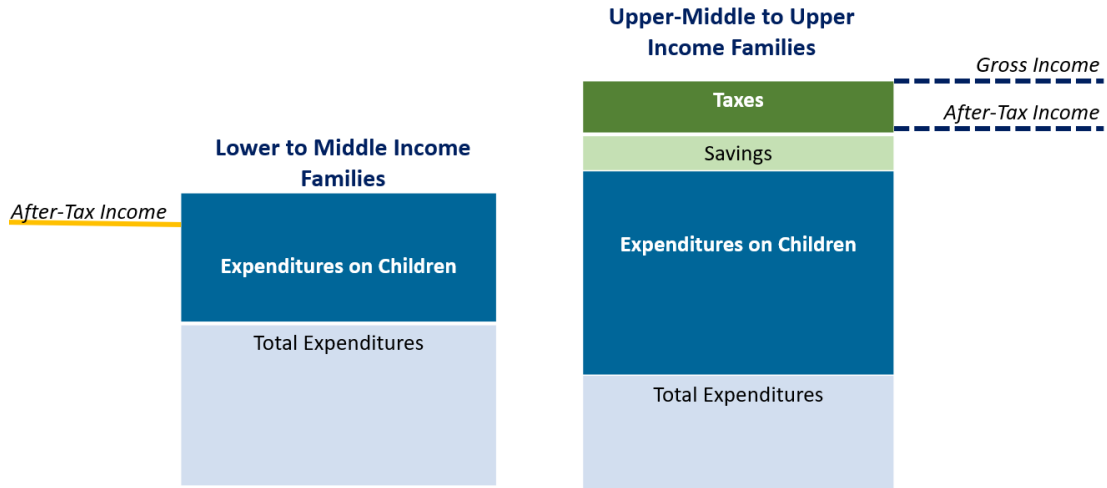
Another issue of comparability is that each study considers a different price level. The last three Betson studies (BR3, BR4, and BR5) shown in the exhibits are converted to 2020 incomes and exclude the child’s health insurance, extraordinary medical expenses, and childcare expenses. New Hampshire and most states exclude these items from their schedules/percentages. A final adjustment is the capping of expenditures such that they do not exceed after-tax income. This affects the percentages for low incomes only because they spend more than their income on average. The underlying assumption of the cap is that families should not be required to spend more than their income.

Expenditures and After-Tax Income

In general, most of the observed changes for all BR measurements by income over time can be explained by the conversion to after-tax income, improvements to the CE, or new CE data fields. To understand the changes, it is important to remember that the BR measurements of childrearing expenditures, measured as percentages of total expenditures are transformed to a net income basis. As shown in the Exhibit 49, families may spend less, all, or more than their after-tax income. For those who spend less than their after-tax income, that circumstance reduces the percentage of their after-tax income devoted to childrearing expenditures. Those who spend all—and not more and not less—of their income, there is no adjustment. To transform the percentages related to expenditures to after-tax, CPR uses the average ratio of expenditures to income for each income range from the same subset of families Betson uses to measure childrearing expenditures. As shown in Exhibit 49, on average, low-income families spend more than their income. Since most states do not want to require parents to spend more than their income, CPR caps expenditures at after-tax income. This was also done in the Oregon study that was used to develop the current New Hampshire percentages.

At upper-middle to upper incomes, families also incur taxes and save. This reduces the after-tax income available for childrearing expenditures

Exhibit 49: Relationship between Expenditures and Income



Other Economic Studies of Childrearing Expenditures

Besides the BR studies, Exhibit 44 shows a few more studies that have been conducted since the New Hampshire percentages became effective in 2014.

USDA (2017)

The most current USDA study considers childrearing expenditures in 2015.¹¹⁵ The USDA first measures expenditures for seven different categories (i.e., housing, food, transportation, clothing, healthcare, childcare and education, and miscellaneous), then adds them to arrive at a total measurement of childrearing expenditures. Some of the methodologies use a pro rata approach, which is believed to overstate childrearing expenditures. The USDA found that average childrearing expenses were \$11,200 to \$25,720 per year for the youngest child in a two-child family living in the Urban Northeast in 2015 (about \$933 to \$2,143 per month). The amount varies by the age of the child and household income. For rural areas, the amount varied from \$7,650 to \$17,000 per year for the youngest child in a two-child family in 2015.

¹¹⁵ Lino, Mark. (2017). *Expenditures on Children by Families: 2015 Annual Report*. U.S. Department of Agriculture, Center for Nutrition and Policy Promotion. Miscellaneous Publication No. 1528-2015, Washington, D.C. Retrieved from <http://www.cnpp.usda.gov/publications/crc/crc2012.pdf>.

The 2013 New Jersey Study

Professor William Rodgers of Rutgers University applied a version of the Rothbarth methodology to 2000–2011 CE data to estimate childrearing expenditures, then adjusted it for New Jersey incomes.¹¹⁶ It forms the basis of the existing New Jersey child support table.

Rodgers-Rothbarth Measurements (2017)

The same economist who conducted the New Jersey study conducted a study for California in 2018 using the Rothbarth methodology applied to 2000–2015 CE data.¹¹⁷ Rodgers found that the average percentage of total expenditures devoted to child rearing is 19.2% for one child and 24.1% for two children. These amounts are less than the BR amounts. One concern with the Rodgers-Rothbarth measurements is that childrearing expenditures increase by less than five percentage points from one to two children. In other words, it costs only about 26% more for two children than it does to raise one child. By contrast, other studies typically find that the expenditures for two children are about 40%–60% more than they are for one child.

One reason Rodgers considered a larger period was to average out the expenditures patterns since there were some anomalous patterns associated with the Great Recession of 2007–2009 and its aftermath. Besides differences in data years, there are many differences between Betson’s approach and Rodgers’s approach that may explain the differences in their results. At this time, no state uses the Rodgers study as the basis of its guidelines formula

Florida State University Study

The Florida researchers estimated childrearing expenditures using both the Rothbarth approach and another marginal cost approach developed by Ernest Engel from 2013–2019 CE data.¹¹⁸ They reported their estimates as a percentage of consumption (total household expenditures) for five quintiles of income. Using the Rothbarth methodology, they ranged from 21.0%–21.5% for one child, 32.9%–33.7% for two children, and 40.8%–41.7% for three children. Neither Florida nor any other state rely on these measurements as the basis of their guidelines table or formula. The Rothbarth approaches employed by the Florida researchers and Betson also vary.

Comanor, et al. (2015)

Another study published in 2015 was led by Professor William Comanor of the University of California at Santa Barbara.¹¹⁹ It was not funded by any state and does not form the basis of any state guidelines. Professor Comanor developed his own methodology for measuring childrearing expenditures. It also

¹¹⁶ New Jersey Child Support Institute. (Mar. 2013). *Quadrennial Review: Final Report*, Institute for Families, Rutgers, the State University of New Jersey, New Brunswick, NJ. Retrieved from

http://www.judiciary.state.nj.us/reports2013/F0_NJ+QuadrennialReview-Final_3.22.13_complete.pdf.

¹¹⁷ Rodgers, William M. (2017). “Comparative Economic Analysis of Current Economic Research on Childrearing Expenditures.” In Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 2017*. San Francisco, CA. Retrieved from <http://www.courts.ca.gov/documents/lr-2018-JC-review-of-statewide-CS-guideline-2017-Fam-4054a.pdf>.

¹¹⁸ Norribin, Stefan C., et al. (Nov. 2021). Review and Update of Florida’s Child Support Guidelines. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>.

¹¹⁹ Comanor, William, Sarro, Mark, & Rogers, Mark. (2015). “The Monetary Cost of Raising Children.” In (ed.) *Economic and Legal Issues in Competition, Intellectual Property, Bankruptcy, and the Cost of Raising Children (Research in Law and Economics)*, Vol. 27). Emerald Group Publishing Limited, pp. 209–51.

compares expenditures between families with and without children. Gross income is used to equate equally well-off families. The difference in their expenditures is attributed to children. Comanor’s measurements rely on the 2004–2009 CE. In 2018, Comanor reported childrearing costs of \$3,421 per year for one child and \$4,291 per year for two children in low-income households.¹²⁰ For middle incomes (i.e., married couples with an average income of \$76,207 per year), Comanor reported childrearing costs of \$4,749 per year for one child and \$6,633 per year for two children. The amounts for low-income households are below poverty, and the amounts for middle incomes are just above poverty. The 2022 federal poverty guidelines were \$13,590 per year for one person and an additional \$4,720 per year for each additional person. The Comanor study found negative expenditures for the child’s healthcare expenses and did not estimate childrearing expenditures for entertainment and miscellaneous goods.

UPDATE OF THE STATUTORY FORMULA PERCENTAGES

The same approach used in the Oregon study that forms the basis of the New Hampshire percentages is used to create updated percentages for New Hampshire. Exhibit 50 summarizes them and possible alternatives.

Factor 1: Guidelines Model

The guidelines model is a policy decision and is important to directing what economic data on the cost of raising children to use. The most common principle used for state guidelines models is what University of Wisconsin researchers call the “continuity of expenditures model”—that is, the child support amount should allow the children to benefit from the same level of expenditures had the children and both parents lived together.¹²¹ In the income shares guidelines model—which is used by 41 states, including New Hampshire—the obligor-parent’s prorated share of that amount forms the basis of the guidelines-determined amount. Of the states that use the percentage-of-obligor-parent income guidelines model, most use the same economic studies but presume that the custodial parent contributes an equal dollar amount or percentage of income to childrearing expenditures.

Besides the income shares and the percentage-of-obligor-parent income guidelines model, Delaware, Hawaii, and Montana use the Melson formula, which is a hybrid of the income shares approach and the percentage-of-obligor-parent income guidelines. Each of these states prorates a basic level of support to meet the primary needs of the child; if the obligor-parent has any income remaining after meeting their share of the child’s primary support, basic needs, and payroll taxes,¹²² an additional percentage of income is added to their share of the child’s primary support.

¹²⁰ Comanor, William. (Nov. 8, 2018). *Presentation to Nebraska Child Support Advisory Commission*. Lincoln, NE.

¹²¹ Ingrid Rothe & Lawrence Berger. (Apr. 2007). “Estimating the Costs of Children: Theoretical Considerations Related to Transitions to Adulthood and the Valuation of Parental Time for Developing Child Support Guidelines.” *IRP Working Paper*, University of Wisconsin: Institute for Research on Poverty, Madison, WI.

¹²² Based on federal and state employer income withholding formula.

Exhibit 50: Major Assumptions and Data underlying Existing and Updated Percentages

Factor	Basis of Existing Percentages (Oregon Study) ¹²³	Basis of Updated Percentages	Other Alternatives/Notes
1. Guidelines model	Income shares model	Income shares model	<ul style="list-style-type: none"> 41 states use the income shares model Other states use Melson formula and percentage of obligor income
2. Economic study	Fourth Betson-Rothbarth (BR) study (2010)	Most current Betson-Rothbarth study (2021)	<ul style="list-style-type: none"> Other studies of childrearing expenditures
3. Price levels	2005 ¹²⁴	Nov. 2022	<ul style="list-style-type: none"> Prices have increased 51.3% between the two time periods
4. Exclude childcare; child’s health insurance premium; and extraordinary, out-of-pocket medical expenses	Excludes all but the first \$250 per child per year in ordinary, out-of-pocket medical expenses	No change	<ul style="list-style-type: none"> Retain assumption Exclude all healthcare expenses Ohio approach
5. Relate expenditures to after-tax income	Converts expenditures to net income using data from same families in CE that Betson uses and caps expenditures at 100%	No change in methodology, just more recent CE data used	<ul style="list-style-type: none"> Assume all after-tax income is spent
6. Other	None	Adjust for New Hampshire higher prices using New Hampshire price parity ¹²⁵	Realign for New Hampshire’s income

Research finds that other factors such as the economic basis, updates for changes in price levels, and adjustments for low-income parents contribute more to differences in state guidelines amounts than the guidelines model.¹²⁶ All states that have switched guidelines models in the last two decades have switched to the income shares model (i.e., Arkansas, District of Columbia, Georgia, Illinois, Massachusetts, Minnesota, and Tennessee). Common reasons for switching to the income shares model are its perception of equity because it considers each parent’s income in the calculation of support and its flexibility to consider individual case circumstances such as extraordinary childrearing expenses and

¹²³ PSI. *State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Considerations*, Report to State of Oregon, Policy Studies Inc., Denver, CO. Retrieved from https://justice.oregon.gov/child-support/pdf/psi_guidelines_review_2006.pdf.

¹²⁴ December 2005 CPI-U is used because the exact month was unknown.

¹²⁵ U.S. Bureau of Economic Analysis. (2021). *2020 Regional Price Parities by State (US = 100)*. Retrieved from <https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>.

¹²⁶ Venohr, J. (Apr. 2017). Differences in State Child Support Guidelines Amounts: Guidelines Models, Economic Basis, and Other Issues. *Journal of the American Academy of Matrimonial Lawyers*.

timesharing arrangements. Besides the guidelines models in use, there are several other models that have been proposed in several states.¹²⁷ Each have failed for various reasons.

Factor 2: Economic Study

What economic study to use is a policy decision. Since the existing New Hampshire percentages are based on an earlier BR study, the most current BR study is used for the update in this report.

Factor 3: Adjust to Current Price Levels

The existing percentages are based on 2005 price levels. The exact month is unknown. The updated percentages are based on November 2022 prices. From December 2005 to November 2022, prices have increased 51.3%. This does not mean a 51.3% increase in schedule amounts or percentages because as some of the increase is offset by increased incomes.

Factor 4: Exclude Childcare Expenses and Out-of-Pocket Healthcare Costs

The measurements of childrearing expenditures cover *all* childrearing expenditures, including childcare and out-of-pocket healthcare expenses for the child. This includes insurance premiums on behalf of the child and out-of-pocket, extraordinary, unreimbursed medical expenses such as deductibles. These expenses are widely variable among cases depending on the needs of the family. Instead of putting them in the schedule/percentages, the actual amounts of the expenses can be addressed on a case-by-case basis within the guidelines. To avoid double-accounting in the schedule/percentages, these expenses are subtracted from the measurements.

Inclusion of \$250 per Child per Year for Out-of-Pocket Medical Expenses

There is an exception to the exclusion of the child's healthcare expenses. An amount to cover ordinary, out-of-pocket healthcare expenses (e.g., cold medicine and copays) was retained in both the existing and updated schedule/percentages. The BR3 conversion in the Oregon report incorporated \$250 per child per year for ordinary out-of-pocket healthcare expenses based on data. That assumption is retained for the proposed updated schedule/percentages because the average is still near \$250 per child per year. The concern, however, is the amount varies significantly among those with Medicaid and those with private insurance, particularly with high deductibles. The 2015 Medical Expenditure Panel Survey (MEPS) finds that the average out-of-pocket medical expense per child was \$248 per year but varied depending on whether the child was enrolled in public insurance or had private insurance. Based on MEPS data, out-of-pocket medical expenses averaged \$63 per child per year for children who had public insurance and \$388 per child per year for those with private insurance.¹²⁸ The 2017 MEPS data, which is the most current available does not drilldown to the public insurance and private insurance

¹²⁷ For example, see the Child Outcomes Based Model discussed by the Arizona Child Support Guidelines Review Committee, Interim Report of the Committee, Submitted to Arizona Judicial Council, Phoenix, Arizona on October 21, 2009; the American Law Institute (ALI) model can be found in the 1999 Child Support Symposium published by *Family Law Quarterly* (Spring 1999), and the Cost Shares Model can be found at Foohey, Pamela. (2009). "Child Support and (In)ability to Pay: The case for the cost shares model." *Articles by Maurer Faculty*. 1276. Retrieved from <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2271&context=facpub>.

¹²⁸ U.S. Department of Health & Human Services Agency for Healthcare Research and Quality. (n.d.). *Medical Expenditure Panel Survey*. Retrieved from https://www.meps.ahrq.gov/mepsweb/data_stats/meps_query.jsp.

level, but does report an average for all children, \$271 per child, which is close to the \$250 level. Another study using the 2021 Current Population Survey Annual Social and Economic Supplement estimates that medical out-of-pocket expenditures averaged \$327 in 2020 for a child under 18 years.¹²⁹ The definition of medical out-of-pocket expenses includes spending on copays, prescriptions, medical supplies, and over-the-counter expenditures such as vitamins and pain relievers, but did not include the health insurance premium component.¹³⁰

Some states are responding to the disparity in out-of-pocket expenses between those with public insurance and those with private insurance in two ways. One way is to include *no* ordinary out-of-pocket medical expenses (e.g., Connecticut and Virginia) in their tables. This would reduce the table amounts. This means parents must share receipts for *all* out-of-pocket medical expenses, not just those exceeding \$250 per child per year. The major pro of this approach is it more accurate. The major cons are that it requires more information sharing and coordination between the parties and the burden falls on the parent incurring the expense. The parent incurring the expense must save receipts, notify the other parent, and initiate an enforcement action if the other party fails to pay their share. In addition to including no ordinary, out-of-pocket medical expenses in the tables, Michigan and Ohio take the method one step further by excluding all healthcare expenses from the table and providing a standardized amount of out-of-pocket medical expenses (e.g., \$388.70 per child per year in Ohio) that is added in the worksheet as a line item.

Factor 5: Conversion of Expenditures to After-Tax Income

The need for this conversion is illustrated by Exhibit 49 that shows families may spend more or less than their income. Betson reports the measurements of childrearing expenditures as a percentage of total expenditures. Thus, they must be converted from a percentage of total expenditures to a net income base. The conversion was done by taking the expenditures-to-income ratio for the same subset of CE families used to develop the measurements of childrearing expenditures for both the existing and updated guidelines percentages. The ratios from the most recent BR5 study are shown in Appendix D. An exception is made at lower incomes, because as shown in Exhibit 49, as on average they spend more than their after-tax income. Instead, it is assumed an expenditures-to-after-tax income ratio of 100% at low incomes. The premise is families should not be asked to spend more than their income.

This conversion method is common among most income shares guidelines. The only notable exception is the District of Columbia assumes that all after-tax income is spent. This results in larger percentage amounts.

Factor 6: Adjust for New Hampshire Prices

The Betson-Rothbarth (BR) measurements of childrearing expenditures consider U.S. average incomes and prices. Some states with above average cost-of-living (e.g., Maryland and Rhode Island and what is currently being proposed for Maine) use their state's price parity to adjust the national measurements

¹²⁹ Creamer, John. (Jun. 2022). *Examining the Impact of Medical Expenses on Supplemental Poverty Rates*. US Census Bureau, SEHSD WP 2022-13. Table 1. Retrieved from <https://www.census.gov/content/dam/Census/library/working-papers/2022/demo/sehswp2022-13.pdf>.

¹³⁰ *Ibid.* p. 5.

of childrearing expenditures. Published by the U.S. Bureau of Economic Analysis, price parity measures how much a region’s or state’s prices vary from the national average.¹³¹ The national average is set at 100%. If a state’s price parity is less than 100%, it has below-average price. If it is above 100%, it has above-average price. New Hampshire’s prices are 3.7% more than the national average. The adjusted BR5 percentages are increased by 3.7% to account for this.

Updated Guidelines Percentages

Exhibit 51 show the updated guidelines percentages in strikeout form with added text in red, underlined font. The first income band (\$15,000 or less) is struck because it would be less than the self-support reserve (SSR) based on 115% of the federal poverty guidelines (FPG) for one person (i.e., 115% of \$13,590 per year is \$15,629 per year using the 2022 FPG).

Exhibit 51: Percentage of Combined Income to Be Devoted to Child Support according to Statute

Net Annual Income	1 Child	2 Children	3 Children	4 or more Children
\$15,000 or less	25.6%	35.5%	42.5%	45.0%
\$25,000 or less	25.0% <u>23.9%</u>	35.0% <u>36.4%</u>	42.0% <u>44.0%</u>	44.5% <u>49.1%</u>
\$35,000	24.0% <u>23.9%</u>	33.5% <u>36.4%</u>	40.5% <u>44.0%</u>	43.0% <u>49.1%</u>
\$50,000	23.0% <u>23.5%</u>	31.5% <u>35.6%</u>	38.0% <u>42.6%</u>	40.5% <u>47.6%</u>
\$60,000	22.0% <u>22.0%</u>	30.5% <u>33.1%</u>	36.5% <u>39.6%</u>	39.0% <u>44.3%</u>
\$70,000	21.5% <u>20.5%</u>	30.0% <u>30.6%</u>	36.0% <u>36.4%</u>	38.5% <u>40.6%</u>
\$80,000	21.0% <u>19.2%</u>	29.0% <u>28.5%</u>	35.0% <u>33.7%</u>	37.5% <u>37.6%</u>
\$90,000	21.0% <u>18.7%</u>	28.5% <u>27.6%</u>	34.5% <u>32.4%</u>	37.0% <u>36.2%</u>
\$100,000	20.0% <u>18.2%</u>	27.5% <u>27.0%</u>	33.0% <u>31.8%</u>	35.5% <u>35.5%</u>
\$125,000 or more	19.0% <u>16.8%</u>	26.0% <u>24.6%</u>	31.0% <u>28.7%</u>	33.5% <u>32.0%</u>
\$150,000 or more	14.8% <u>14.8%</u>	21.8% <u>21.8%</u>	25.5% <u>25.5%</u>	28.5% <u>28.5%</u>

Unlike the existing percentages, the updated percentages are not rounded to the nearest 0.5. Instead, they show the actual amount to the first decimal point. Whether to round is a policy issue. Other income bands could also be used. These were selected to be consistent with the current income bands.

The update suggests increased percentages for two or more children at low and middle incomes (combined income up to \$70,000 net per month). This clearly reflects that economies of scale for more children (e.g., cost savings due to sharing of bedrooms and handed-down clothes) is decreasing and appears to drive the increases for two and more children. The decreases for one child in this income range are nominal and may result from sampling error.¹³² The update also shows the same percentages for the first two income bands (i.e., \$25,000 or less and \$35,000) as families in these income ranges spend more than after-tax income on average, so the estimates of childrearing expenditures are capped.

¹³¹ U.S. Bureau of Economic Analysis. (2021). *2020 Regional Price Parities by State (US = 100)*. Retrieved from <https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>.

¹³² Sampling error means the difference in means that results from two different random samples from the same universe. Sampling error is inherent to any sampling.

The update also suggests decreases starting at a combined net income of \$80,000 per year for two and three children and decreases starting at combined net incomes of \$90,000 per year for four or more children. These percentages are still generally more than the 2009 and 2019 recommendations, as expenditures have generally increased at high incomes.

IMPACT OF UPDATING STATUTORY PERCENTAGES

Case scenarios are used to assess the impact of updating the guidelines percentages (see Exhibit 52).

Exhibit 52: Case Scenarios Used for Comparisons

Case Scenario	Gross Monthly Income of Obligor-Parent	Gross Monthly Income of Obligee-Parent
1. Both parents earn state minimum wage (\$7.25 per hour) at 40 hours per week	\$1,257	\$1,257
2. Both parents earn \$10 per hour at 40 hours per week	\$2,080	\$2,080
3. Parent’s earnings are equivalent to median earnings of New Hampshire workers with less than a high school education	\$2,687	\$1,778
4. Parent’s earnings are equivalent to median earnings of New Hampshire workers whose highest educational attainment is a high school degree or GED	\$3,407	\$2,326
5. Parent’s earnings are equivalent to median earnings of New Hampshire workers whose highest educational attainment is some college or an associate’s degree	\$4,181	\$2,862
6. Parent’s earnings are equivalent to median earnings of New Hampshire workers whose highest educational attainment is a college degree	\$6,133	\$4,269
7. Parent’s earnings are equivalent to median earnings of New Hampshire workers whose highest educational attainment is graduate degree	\$8,298	\$5,719
8. High-income case: combined gross income of \$20,000 per month, parents have equal incomes	\$ 10,000	\$10,000

The first scenario assumes minimum-wage earnings at a 40-hour work week. The second scenario assumes earnings of \$10 per hour which was frequently used as an income imputation amount and is an attainable wage for entry level work based on the labor market data analysis. The median earnings of New Hampshire workers by highest educational attainment and gender are the basis of case scenarios 3–7. Earnings are reported for five levels of educational attainment and gender for New Hampshire workers by the U.S. Census 2021 American Community Survey. For simplicity, male median earnings are used as the incomes of the obligor-parent and female median earnings are used for the obligee-parent’s income. The last scenario considers high incomes. There are no adjustments for special factors such as the cost of childcare or a deviation for shared physical custody. The 2022 gross to net income conversion calculated in the Department-issued Guideline Calculation Table is used to convert gross to net income.

The comparisons also consider the guidelines of bordering states. Vermont has not updated its schedule since 2018. Maine’s guidelines are set in administrative rule, and Maine just conducted a public hearing to update their schedule based on the BR5 estimates adjusted for Maine’s below average prices.

Massachusetts has one of the highest guidelines in the nation and is not based on any particular study. Vermont has a more generous self-support reserve (\$1,359 net per month) than the other states compared. It applies to the first case scenario (i.e., a minimum order of \$50 per month is applied in Vermont) and the second case scenario when there are three children.

Exhibit 53, Exhibit 54, and Exhibit 55 show the graphical comparisons for the first four scenarios for one, two, and three children, respectively. Exhibit 56, Exhibit 57, and Exhibit 58 show the graphical comparisons for the last four scenarios for one, two, and three children. The patterns for four and more children are like those of three children. In general, the comparisons show the following:

- The updated percentages produce small increases of about \$40 to \$75 per month for Cases 3 and 4 for two and more children. This results from using the new economic evidence of childrearing expenditures that finds larger families are more expensive now. Based on the case file data, over a third (37%) of New Hampshire orders are for two or more children.
- The increases are smaller (about \$5 per month) for Cases 1 and 2 for two or more children. This results from the cap imposed for low-income families so they are not required to spend more than their income. Given that these two scenarios are low-income, the small adjustments are appropriate.
- The updated percentage produces a decrease for one-child amounts for all scenarios. The economic evidence did not indicate a significant change in expenditures as a percentage of total expenditures for one child. Based on the case file data, 63% New Hampshire of orders are for one child.
- The updated percentages suggest decreases for the high-income scenarios. This is consistent with the 2009 and 2018 recommendations. On the surface, any reduction is of concern because of the potential impact on children. The counterargument is there is unlikely to be a reduction because of the high deviation rate in New Hampshire, the finding that deviations are more common in cases with higher income, and deviations are generally downward.
- The existing New Hampshire percentages yield results close to Maine and Vermont for the first five case scenarios. The notable exception is when Vermont's self-support reserve (\$1,359 net per month in 2022) affects the first two case scenarios.
- As high incomes, the existing New Hampshire percentages produce amounts higher than the proposed Maine and Vermont guidelines largely because New Hampshire did not adapt the reduced percentages recommended by the previous studies.
- The Massachusetts guidelines yield amounts higher than all three states in all scenarios.

Exhibit 53: Scenarios 1–4: One Child

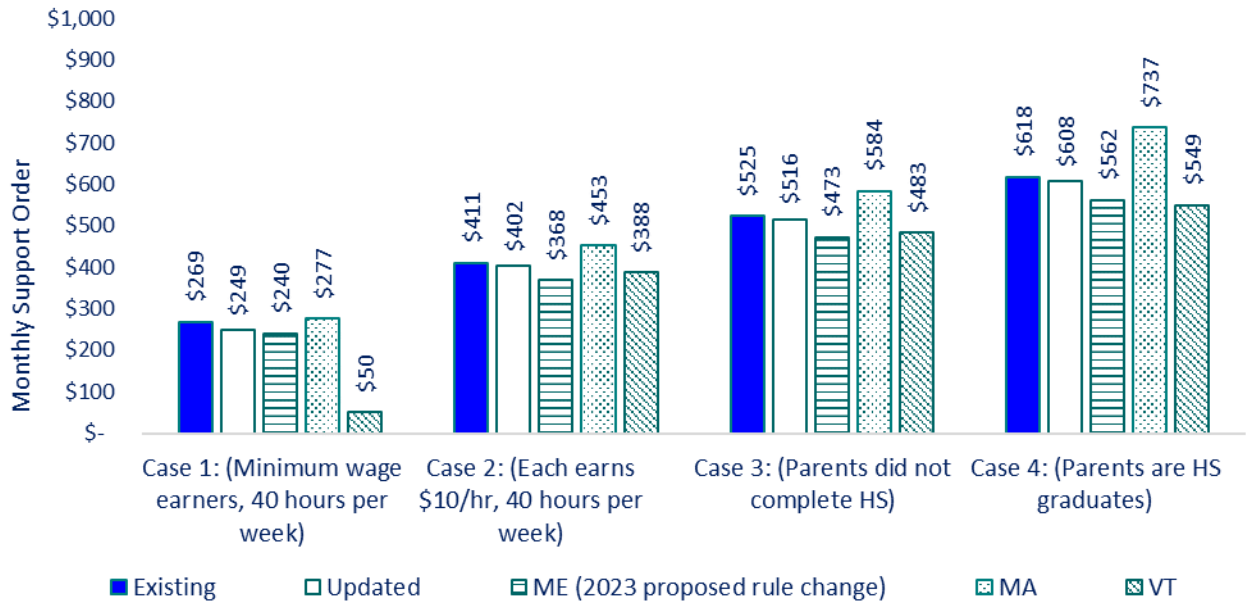


Exhibit 54: Scenarios 1–4: Two Children

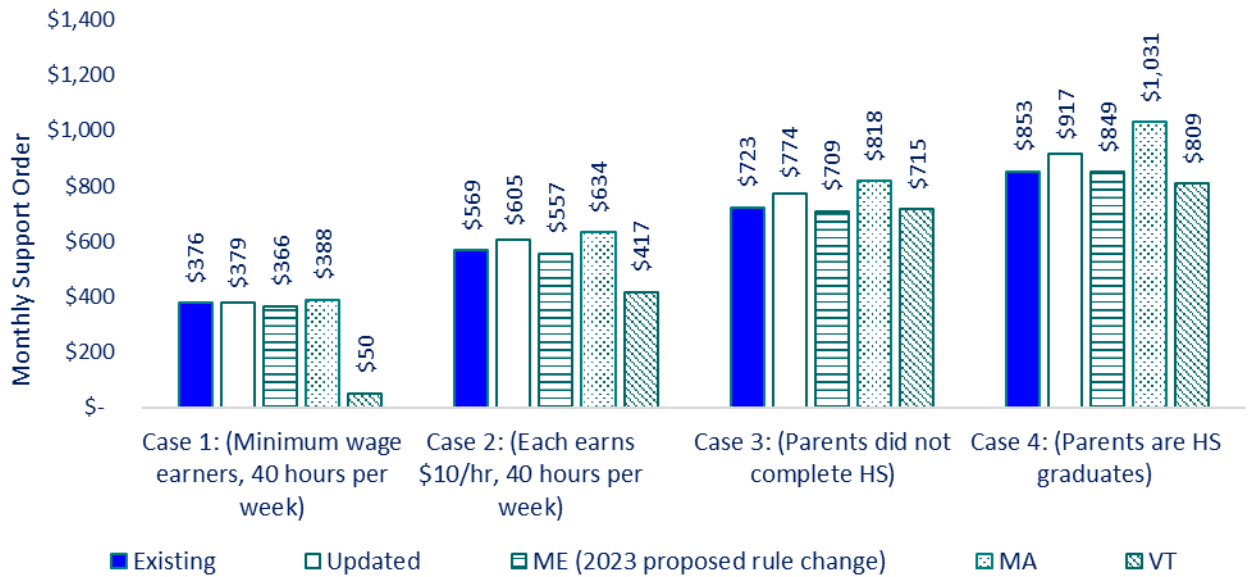


Exhibit 55: Scenarios 1–4: Three Children

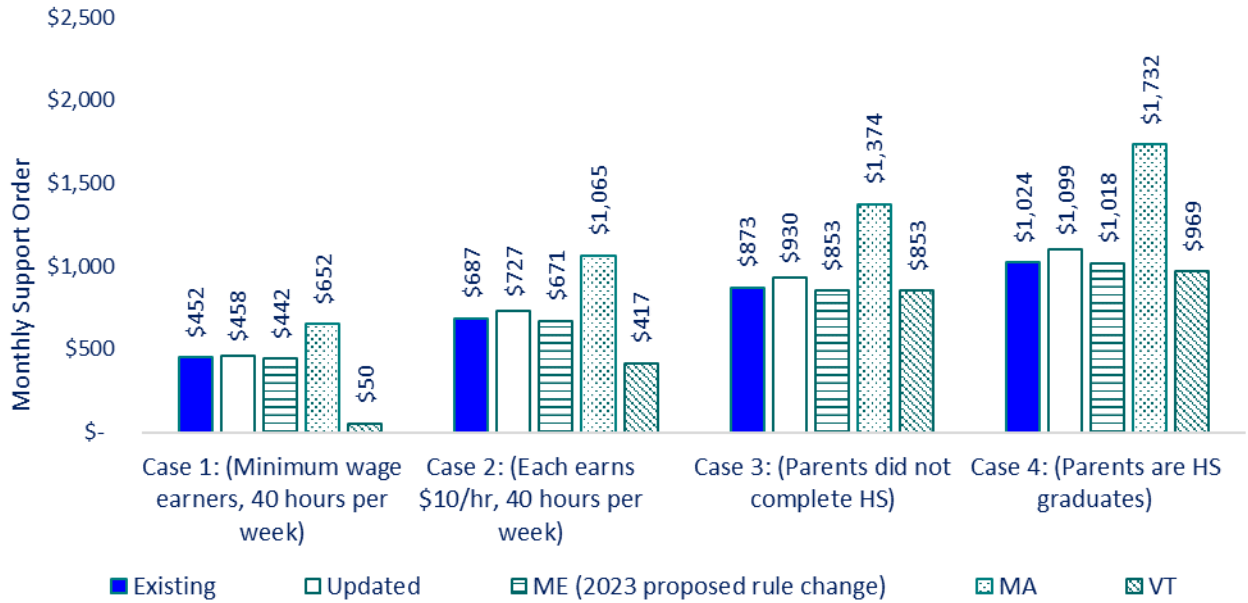


Exhibit 56: Scenarios 5–8: One Child

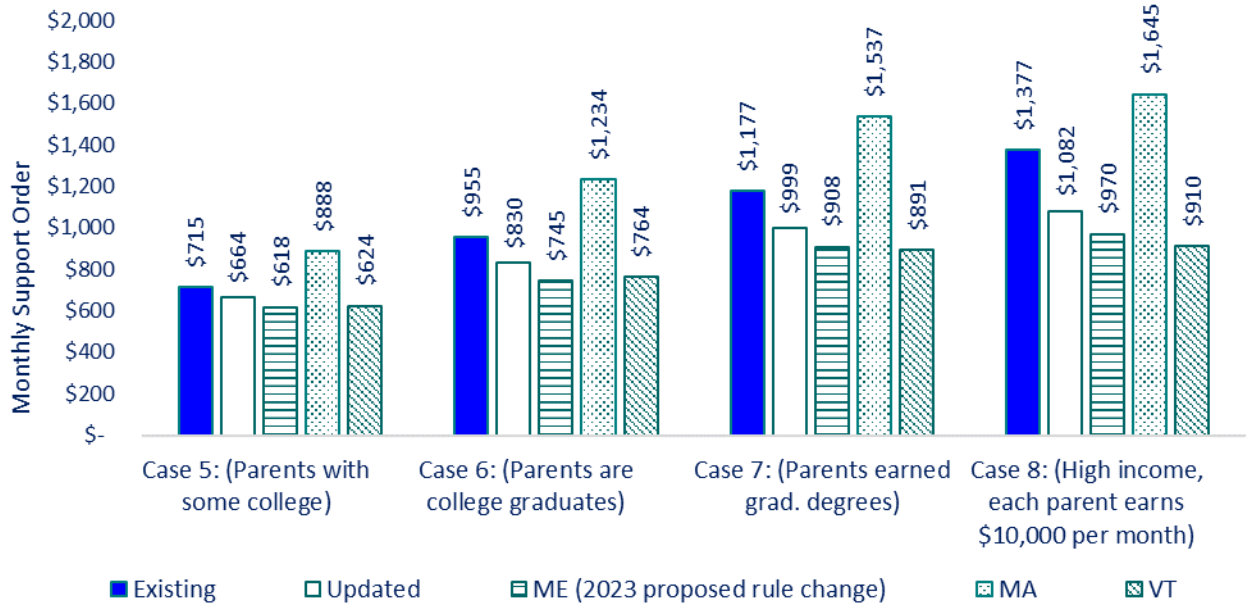


Exhibit 57: Scenarios 5–8: Two Children

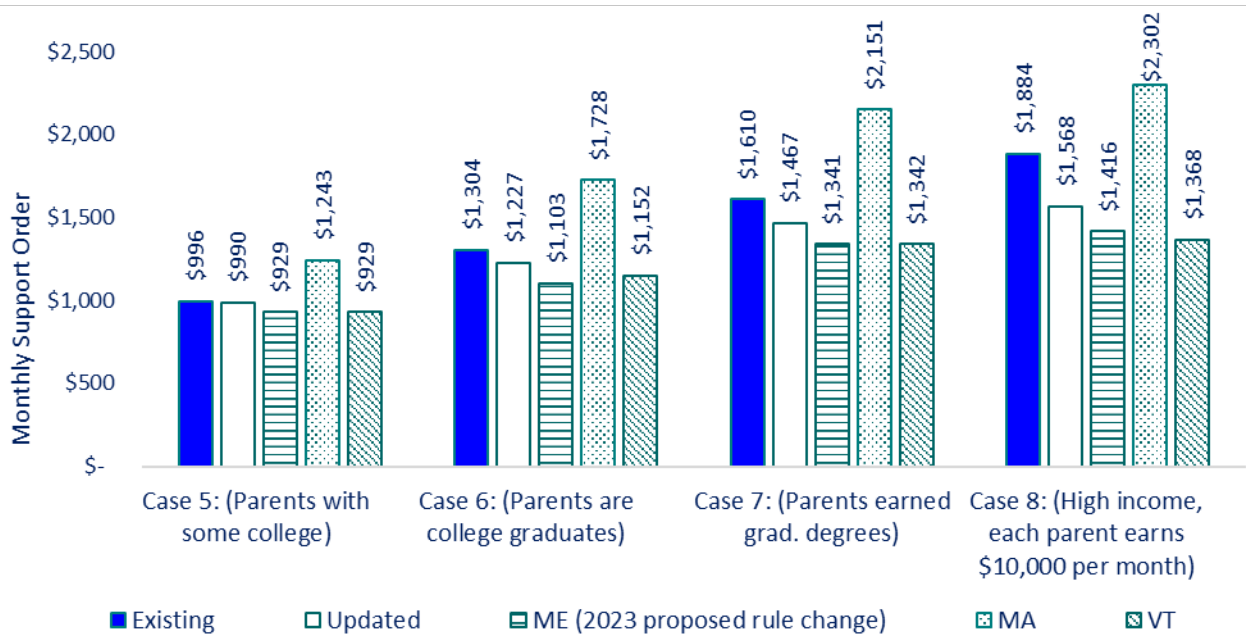
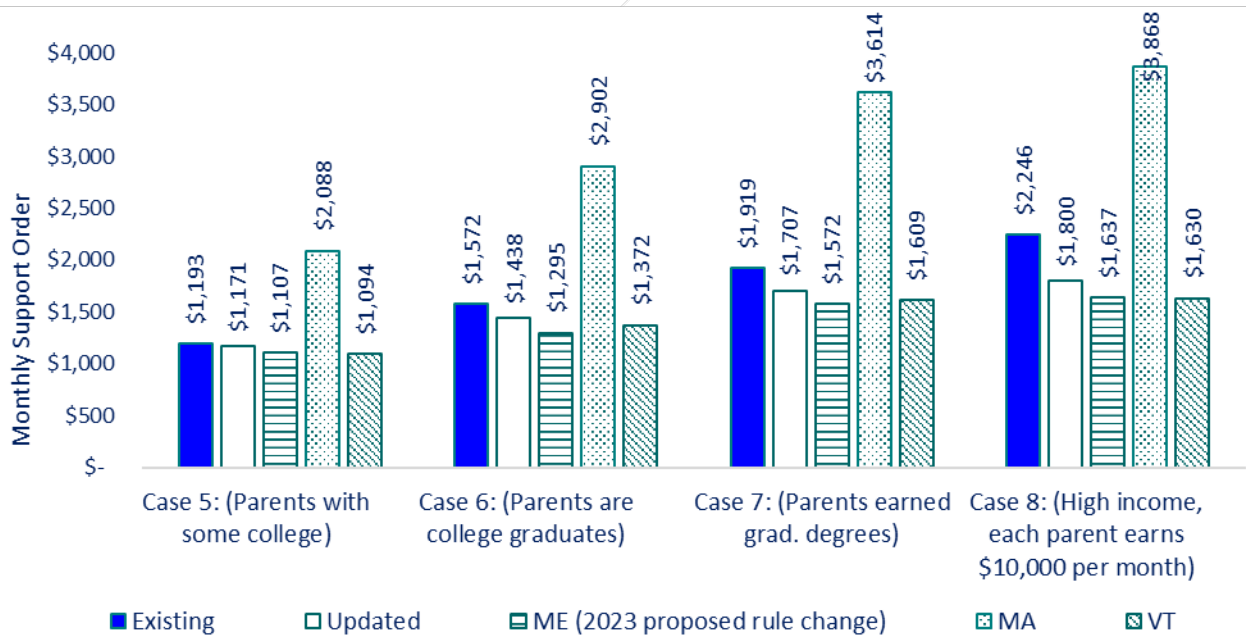


Exhibit 58 Scenarios 5–8: Three Children



OTHER ISSUES/CONSIDERATIONS

New Hampshire's approach to its guidelines formula is unique. Based on CPR's experience with other states, there are a few areas that do not concern the economic data on childrearing expenditures that could be targeted for improvement.

- **Basing the guidelines percentages on net income and then using adjusted gross income in the calculation of order amounts may seem inconsistent to the guidelines user.** Exhibit 59 shows the possible inconsistency. The basic obligation uses the combined monthly net income from the Department-published Guideline Calculation Table while each parent's share is determined based on that parent's adjusted *gross* income. In the guidelines, it just states respective incomes and does not specify that it is adjusted gross income. However, this is evident in the automated guidelines worksheet. In contrast, other states just publish a child support schedule based on gross income and do not show the net income conversion as seen in Exhibit 60. For manual guidelines users, this may be a source of confusion. However, if most guidelines users rely on the automated calculator, this may not be an issue because they would not see the perceived inconsistency.

Exhibit 59: Selected Guidelines Provisions

Statute Excerpts (red font added by authors for emphasis)
458-C:2 Definitions V. "Net Income" means the parents' combined adjusted gross income less standard deductions published on an annual basis by the department of health and human services and based on federal Internal Revenue Service withholding table amounts for federal income tax, F.I.C.A., and Medicare, which an employer withholds from the monthly income of a single person who has claimed a withholding allowance for 2 people . (a) Federal income tax; (b) F.I.C.A.
458-C:3(b) The department of health and human services shall calculate and publish a schedule of child support amounts using the table in subparagraph (a). The schedule shall provide child support amounts in \$1,000 increments of combined net income , with a directly proportional change in the percentage of combined net income devoted to child support based on income level and number of children. The department shall determine the fractional percentage between each income level by interpolating between the percentages within each column of the table under subparagraph (a). Nothing in this paragraph shall preclude the department from publishing child support guidelines in increments of less than \$1,000 , based on the schedule and formula provided in this section.
II. (a) the total support obligation shall be determined by multiplying the parents' total net income , as defined in RSA-C:2, VI, by the appropriate percentage derived from this section. II. (b) the total child support obligation shall be divided between the parents in proportion to their respective incomes as adjusted by this section...

- **The tax assumption specified in the guidelines is out of date.** The guidelines specify that net income should consider the tax liability of a single person claiming a withholding allowance for two people (see Exhibit 59). Historically, this was a proxy for the standard deduction and the single taxpayer claiming self as a personal exemption. 2017 tax reform eliminated personal and dependent exemptions; however, they are scheduled to expire in 2025. Another alternative would be to use different tax assumptions for the obligor-parent and the obligee-parent. Vermont prepares three tables (each of about 15 pages) where two tables are standardized gross to net income conversion

tables: one for sole custody, and the other for shared custody. The third table is a net income guidelines schedule. (See Exhibit 61 for excerpts of the Vermont tables.) Guidelines users first look up the net income of each parent using the gross to net income conversion table for sole or shared custody depending the custody circumstance, then plug in the combined net income of the parties into the schedule. In Vermont’s sole custody table, single-filing status is assumed of the obligor-parent and head-of-household is assumed of the obligee-parent as well as the child tax credit for the number of children on the child support order. Vermont’s shared custody table assumes that the parents split the child tax credit equally.

Exhibit 60: Example of How Child Support Schedule Would Appear if Calculation was Based on Combined Adjusted Monthly Gross Income (amounts are from the 2022 schedule)

Combined Adjusted Monthly Gross Income	1 Child	2 Children	3 Children	4 or More Children
\$4600–\$4609	\$893.62	\$1,230.17	\$1,484.88	\$1,580.93
\$4610–\$4619	\$895.25	\$1,232.42	\$1,487.60	\$1,583.82
\$4620–\$4629	\$896.63	\$1,235.89	\$1,489.68	\$1,586.07
\$4630–\$4639	\$898.01	\$1,237.63	\$1,491.75	\$1,588.32

Applying Vermont’s approach to New Hampshire would lower order amounts because of the differences in the tax assumptions between the obligor-parent and the obligee-parent. The advantage is it can more precisely address tax differences. Disadvantages are it is cumbersome and the IRS withholding formula assumes that most parents regardless of incomes receive the child tax credit. This will overstate after-tax income for many low-income parents who only qualify for what tax code calls the additional child tax credit, that is really is a partial child tax credit.

- **The schedule (that is also called the Child Support Guideline Calculation Table) is very long (98 pages). Most state schedules are about 15 pages.** The New Hampshire schedule considers income bands of \$10 per month (e.g., a monthly income of \$4,600–\$4,609, \$4,610–\$4,619, \$4,620–\$4,629, and so forth). Most states rely on \$50 widths (e.g., a monthly income of \$4,600–\$4,649, \$4,650–\$4,699, \$4,700–\$4,749, and so forth); some states even use \$100 widths. Clear strengths of the New Hampshire approach are that it meets the statutory requirement to consider not less than \$1,000 (annual) increments of combined net income and is it is more precise. The limitations are that it produces a very long schedule (which may not be an issue for users of the automated calculator) and it may be unnecessary cumbersome because it yields a nominal increase per income band (e.g., a \$10 increase in monthly gross income may increase the basic obligation by \$2 per month).
- **The calculation and schedule could be more streamlined.** Shown in Exhibit 59 the guidelines instruct the user to calculate the total support obligation by multiplying the parents’ total net income by the appropriate percentage. Most states based on gross-income schedules have the user look up the total support obligation based on the combined gross income of the parents (see Exhibit 60). Therefore, if the parents’ combined income is \$4,600 gross per month and there is one child, the basic obligation is \$893.62. This yields the same amount as the current approach but requires fewer steps. A limitation, however, is that the underlying assumptions are no longer transparent.

The streamlined schedule would not make a difference for users of the automated calculator. Other ways the worksheet could be streamlined are by consolidating the separate lines for the obligor-parent's and obligee-parent's childcare expenses and medical support and eliminating the guideline percentage line. Although survey respondents suggested that the guidelines were too complicated, it is unclear whether these changes would address their concerns. Most survey respondents did not pinpoint which provisions were too complicated.

- **Income deductions for work-related childcare expenses and healthcare expenses are not as equitable as treating them as add-ons.** This is illustrated in Exhibit 62 and Exhibit 63 that consider a case where the parents have equal incomes and the obligee-parent incurs \$100 per month in work-related childcare expenses. Despite having equal income, the obligor-parent is only required to pay \$10 more in child support for the childcare expenses. Under the approach used in most other states called an add-on, the obligor-parent would have to pay \$50 more because each parent is responsible for their prorated share of additional expenses.

Many of these issues concern the automated guidelines calculator. Exhibit 64 shows an excerpt of the current New Hampshire calculator that mimics the worksheet. Although not directly part of the guidelines review, the current automated calculator could be modernized to be more user friendly.

Exhibit 65 shows an excerpt of Oregon's calculator. Oregon uses simplified language (e.g., "is the child in state care" rather than asking about foster care or child protective services) and links its calculator to the parenting plan which is used to determine the number of overnights to be applied for Oregon's timesharing adjustment. This also simplifies the calculation. Oregon and several other states believe that providing a user-friendly calculator can reduce litigation as parents become better informed about the guidelines and set reasonable expectations when they plug their information into the automated guidelines calculator.

Exhibit 61: Excerpts from Vermont Guidelines Tables

ADJUSTED GROSS TO AFTER TAX INCOME CONVERSION TABLE							
After Tax Incomes for Custodial and Noncustodial Parents and Different Numbers of Children (SOLE OR SPLIT CUSTODY)							
Monthly Adjusted Gross Income Range	Custodial Parent After Tax Income (Sole or Split Custody)						Noncustodial Parent After Tax Income
	One Child	Two Children	Three Children	Four Children	Five Children	Six Children	
0.00 – 0.00	0	0	0	0	0	0	0
1.00 – 74.99	68	71	75	75	75	75	51
75.00 – 124.99	136	144	151	151	151	151	102
125.00 – 174.99	205	217	226	226	226	226	153
175.00 – 224.99	274	289	302	302	302	302	205
225.00 – 274.99	342	362	378	378	378	378	256
275.00 – 324.99	418	442	462	462	462	462	307

ADJUSTED GROSS TO AFTER TAX INCOME CONVERSION TABLE						
After Tax Incomes for Either Parent and Different Numbers of Children (SHARED CUSTODY)						
Monthly Adjusted Gross Income Range	Custodial Parent After Tax Income (Shared Custody)					
	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
0.00 – 0.00	0	0	0	0	0	0
1.00 – 74.99	68	71	75	75	75	75
75.00 – 124.99	136	144	151	151	151	151
125.00 – 174.99	205	217	226	226	226	226
175.00 – 224.99	274	289	302	302	302	302
225.00 – 274.99	342	362	378	378	378	378
275.00 – 324.99	418	442	462	462	462	462

Vermont Table of Intact Family Expenditures on Children						
Monthly Combined Available Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
625.00 – 674.99	143	221	274	306	337	366
675.00 – 724.99	154	238	295	330	363	394
725.00 – 774.99	165	255	316	353	389	422
775.00 – 824.99	176	272	337	377	415	451
825.00 – 874.99	187	289	358	400	440	479
875.00 – 924.99	198	306	380	424	466	507
925.00 – 974.99	209	323	401	448	492	535
975.00 – 1024.99	220	340	422	471	518	563

Exhibit 62 shows a scenario where there is equal income. If there are no childcare expenses, the order would be \$500 (Line 11). If there are work-related childcare expenses of \$100 per month, the order would be \$510 per month. The remaining \$90 falls to the obligee-parent even though the parents have equal incomes, and each should be responsible for 50% of the childrearing expenses.

Exhibit 62: Illustration of How Income Deduction Works in Current Guidelines and Worksheet

Calculation when There Are No Work-Related Childcare Expenses			
	Obligor	Obligee	Combined
Line 6: adjusted monthly gross income	\$2,500	\$2,500	\$5,000
Line 7A. Child support guideline amount			\$1,000*
Line 8A. Allowable childcare expenses (obligee)		\$0	
Line 9. Total adjusted monthly gross income	\$2,500	\$2,500	
Line 10. Proportional share of income	50%	50%	
Line 11. Parental support obligation	\$500	\$500	
Calculation when There Are Work-Related Childcare Expenses of \$100 per month			
	Obligor	Obligee	Combined
Line 6: adjusted monthly gross income	\$2,500	\$2,500	\$5,000
Line 7A. Child support guideline amount			\$1,000*
Line 8A. Allowable childcare expenses (obligee)		\$100	
Line 9. Total adjusted monthly gross income	\$2,500	\$2,400	
Line 10. Proportional share of income	51%	49%	
Line 11. Parental support obligation	\$510	\$490	

* For simplicity of the calculation, it is assumed the child support guidelines amount is \$1,000.

Exhibit 63 show a streamlined calculation of the add-on approach. The order amount is \$500 per month when there are no childcare expenses and \$550 per month when there is a childcare expense of \$100 per month incurred by the obligee-parent. The \$50 increase is equitable because the parents have equal incomes.

The same outcome can be accomplished using other configurations of guidelines worksheet lines. See Colorado, Maine and Oregon for examples.¹³³

¹³³The Colorado worksheet can be retrieved from <https://www.courts.state.co.us/Forms/PDF/JDF1820M.pdf>. The Maine child support worksheet can be retrieved from <https://www.courts.maine.gov/courts/family/divorce-separation/child-support.html>, and the Oregon child support worksheet can be retrieved from <https://justice.oregon.gov/child-support/pdf/csf020910.pdf>.

Exhibit 63: Illustration of How Add-Ons Work

Calculation when There Are No Work-Related Childcare Expenses			
	Obligor	Obligee	Combined
Line 6: adjusted monthly gross income	\$2,500	\$2,500	\$5,000
Line 7A. Child support guideline amount			\$1,000*
New Line: Work-related childcare expenses (for either party)			
Line 8A. Allowable childcare expenses (obligee)			
Line 9. Total adjusted monthly gross income	\$2,500	\$2,500	
Line 10. Proportional share of income	50%	50%	
Line 11. Parental support obligation	\$500	\$500	
Calculation when There Are Work-Related Childcare Expenses of \$100 per month			
	Obligor	Obligee	Combined
Line 6: adjusted monthly gross income	\$2,500	\$2,500	\$5,000
Line 7A. Child support guideline amount			\$1,000*
New Line A: Work-related childcare expenses (for either party)		\$100	\$100
New Line B: Total obligation (Line 7A plus new Line above)			\$1,100
Line 10. Proportional share of income	50%	50%	
New Line C: Each parent's share of total obligation	\$550	\$550	
New Line D: Obligor's credit for work-related childcare expenses paid by the obligor (Obligor's new Line A multiplied by Obligee's Line 10)	\$0		
Line 11. Parental support obligation (new Line C minus New Line D)	\$550	\$550	

* For simplicity of the calculation, it is assumed the child support guidelines amount is \$1,000.

Exhibit 64: Excerpt of New Hampshire Calculator (Retrieved from https://business.nh.gov/dhhs_Calculator/)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD SUPPORT SERVICES

[Printable Blank Guidelines Worksheet](#)
[Instructions for Completing Child Support Guidelines Worksheet](#)

Calculate

DCSS 850
05/15

Child Support Guidelines Worksheet
using amounts effective April 1, 2022

Court Name: Case Number:
In the matter of and

Child's Name	DOB	Child's Name	DOB
1. Total Number of Children	1		
2. Obligor's Reasonable Medical Support Obligation <small>(4% of Obligor's Monthly Gross Income, rounded to nearest dollar)</small>	0.00	3. Obligee's Reasonable Medical Support Obligation <small>(4% of Obligee's Monthly Gross Income, rounded to nearest dollar)</small>	0.00
PAYMENT CALCULATIONS			
<small>NOTE: All income and expenses must be converted to monthly amounts (multiply weekly amounts by 4.33; bi-weekly amounts by 2.17).</small>			
	OBLIGOR (Column 1)	OBLIGEE (Column 2)	COMBINED (Column 3)
4. Monthly gross income	0.00	0.00	
5A. Court/Admin. ordered support for other children	0.00	0.00	
5B. 50% of actual self-employment taxes paid	0.00	0.00	
5C. Mandatory retirement	0.00	0.00	
5D. Actual state income taxes paid	0.00	0.00	
5E. Allowable child care expenses (obligor) <small>(See LINE 5E instructions)</small>	0.00		
5F. Medical support for children (obligor)	0.00		
5G. Total deductions (Add lines 5A through 5F)	0.00	0.00	
6. Adjusted monthly gross income <small>(Subtract line 5G from line 4)</small>	0.00	0.00	0.00
7A. Child support guideline amount <small>(From Guideline Calculation Table)</small>			0.00
7B. Guideline percentage <small>(From Guideline Calculation Table)</small>			0.00
8A. Allowable child care expenses (obligee) <small>(See LINE 8A instructions)</small>		0.00	
8B. Medical support for children (obligee)		0.00	
8C. Total allowable obligee expenses <small>(Add line 8A and 8B)</small>		0.00	
9. Total adjusted monthly gross income	0.00	0.00	0.00
10. Proportional share of income	0.00	0.00	

Exhibit 65: Excerpt of Oregon Calculator (Retrieved from <https://justice.oregon.gov/guidelines/>)

Oregon Child Support Guidelines Calculator

All figures are monthly except as noted.

General Information **Clear Form**

Enter the **parents' names** and select **relationship**. If the child is with a **caretaker**, enter caretaker's name and select caretaker.

more

If the child is in **state care**, select state. more

Select the children who will be included in this calculation. more

Income

Enter each parent's **gross monthly income**. more

Enter the amount of spousal support **owed** to each parent **by anyone**. more

Enter the amount of spousal support each parent **owes to anyone**. more

Enter each parent's **union dues**. more

CHAPTER 5: NEW HAMPSHIRE'S COMPLIANCE WITH FEDERAL REQUIREMENTS

This chapter explores whether the current provisions of the New Hampshire guidelines meet the expanded federal guidelines requirements imposed by the 2016 the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) rule. The added requirements for states (45 C.F.R. § 302.56(c)) are:

- Base the guidelines amount on the parent's income and earnings and evidence of ability to pay;
- Consider the basic subsistence needs of obligor-parents with limited ability to pay;
- Take into consideration the individual circumstances of the obligor-parent when income imputation is authorized;
- Provide that incarceration is not voluntary unemployment; and
- States can provide that public coverage (e.g., Medicaid) is considered healthcare coverage.

Exhibit 66 compares the federal language for each of these requirements to the provision of the New Hampshire guidelines that most closely matches it. The timeline for meeting the 2016-added federal requirements relates to a state's guidelines review cycle and effectively spans at least two review cycles. For New Hampshire that means January 1, 2024, which would be one year after the completion of this review in 2022.

The authors of this report do not have the authority to determine whether New Hampshire complies with these 2016-added requirements. Only the federal Office of Child Support Enforcement (OCSE) has that authority. Nonetheless, in general, New Hampshire appears to meet all the requirements through their existing guidelines, case law, and practices. To ensure compliance, however, New Hampshire should codify its case law on not treating incarceration as voluntary unemployment and its practices to consider the actual circumstances of a parent when income imputation is authorized. To unambiguously comply with the federal requirement, there should be no exception based on the reason for incarceration (e.g., an exception when the reason is domestic violence against custodial parent or children) in the provision prohibiting incarceration from being treated as voluntary unemployment.

IMPETUS FOR THE 2016-ADDED FEDERAL REQUIREMENTS

The expanded federal rule aims to increase regular, on-time payment to families; to increase the number of obligor-parents working and supporting their children; and to reduce the accumulation of unpaid arrears.¹³⁴ The federal changes focused on low-income obligor-parents. They intend to end practices that set orders beyond what those with limited financial resources can pay and stop the overuse of income imputation, particularly among low-income parents with barriers to employment and limited employment opportunities. The changes were based on research findings that most arrearages

¹³⁴ U.S. Department of Health and Human Services. (Nov. 2014). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs." 79 *Federal Register*. 68,548. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

are uncollectible, are owed by obligor-parents with reported incomes less than \$10,000 per year, and can deter child support payment and reduce formal earnings.¹³⁵

The research also finds that a significant share of arrearage is accrued during incarceration. In the finalized rule, OCSE added citations to research that find setting support orders beyond the obligor-parent's "ability to pay can result in numerous deleterious effects including unmanageable debt, reduced low-wage employment, increased underground activities, crime, incarceration, recidivism, and reduced contact with their children."¹³⁶ Addressing order amounts at the front end by setting an accurate order based upon the ability to pay can avoid the need for enforcement actions and improve the chances that the obligor-parent will continue to pay over time.¹³⁷ This practice is also consistent with the Supreme Court decision in *Turner v. Rogers*, 564 U.S. 354 (2011), that requires the determination of ability to pay prior to incarceration for nonpayment of child support.

SIDE-BY-SIDE COMPARISON OF FEDERAL REQUIREMENT AND NEW HAMPSHIRE GUIDELINES PROVISION

Requirement to Base Order on Earnings, Income, and Evidence of Ability to Pay

This 2016-added requirement is directed at using the actual earnings and income of a parent in the guidelines calculation and using alternative evidence of income when appropriate. All state guidelines consider earnings and income in the calculation of support. The challenge is what is considered evidence and what to do when evidence is limited or does not exist. Some state guidelines specify what constitutes evidence of income. In other states, it may not be part of the guidelines but defined in statute or court rules. When it is addressed in a state's guidelines, it typically specifies paystubs and tax returns over two years or some other period. When paystubs, tax returns, and other conventional evidence of earnings and income data are unavailable, it presents another challenge. The phrase "other evidence of ability to pay" encourages evidence from alternative sources such as the National Directory of New Hires, quarterly wage data, imputation of income based on analysis of a parent's specific education, skills and work experience, and even testimony rather than an income imputation standard.¹³⁸

¹³⁵ *Ibid.*

¹³⁶ Department of Health and Human Services Centers for Medicaid Services. "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs." 81 *Fed. Reg.* p. 93,516 (Dec. 20, 2016.) Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-29598.pdf>.

¹³⁷ U.S. Department of Health and Human Services. (Nov. 17, 2014). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs." 79 *Fed. Reg.* p. 68,554. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

¹³⁸ *Ibid.* at p. 68555.

Exhibit 66: Comparison of Added Federal Guidelines Requirements and Existing New Hampshire Provisions

Row	Added Federal Requirement (45 C.F.R.)	Relevant New Hampshire Provision (NH RSA §458-C)
(1)	<p>§ 302.56(c) The child support guidelines established under paragraph (a) of this section must at a minimum:</p> <p>(1) Provide that the child support order is based on the noncustodial parent’s earnings, income, and other evidence of ability to pay that:</p>	<p>NH RSA §458-C:3-a Child Support Guidelines Worksheet. – At every hearing in which child support is involved, the party seeking the order shall file a child support guideline worksheet, as published by the department of health and human services, division of child support services, duly completed by either the party or attorney. The other party shall file a child support guideline worksheet if the guideline amount is in dispute. If the court or court personnel complete or assist the parties in the completion of a child support guidelines worksheet, the worksheet shall be retained in the court file and made available for inspection at the request of the parties. In any event, the worksheet that results in the ordered child support obligation shall be kept in the file and available to the parties. The fact that the parties have agreed to an amount or may be requesting adjustments to the child support guidelines shall not suspend the requirements of this section. In cases where the other party has failed to disclose his or her income, a worksheet shall be completed using a reasonable estimate of that party's income.</p>
(2)	<p>§ 302.56(c)(1)(ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State’s discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self- support reserve or some other method determined by the State</p>	<p>NH RSA §458-C:2 Definitions V. " Minimum support order " means an order of support equal to \$50 per month, unless the court determines that a lesser amount is appropriate under the particular circumstances of the case. X. " Self-support reserve " means 115 percent of the federal poverty guideline for a single person living alone, as determined annually by the United States Department of Health and Human Services.</p> <p>NH RSA §458-C:3 Child Support Formula. – IV. Self-support reserve and minimum child support obligation. (a) If the obligor parent's gross income is less than the self-support reserve and the court has determined that the obligor is not voluntarily unemployed or underemployed, the court shall order the child support obligation in the amount of a minimum support order. (b) If the obligor parent's gross income is greater than the self-support reserve but payment of the parental support obligation as calculated under this chapter would reduce the obligor parent's adjusted gross income below the self-support reserve, the presumptive child support obligation shall be the difference between the self-support reserve and the obligor parent's adjusted gross income, but in any event shall be no less than the amount of a minimum support order.</p> <p>NH RSA-C:5 Adjustments to the Application of Guidelines under Special Circumstances I... The Court shall make written findings relative to the applicability of the following: (b) Significantly high or low income of the obligee or obligor (2) In considering an adjustment when one or both parents have low income, the court shall determine how to optimize use of the parents’ combined incomes to arrive at the best possible outcome for the child or children, provide that the basic support needs of the child or children are met. In making this</p>

Row	Added Federal Requirement (45 C.F.R.)	Relevant New Hampshire Provision (NH RSA §458-C)
		<p>determination, the court may consider income tax consequences, the earned income tax credit, the allocation of the right of a parent to claim a child as dependent for income tax purposes, and other child-related benefits.</p> <p>(j) Other special circumstances found by the court to avoid an unreasonably low or confiscatory support order, taking all relevant circumstances into consideration.</p>
(3)	<p>§ 302.56(c)(1)(iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State’s discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent’s assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.</p>	<p>NH RSA §458-C:2 Definitions. – IV. (a) The court, in its discretion, may consider as gross income the difference between the amount a parent is earning and the amount a parent has earned in cases where the parent voluntarily becomes unemployed or underemployed, unless the parent is physically or mentally incapacitated.</p> <p>NH RSA §458-C:3-a Child Support Guidelines Worksheet. – . In cases where the other party has failed to disclose his or her income, a worksheet shall be completed using a reasonable estimate of that party's income.</p>
(4)	<p>§ 302.56(c) (3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders;</p>	<p><i>No guidelines provision mentions incarceration</i></p>
(5)	<p>§ 302.56(c) (2) Address how the parents will provide for the child’s health care needs through private or public health care coverage and/or through cash medical support;</p>	<p>NH RSA §458-C:2 Definitions. – IV-a. " Medical support obligation " means the obligation of either or both parents to provide health care coverage for a dependent child, whether in the form of private health insurance or public health care, and/or to pay a monetary sum toward the cost of health care coverage provided by a public entity, parent, or other person.</p> <p>NH RSA §461-A:14 Support. – IX. (a) Each child support order shall include the court’s determination and findings relative to health care coverage, whether in the form of private health insurance or public health care, and the payment of uninsured medical expenses for the child. Health care coverage includes fee for service, health maintenance organization, preferred member organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child.</p>

Relevant New Hampshire Statutory Provisions and Practices

Unlike some states, the New Hampshire child support guidelines do not mention paystubs and tax returns as evidence of income. The New Hampshire’s financial affidavit, published by the New Hampshire Judicial Branch, is to be completed by each party in a child support case.¹³⁹ Paystubs, tax returns, W-2s and other tax forms are to be attached to the financial affidavit. As shown in Exhibit 66, the New Hampshire guidelines requires a child support worksheet from the party seeking the order as well as from the other party if the guidelines worksheet calculation is in dispute. When the other party fails to disclose their income, the guidelines require the calculation of a worksheet using a reasonable estimate of a party’s income. Although not explicitly stated, that reasonable estimate can be based on alternative evidence of ability to pay.

Evidence of Income: Relevant New Hampshire Statutory Provisions and Practices

Exhibit 67 show examples of guidelines provisions that identify sources of alternative evidence of ability to pay from the District of Columbia and Maine. Although this may be helpful to guidelines users, the existing New Hampshire guidelines do not preclude the use of these alternative sources of evidence. Codifying in statute could be helpful if there was an issue with the Courts accepting alternative sources as evidence (which was not a finding of this study) or if New Hampshire wanted to adopt the District of Columbia approach of documenting factual basis of income in the court record. This would be useful when the order was reviewed for a potential modification. Evidence of income is more of an issue for state petitions (which often lack income information) than divorce and parenting petitions.

Exhibit 67: Examples of Alternative Evidence of Income

State	Guidelines Provision	Why Shown?
DC	<p>(b) Use appropriate State statutes, procedures, and legal processes in establishing and modifying support obligations in accordance with §302.56 of this chapter, which must include, at a minimum: (1) Taking reasonable steps to develop a sufficient factual basis for the support obligation, through such means as investigations, case conferencing, interviews with both parties, appear and disclose procedures, parent questionnaires, testimony, and electronic data sources; (2) Gathering information regarding the earnings and income of the noncustodial parent and, when earnings and income information is unavailable or insufficient in a case gathering available information about the specific circumstances of the noncustodial parent, including such factors as those listed under §302.56(c)(1)(iii) of this chapter; (3) Basing the support obligation or recommended support obligation amount on the earnings and income of the noncustodial parent whenever available. If evidence of earnings and income is unavailable or insufficient to use as the measure of the noncustodial parent’s ability to pay, then the support obligation or recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent, including such factors as those listed in §302.56(c)(1)(iii) of this chapter. (4) Documenting the factual basis for the support obligation or the recommended support obligation in the case record.</p>	Requires factual basis of income, documentation of factual basis, and lists several alternative sources of factual basis

¹³⁹ New Hampshire Judicial Branch. (Jun. 2020.) *Financial Affidavit*. Form NHJB-2065-F. <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-04/nhjb-2065-f.pdf>.

<p>ME</p>	<p>Title 19-A, Chapter 63: §2004. Income information and child support worksheets</p> <p>1. Court actions.</p> <p>A. In a court action to determine or modify support of a minor child, the plaintiff and defendant shall exchange, prior to mediation, affidavits regarding income and assets. These affidavits must conform with the forms provided by the court and must be accompanied by supporting documentation of current income, such as pay stubs, tax returns, employer statements or, if the plaintiff or defendant is self-employed, receipts and expenses.</p> <p>D. If a party fails to comply with this subsection, the court may, in its discretion:</p> <p>(2) Presume for the purpose of determining a current support obligation that the party has an earning capacity equal to the average weekly wage of a worker in this State as determined by the most recent Department of Labor statistics. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the noncomplying party earns a greater or lesser actual income.</p> <p>E. The court may admit Department of Labor statistics into evidence for purposes of computing a parental support obligation.</p>	<p>Requires the exchange of income affidavits. If a party fails to provide income information, may use State Department of Labor data as income evidence. Although not specified in statute, that evidence could be the median or average wage of workers in the same occupation of the parent and consider local wage data</p>
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Requirement to Consider the Subsistence Needs of the Obligor-Parent

This 2016-added requirement encourages states to establish guidelines that an obligor-parent with low income can reasonably pay. It requires state guidelines to consider the obligor-parent’s subsistence needs through a self-support reserve (SSR) or another type of low-income adjustment. Most states (including New Hampshire) meet this federal requirement directly by providing a SSR in their guidelines. The application of the SSR in the guidelines produces order amounts less than what it costs to raise a child. In 2016, there were 37 state guidelines that provided an SSR.¹⁴⁰ The count would be higher today since some states recently adapted a SSR (e.g., Arkansas and Wyoming) to conform to the 2016-added requirement. Some states (e.g., Nevada and Utah) provide a low-income table in addition to their child support schedule. Still other states provide a sliding scale formula (e.g., Texas) or proportional reduction (e.g., California and Michigan). The SSR is the most straightforward method because it is based upon the states’ own evaluation of the specific subsistence needs in their state. OCSE makes it clear that the amount of a state’s SSR (or level of subsistence considered in a state’s guidelines) is at the discretion of the state and should be set at a level appropriate for that state.

State SSRs vary widely. They vary in the amount of the SSR, whether it is applied in a schedule or worksheet, how the SSR is phased out for higher income where subsistence is no longer an issue, and whether they provide a minimum order for incomes below the SSR and, if so, the amount of the minimum order. Although most states relate their SSR to the federal poverty guidelines (FPG) for one-person, low-income states often use less than the FPG because they also adjust their schedule amounts to reflect the lower incomes or cost of living of their state. Other states adjust it upward. One reason is that economists and poverty experts believe that the FPG understates actual poverty. Other reasons are to account for payroll taxes or to bring it on par with income eligibility thresholds of public assistance programs (e.g., 130% of the FPG is the income eligibility for Supplemental Nutrition Assistance Program

¹⁴⁰ Venohr, Jane. (2016). *Review of the Nevada Child Support Guidelines*. Retrieved from <https://www.leg.state.nv.us/Session/79th2017/Exhibits/Senate/JUD/SJUD144D.pdf>.

(SNAP), which justifies a SSR of 130% of the FPG). The New Jersey guidelines provide the highest SSR among states: 150% of the FPG. New Hampshire sets its SSR at 115% of the FPG. Some of the findings from both the case file review and the stakeholder survey suggested that a higher SSR may be appropriate for New Hampshire. Despite New Hampshire’s SSR, downward deviations were made for low-income obligor-parents. Some survey respondents suggested a higher SSR, and slightly more than half somewhat agreed with the existing SSR being too low.

For states with a minimum order, \$50 per month is a common amount. New Hampshire uses \$50 per month, but as shown in Exhibit 66, the court can apply a lower amount if appropriate for the circumstances of the case. Maine uses 10% of the eligible parent’s income. Some states (e.g., Pennsylvania) do not provide a minimum order. Some states (e.g., Arkansas, Alabama, and Illinois) identify circumstances where a rebuttal to the minimum order would be appropriate or a zero order would be appropriate (e.g., the parent is incarcerated or disabled with no capacity for work). Exhibit 68 shows the provisions of these states. Based on the case file data, both \$0 and \$50 orders are common among state petitions. This suggests that New Hampshire judges are exercising their discretion to issue less than a \$50 order. To that end, adopting something like the Illinois provision would probably not change the number of appropriately entered \$0 orders in New Hampshire.

In addition to providing an SSR, the New Hampshire guidelines provide a deviation factor to avoid an unreasonably low or confiscatory support order. (See Row 2 of Exhibit 66 for the wording of the provision.) This was a common deviation rate in state petitions, albeit the deviation rate among state petitions was relatively low.

Exhibit 68: Examples of Guidelines Provision for Zero Orders under Specific Circumstances

State	Guidelines Provision
AL	(6) ZERO-DOLLAR ORDER. If the obligor has no gross income and receives only means tested assistance, there is a rebuttable presumption that a zero-dollar order, i.e., an order requiring no child support from the obligor, shall be entered. If the obligor has no gross income and is incarcerated or institutionalized for a period of more than 180 consecutive calendar days, there is a rebuttable presumption that a zero-dollar order shall be entered. Completion of the Child-Support Guidelines form (Form CS-42), the Child-Support-Obligation Income Statement/Affidavit form (Form CS-41), and the Child-Support Guidelines Notice of Compliance form (Form CS-43) specifying the reason for the zero-dollar child-support order is required
AR	When the payor parent’s monthly gross income is less than \$900.00, a presumptive minimum award of \$125.00 per month must issue unless a party can rebut the presumptive amount by a preponderance of the evidence. Some factors that a court may consider when deciding whether a party has rebutted the minimum order amount include but are not limited to the following: a. There is a large adjustment due to parenting time; b. The payor is incarcerated (see Section II.4 below); c. The payor is institutionalized due to a mental illness or other impairment; d. The payor has a verified physical disability that precludes work; e. The payor’s only income is Supplemental Security Income (SSI); f. The payor’s ability or inability to work; or g. Any other deviation factor listed above in Subsection II.2 or any income imputation factor listed below in Section III.7

IL	<p>(3.3a) Minimum child support obligation. There is a rebuttable presumption that a minimum child support obligation of \$40 per month, per child, will be entered for an obligor who has actual or imputed gross income at or less than 75% of the most recent Federal Poverty Guidelines for a family of one person, with a maximum total child support obligation for that obligor of \$120 per month to be divided equally among all of the obligor’s children.</p> <p>(3.3b) Zero dollar child support order. For parents with no gross income, who receive means-tested assistance, or who cannot work due to a medically proven disability, incarceration, or institutionalization, there is a rebuttable presumption that the \$40 per month minimum support order is inapplicable and a zero dollar order shall be entered.</p>
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Discretion to Consider the Child’s and Custodian’s Subsistence Needs

The federal requirement to consider the subsistence needs of the obligor-parent also gives states discretion to consider the subsistence needs of the custodial parent and children. Undoubtedly, equitable treatment of the parties is always an important policy objective. The New Hampshire guidelines recognize that either parent can incur work-related childcare expenses for the child who is the subject of the child support order so the treatment of those expenses is equitable no matter which parent incurs the expense.

The math behind considering the subsistence needs, however, differs. If the obligor-parent is denied a SSR because the custodian household has income below the SSR, it does not always result in more income for the child. If the custodian household is receiving Temporary Assistance for Needy Families (TANF), child support collection is retained by the state.¹⁴¹ Child support is counted as income in the calculation of the SNAP benefit level. Consequently, increasing the order will reduce the SNAP benefit if the child support order is paid. Only a few state guidelines address the subsistence needs of the custodian household. New Jersey guidelines provide that the obligor-parent is ineligible for the SSR adjustment if the income of the custodian household is below a poverty-based threshold. In TANF cases, the state retains collections on the higher order amount—that is, the order not adjusted for the SSR. In other words, the family does not benefit from prohibiting the obligor-parent access to the SSR when the custodian family is low income and enrolled in TANF.

As shown in Exhibit 66, the New Hampshire guidelines do provide for the consideration of both parents’ incomes in low-income cases, albeit very differently from the New Jersey provision. The New Hampshire guidelines provides a deviation for low-income parents “to arrive at the best outcome for the child or children, provided that the basic support needs of the child or children are met.” It further directs the court to consider the income tax consequences, the earned income tax credit, and the allocation of the right of a parent to claim a child as dependent for income tax purposes. Due to 2017 federal tax reform, there is no longer a tax benefit for claiming a child as dependent except for the child tax credit. In divorce cases, the parent with primary physical custody typically gets to claim the child, but the benefit can be signed over to the other parent. The federal earned income tax credit (EITC) cannot be signed

¹⁴¹ According to the National Conference of State Legislators, New Hampshire does not disregard or passthrough any child support collected in TANF cases. Many other states do. Retrieved from <https://www.ncsl.org/research/human-services/state-policy-pass-through-disregard-child-support.aspx>.

over to the parent with less physical time with the child. If custody is equally split, the parent with more income claims the EITC according to IRS rules.¹⁴²

Requirement to Consider the Actual Circumstances of the Parent when Imputing Income
 In its rulemaking process, OCSE clearly states its concern with the overuse of income imputation and income imputation standards for low-income, marginally employable obligor-parents.¹⁴³ This rule encourages consideration of the actual circumstances of the obligor-parent, employment barriers (e.g., highest educational attainment, housing situation, and history of incarceration), and whether there are local jobs for that parent. To be clear, this does not mean income imputation is inappropriate in all situations. Obviously, it is appropriate when an employable parent is voluntarily unemployed or underemployed.

Most state guidelines meet the federal provision shown in Row 3 of Exhibit 66 by adopting the federal language verbatim into their guideline. Exhibit 69 shows the provisions of Delaware, Massachusetts, Pennsylvania, and Rhode Island. Interestingly, Delaware’s provision still imposes the minimum standard of a 40-hour work week after the consideration of these factors. Massachusetts discerns between income imputation and income attribution and adapted the federal language verbatim but applied it to income attribution. According to Massachusetts standards, income imputation is to apply when there is undocumented or unreported income and income can be attributed when the parent is capable of working and is unemployed or underemployed.

Vermont will need to make changes to comply with the 2016-added requirements during its next review, scheduled for 2023. Maine just completed its guidelines review and is in the process of making changes that comport with the 2016-added federal requirements.

Exhibit 69: Examples of State Guidelines Provisions for Considering the Actual Circumstances of the Parent When Income Imputation is Authorized

State	Guidelines Provision
DE	<p>(d) Imputed Income. -- Unemployment or underemployment that is either voluntary or due to misconduct, failure to provide sufficient documentation, or failure to appear for a hearing or mediation conference shall cause reasonable earning capacity to be imputed. In determining whether actual employment is commensurate with training and experience and when imputing income, the Court shall consider each parent’s assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors. Except as provided in subsection (c) of this Rule, imputed income shall be calculated at not less than 40 hours of wages each week.</p> <p>(e) Wage surveys. The Court may take judicial notice of occupational wage surveys compiled by the United States Bureau of Labor Statistics (BLS) and the Office of Occupational and Labor Market Information (OOLMI) in the Delaware Department of Labor to impute or corroborate reasonable earning capacity.</p>

¹⁴² U.S. Internal Revenue Service. (Oct. 2022). “Qualifying Child Rules.” Retrieved from <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/qualifying-child-rules#Tests%20for%20a%20Qualifying%20ChildS>.

¹⁴³ Department of Health and Human Services Centers for Medicaid Services. (Dec. 20, 2016). “Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Final Rule.” 81 *Fed. Reg.* 244, p. 93520. Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-29598.pdf>.

State	Guidelines Provision
	<p>(1) If a parent's reasonable earning capacity has not previously been established and the actual income expressed as an hourly wage exceeds the survey's "Entry" level wage (average of the lowest 30%) for the parent's occupation, then the rate of pay shall be presumed commensurate with the parent's training and experience.</p> <p>(2) For imputation purposes, analysis should begin with the median wage for each occupation, but may be adjusted up or down between "Entry" and "Experienced" (average of the highest 70%) based upon the totality of the circumstances.</p> <p>(f) Minimum income. – In any instance not governed by subsections (b) or (c) of this Rule, every parent will be presumed to have a reasonable earning capacity of not less than the greater of the Federal or State statutory minimum wage at 40 hours per week (173.33 hours per month). As related to this subsection, when using the State statutory minimum wage, the Court will not utilize the statutory training wage or youth wage.</p> <p>(g) Unemployment. -- A person who receives unemployment compensation shall be presumed to have been terminated from employment involuntarily and without cause. Termination without receipt of unemployment compensation shall be presumed voluntary or for cause. Continued unemployment or underemployment in excess of 6 months shall be presumed voluntary.</p> <p>(h) Involuntary unemployment. -- If a parent's unemployment or underemployment is found by the Court to be involuntary and not for misconduct, then the parent's reasonable earning capacity shall be presumed the greater of:</p> <ol style="list-style-type: none"> (1) One-half of the parent's previous reasonable earning capacity; (2) Any Unemployment Compensation received; or (3) Minimum Income pursuant to subsection (f) of this Rule.
MA	<p>D. Imputation of income</p> <p>When the Court finds that a parent has, in whole or in part, undocumented or unreported income, the Court may reasonably impute income to the parent based on all the evidence submitted, including, but not limited to, evidence of the parent's ownership and maintenance of assets, and the parent's lifestyle, expenses and spending patterns.</p> <p>Expense reimbursements, in-kind payments or benefits received by a parent, personal use of business property, and payment of personal expenses by a business in the course of employment, self-employment, or operation of a business may be included as income if such payments are significant and reduce personal living expenses.</p> <p>In circumstances where the Court finds that a parent has unreported income, the Court may adjust the amount of income upward by a reasonable percentage to take into account the absence of income taxes that normally would be due and payable on the unreported income.</p> <p>E. Attribution of income</p> <p>Income may be attributed where a finding has been made that either parent is capable of working and is unemployed or underemployed.</p> <p>If the Court makes a determination that either parent is earning less than he or she could earn through reasonable effort, the Court should consider potential earning capacity rather than actual earnings in making its child support order.</p> <p>The Court shall consider the age, number, needs and care of the children covered by the child support order. The Court shall also consider the specific circumstances of the parent, to the extent known and presented to the Court, including, but not limited to, the assets, residence, education, training, job skills, literacy, criminal record and other employment barriers, age, health, past employment and earnings history, as well as the parent's record of seeking work, and the availability of employment at the attributed income level, the availability of employers willing to hire the parent, and the relevant prevailing earnings level in the local community.</p>
PA	<p>(A) Earning Capacity Limitation. The trier-of-fact:</p> <ol style="list-style-type: none"> (I) shall not impute to the party an earning capacity that exceeds the amount the party could earn from one full-time position; and (II) shall determine a reasonable work regimen based upon the party's relevant circumstances, including the jobs available within a particular occupation, working hours and conditions, and whether a party has exerted substantial good faith efforts to find employment. <p>(B) The trier-of-fact shall base the party's earning capacity on the subdivision (d)(4)(ii) factors.</p> <p>(C) After assessing a party's earning capacity, the trier-of-fact shall state the reasons for the assessment in writing or on the record.</p> <p>(D) When the trier-of-fact imputes an earning capacity to a party who would incur childcare expenses if the party were employed, the trier-of-fact shall consider reasonable childcare responsibilities and expenses.</p>

State	Guidelines Provision
	(ii) Factors. In determining a party's earning capacity, the trier-of-fact shall consider the party's: <ul style="list-style-type: none"> (A) child care responsibilities and expenses; (B) assets; (C) residence; (D) employment and earnings history; (E) job skills; (F) educational attainment; (G) literacy; (H) age; (I) health; (J) criminal record and other employment barriers; (K) record of seeking work; (L) local job market, including the availability of employers who are willing to hire the party; (M) local community prevailing earnings level; and (N) other relevant factors.

Federal Requirement to Not Treat Incarceration as Voluntary Unemployment

The federal requirement of state guidelines to not treat incarceration as voluntary unemployment complements another 2016-added federal requirement that requires government child support agencies to initiate an order review upon learning of an obligor-parent's incarceration for more than 180 days (see Exhibit 70 for the federal requirement).

Exhibit 70: 2016-Added Federal Requirement to Initiate an Order Review When a Parent is Incarcerated

§303.8 Review and adjustment of child support orders. * * * * (b) * * * (2)
<p>The State may elect in its State plan to initiate review of an order, after learning that a noncustodial parent will be incarcerated for more than 180 calendar days, without the need for a specific request and, upon notice to both parents, review, and if appropriate, adjust the order, in accordance with paragraph (b)(1)(i) of this section. * * * * (7) The State must provide notice— (i) Not less than once every 3 years to both parents subject to an order informing the parents of their right to request the State to review and, if appropriate, adjust the order consistent with this section. The notice must specify the place and manner in which the request should be made. The initial notice may be included in the order. (ii) If the State has not elected paragraph (b)(2) of this section, within 15 business days of when the IV–D agency learns that a noncustodial parent will be incarcerated for more than 180 calendar days, to both parents informing them of the right to request the State to review and, if appropriate, adjust the order, consistent with this section. The notice must specify, at a minimum, the place and manner in which the request should be made. Neither the notice nor a review is required under this paragraph if the State has a comparable law or rule that modifies a child support obligation upon incarceration by operation of State law. (c) * * * Such reasonable quantitative standard must not exclude incarceration as a basis for determining whether an inconsistency between the existing child support order amount and the amount of support determined as a result of a review is adequate grounds for petitioning for adjustment of the order.</p>

The objective of the federal requirement is to avoid the accumulation of unpayable arrears during incarceration by setting or modifying the order to zero or an amount that the incarcerated parent can reasonably pay given the actual circumstances of the incarcerated parent.¹⁴⁴ In proposing the rule, OCSE acknowledged although treating incarceration as voluntary unemployment used to be common, only

¹⁴⁴ Prisons that offer paid work typically pay significantly less than minimum wage.

about a dozen state guidelines still maintained that policy in 2014.¹⁴⁵ OCSE also cited research about the insurmountable arrears that incarcerated parents often had upon release from prison, and how that undermines stable employment and family relationships and increases recidivism.

New Hampshire State Plan and Case Law on Incarceration

New Hampshire's state plan and case law meet these federal requirements pertaining to incarcerated obligor-parents. The state plan identifies New Hampshire's process for initiating an order review upon learning of an obligor-parent's incarceration for more than 180 days. New Hampshire's landmark case law on this issue is *In the Matter of State of New Hampshire and Cory R. Louder*, 166 N.H. 353 (N.H. 2014).¹⁴⁶ The respondent (who was the obligor-parent) appealed a Superior Court order denying the obligor-parent's petition to modify child support upon incarceration because the obligor-parent's income was reduced to nothing once incarcerated. The argument for appeal was that the trial court erred by concluding that incarceration is not a substantial change in circumstance and by deeming incarceration to be voluntary unemployment. The New Hampshire Supreme Court reversed the lower court's decision. The court concluded that the obligor-parent's incarceration caused a substantial change in circumstance. It also concluded that there was no evidence that the obligor-parent was voluntarily unemployed, nor evidence that the motive for committing the crime that led to incarceration was to avoid child support. Further, the court concluded that since the obligor-parent's income was below the self-support reserve, the minimum order as provided in the guidelines should apply.

Other States: Their Approach to Not Treating Incarceration as Voluntary Unemployment

Most states comply with the federal requirement by simply stating that incarceration cannot be treated as voluntary unemployment (e.g., see the Georgia and Rhode Island provisions that are shown in Exhibit 71). Interestingly, the Massachusetts guidelines does not explicitly provide that incarceration cannot be treated as voluntary unemployment in the guidelines but cites case law on it in the guidelines commentary, as shown in Exhibit 71. Massachusetts' case law explicitly states that the "Court may not attribute income to the payer based on the payer's prior earning capacity, even if the payor is incarcerated due to committing a crime against the child for whom child support is being paid." In other words, Massachusetts case law aligns closely with the objective of the federal requirement: do not base the incarcerated parent's income used in the guidelines calculation on the parent's prior earnings. A key difference between Massachusetts and New Hampshire is Massachusetts sets its guidelines in court rules and New Hampshire sets its guidelines in statutes. Guidelines set by court rule typically contain commentary, which is usually published with the court rule. Consequentially, guidelines users would be aware of the case law. Extensive commentary and publishing that commentary are not the norms of guidelines set in statute.

¹⁴⁵ U.S. Department of Health and Human Services. (Nov. 2014). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs." 79 *Fed. Reg.* p. 68555. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

¹⁴⁶ Retrieved from <https://www.courts.nh.gov/documents/2013-0359-matter-state-new-hampshire-and-cory-r-louder>.

Exhibit 71: Examples of Guidelines Provisions Providing that Incarceration Cannot Be Considered Voluntary Unemployment

State	Guidelines Provision/Commentary
GA	<p><i>Provision</i></p> <p>If a parent is incarcerated, the court shall not assume an ability for earning capacity based upon pre-incarceration wages or other employment related income, but income may be imputed based upon the actual income and assets available to such incarcerated parent.</p> <p>A determination of willful or voluntary unemployment or underemployment shall not be made when an individual's incarceration prevents employment.</p>
MA	<p><i>Commentary</i></p> <p>In P.F. v. Department of Revenue, 90 Mass. App. Ct. 707 (2016), the Appeals Court addressed attribution of income where the payor is incarcerated. "Income may be attributed where a finding has been made that [the payor] is capable of working and is unemployed or underemployed,' . . . or where the payor owns 'substantial assets.'" P.F. v. Department of Revenue, 90 Mass. App. Ct. 707, 710 (2016) (quoting Wasson v. Wasson, 81 Mass. App. Ct. 574, 581 (2012), quoting from Flaherty v. Flaherty, 40 Mass. App. Ct. 289, 291 (1996)). However, where there is "no income or assets from which to pay child support", the Court may not attribute income to the payor based on the payor's prior earning capacity, even if the payor is incarcerated due to committing a crime against the child for whom child support is being paid. P.F. v. Department of Revenue, 90 Mass. App. Ct. 707, 710-11 (2016).</p>
ME	<p><i>Provision</i></p> <p>§2001 (5) Gross income. "Gross income" means gross income of a party as follows.</p> <p>D. Gross income may include... A party who is incarcerated in a correctional or penal institution is deemed available only for employment that is available through such institutions.</p>
RI	<p><i>Provision</i></p> <p>Incarceration considered by itself, may not be treated as voluntary unemployment for purposes of preventing someone from filing a motion to modify a child support order or denying a motion to modify. However, circumstances surrounding the incarceration of the obligor may be considered with all other factors and circumstances related to the incarcerated obligor's ability to pay support and any other equitable considerations relevant to the specific circumstances of the case.</p>

As part of its 2021 guidelines review, California conducted an in-depth legal analysis of whether its case law pertaining to child support and incarcerated parents fulfills the federal requirement.¹⁴⁷ California's case law is not explicit as Massachusetts case law. California imposes an earning capacity standard: if an incarcerated parent does not have an opportunity to work, the earning capacity test is not satisfied and cannot be used to determine child support payments. Nonetheless, the legal analysis concluded that California should codify its case law to be compliant with the federal requirement. The analysis noted that one limitation of case law is that it can be overturned.

Exceptions Based on the Reason for Incarceration

The case described above brings up another issue that has been addressed nationally: are there appropriate exceptions to not treating incarceration as voluntary unemployment? Namely, those exceptions are when incarceration was to avoid child support or incarceration was due to a crime against the family receiving child support (i.e., domestic violence). OCSE has wavered on the issue. In OCSE's 2016 response to a rulemaking comment suggesting that an exception should be made in cases

¹⁴⁷ Judicial Council of California, Review of Statewide Uniform Child Support Guideline 2022. San Francisco, CA. p. 166–68. Retrieved from <https://www.courts.ca.gov/documents/Review-of-Uniform-Child-Support-Guideline-2021.pdf>.

where the obligor-parent was incarcerated due to an act of domestic violence against the custodial parent or children, OCSE's responded with:

Under the rule, the court or administrative authority has the discretion to consider the specific circumstances of the case. However, in doing so, it is important to be clear that establishing, modifying, or enforcing a child support order is not a form of punishment for incarcerated, noncustodial parents. 'The child support system is not meant to serve a punitive purpose. Rather, the system is an economic one, designed to measure the relative contribution each parent should make—and is capable of making—to share fairly the economic burdens of child rearing. Incarcerated parents have been sentenced for the crime they committed and are repaying their debt to society. Imputing income based upon the nature of the crime is considered an adverse collateral consequence of incarceration that imposes additional civil sanctions beyond the criminal sentence.¹⁴⁸

In short, OCSE discouraged exceptions but did not prohibit them. In 2020, however, OCSE proposed a rule change that would give states the options to provide for exceptions to the prohibition against treating incarceration as voluntary unemployment.¹⁴⁹ The exceptions concern domestic abuse and nonpayment of child support. In 2021, OCSE withdrew the proposed rule change.¹⁵⁰ In rationalizing the withdrawal, OCSE noted that most states complied with the requirement to not treat incarceration as voluntary unemployment.

A handful of states currently provide exceptions. OCSE has not published a definitive assessment whether these states are in compliance with the federal rule. A safe route is not to provide any exceptions. Although there are moral grounds for the exceptions, the reality is that setting higher order amounts in these circumstances is unlikely to generate additional child support receipts for the children. Their crime does not affect their ability to pay or income. For example, whether an accountant is incarcerated for domestic violence or white-collar fraud does not affect their income while in prison. Further, the exception creates an extra step and more fact-finding in the order establishment and modification process. The reason for incarceration must also be reviewed in the process, but this is not information most state child support agencies receive automatically and can easily match to child support cases.

Option to Recognize Healthcare Coverage from Public Sources as Healthcare Coverage
Not only must state child support guidelines provide formulas for financial support, but they must have provisions that address how the parents would provide for the child's healthcare needs. Historically, that was done through requiring one or both parents to provide private insurance. In 2008, OCSE limited the mandate of private insurance to when the out-of-pocket expense of insuring the child was

¹⁴⁸ Department of Health and Human Services Centers for Medicaid Services. (Dec. 2016). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Final Rule." 81 *Fed. Reg.* 244, p.93524. Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-29598.pdf>.

¹⁴⁹ U.S. Department of Health and Human Services. (Sept. 2020). "Optional Exceptions to the Prohibition Against Treating Incarceration as Voluntary Unemployment Under Child Support Guidelines." 85 *Fed. Reg.* 244, p. 58029. Retrieved from <https://www.federalregister.gov/documents/2020/09/17/2020-17747/optional-exceptions-to-the-prohibition-against-treating-incarceration-as-voluntary-unemployment>.

¹⁵⁰ U.S. Department of Health and Human Services. (Nov. 10, 2021). "Optional Exceptions to the Prohibition Against Treating Incarceration as Voluntary Unemployment Under Child Support Guidelines." 86 *Fed. Reg.* p. 62502. Retrieved from <https://www.federalregister.gov/documents/2021/11/10/2021-24606/optional-exceptions-to-the-prohibition-against-treating-incarceration-as-voluntary-unemployment>.

reasonable in cost and the health plan was accessible to the child (e.g., the health plan’s in-network area covered where the child lived).¹⁵¹ In 2016, OCSE modernized this requirement in light of 2010 healthcare reform and other factors to recognize that public coverage (e.g., Medicaid) can meet the child’s healthcare needs. Exhibit 66 shows how the requirement pertaining to the child’s healthcare needs was expanded in 2016 using underlined text to show additions and strikeout text to show deletions. One major edit was to replace the term “health insurance” with “health care coverage.” This effectively broadens what can be considered adequate to meet the child’s healthcare needs. As shown in Exhibit 72, the New Hampshire guidelines do consider public coverage to be healthcare coverage for the children, so no additional changes are necessary.

Exhibit 72: Strikeout and Added Text-Version of Federal Change to Requirement to Consider the Child’s Healthcare Coverage

§ 302.56 Guidelines for setting child support awards.
<p>(2) (2) Address how the parents will provide for the child(ren)’s <u>child’s</u> health care needs through <u>private or public health insurance care coverage</u> and/or through cash medical support in accordance with § 303.31 of this chapter.;</p> <p><i>§303.31 Securing and enforcing medical support obligations.</i></p> <p>(a) * * * (2) Health insurance care coverage <u>care coverage</u> includes fee for service, health maintenance organization, preferred provider organization, and other types of <u>private health insurance and public health care coverage</u> which is available to either parent, under which medical services could be provided to the dependent child(ren).</p> <p>(3) Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of this chapter. In applying the five percent or alternative State standard for the cost of private health insurance, the cost is the cost of adding the child(ren) to the existing coverage or the difference between self-only and family coverage.</p> <p>(b) * * * (1) Petition the court or administrative authority to:</p> <p>(i) Include private health insurance care coverage <u>care coverage</u> that is accessible to the child(ren), as defined by the State, and is available to the parent responsible for providing medical support <u>and can be obtained for the child</u> at reasonable cost, as defined under paragraph (a)(3) of this section, in new or modified court or administrative orders for support; and</p> <p><u>(ii) Allocate the cost of coverage between the parents.</u></p> <p>(2) If private health insurance care coverage <u>care coverage</u> described in paragraph (b)(1) of this section is not available at the time the order is entered or modified, petition to include cash medical support in new or modified orders until such time as health insurance care coverage <u>care coverage</u>, that is accessible and reasonable in cost as defined under paragraph (a)(3) of this section, becomes available. In appropriate cases, as defined by the State, cash medical support may be sought in addition to health insurance care coverage <u>care coverage</u>.</p> <p>(3) Establish written <u>written</u> criteria, <u>which are reflected in a record</u>, to identify orders that do not address the health care needs of children based on—</p> <p>(i) Evidence that private health insurance care coverage <u>care coverage</u> may be available to either parent at reasonable cost, as defined under paragraph (a)(3) of this section; and * * * * *</p>

¹⁵¹ U.S. Administration for Children and Families, Office of Child Support Enforcement. (Jul. 2008). “Child Support Enforcement Program: Medical Support.” 73 Fed. Reg p. 42415. Retrieved from <https://www.federalregister.gov/documents/2008/07/21/E8-15771/child-support-enforcement-program-medical-support>.

CHAPTER 6: LEGAL ANALYSIS OF GRANDPARENT LIABILITY

In response to a legislative audit, the New Hampshire Bureau of Child Support Services (BCSS) is seeking to clarify grandparents' liability for supporting grandchildren born to their unwed minor children. New Hampshire laws appear to establish grandparents' liability, in certain circumstances, for supporting grandchildren born to unwed minors who receive public assistance. BCSS legal staff have noted that recovery of public assistance is different from the establishment of an ongoing current support obligation. Establishment of a support obligation is pursuant to New Hampshire's child support guidelines, which provide that both parents share financial responsibility for the children. This chapter reviews the laws surrounding the issue and concludes with a list of policy questions to be answered to determine policies that will result in the consistent application of the law. One option is to eliminate it.

BACKGROUND

New Hampshire addresses the liability of a parent or grandparent for public assistance in Title XII, Public Safety and Welfare. Relevant statutes are NH RSA §§ 167.2, 167:3, and 167:3-A. New Hampshire addresses the establishment of a child support obligation in Title XLIII, Domestic Relations. Relevant statutes are NH RSA §§ 458-C:1 through 458-C:7.

NH RSA § 167.2 Liability for Support; Recovery

The statute that establishes parents' liability for public assistance provided to their children is NH RSA § 167.2. Initially enacted in 1937, it was recodified or amended in 1951, 1969, 1983, 1995, and 2013. In 2013, the amendments removed the state's ability to recover public assistance from the recipient's child and stepparent. The bold text below was added at that time to also limit the state's authority to recover public assistance from the recipient's parent.

NH RSA § 167:2 provides:

Assistance rendered under this chapter or RSA 161 to anyone having a father, mother, husband or wife, whose weekly income or other resources are more than sufficient to provide a reasonable subsistence compatible with decency and health, may be recovered in an appropriate proceeding in the superior court brought by the commissioner of health and human services, in the name of the state, **from either a father, mother, husband, or wife, who are declared jointly and severally liable for such assistance. A parent shall be liable under this section only for assistance provided to a child under the age of 18, or for as long as the department of health and human services has the authority to recover support under Title IV of the Social Security Act.** Such action shall be brought by the attorney general or the county attorney for the county in which any such relative resides when so requested by the commissioner of health and human services. Nothing in this section shall affect assistance eligibility or the amount of services for which an applicant or recipient may be eligible. (amendments in bold)

When the legislature amended NH RSA § 167:2 in 2013, it also amended NH RSA § 546-A:2 within Title LV: Proceedings in Special Cases to read as follows:

546-A:2 Liability. Every person whose income or other resources are more than sufficient to provide for his or her reasonable subsistence compatible with decency or health owes a duty to support or contribute to the support of the following persons when in need: his or her wife, husband, or child **under the age of 18 or for as long as the department of health and human services has the authority to recover support for the child under Title IV of the Social Security Act.** (amendments in bold)

NH RSA § 167:3-a Liability of Grandparents

New Hampshire establishes grandparent liability for public assistance in NH RSA § 167:3-a. Liability is limited to assistance provided to a child of an unwed minor. It includes language patterned after that in § 167:2, applying to any grandparent “whose weekly income or other resources” are “more than sufficient to provide a reasonable subsistence compatible with decency and health.” It references NH RSA §§ 167:2 and 167:3 regarding the means to recover such support.

NH RSA § 167:3-a provides the following:

Assistance rendered under this chapter or RSA 161 to anyone who is the child born of an unwed minor whose father or mother, grandparent of the child born of an unwed minor, has a weekly income or other resources more than sufficient to provide a reasonable subsistence compatible with decency and health, may be recovered from such grandparent in the same manner and by the same proceedings as provided in RSA 167:2 and 167:3 for recovery from other legally liable relatives.

This statute was first enacted in 1961. At a January 1961 public meeting of the Judiciary Committee related to the proposed legislation, Commissioner James Barry explained that the bill was needed “to hold a girl’s parents responsible for illegitimate children when they are in need.” He noted that “many cases of young girls have come before the Department, particularly in the Pease Air Base facility. In cases where the father of the illegitimate child disappears and the girl is left stranded, families often refuse to help.” He cited a concern of the Department of Public Welfare that existing statutes were not sufficient to hold grandparents responsible for the support when they had the financial means to do so.

The Department of Public Welfare supported SB 20 when it was introduced by Senator Cleveland in 1961. At that time, Senator Cleveland stated:

What the bill does is to make grandparents responsible, where there is a showing that they are capable of doing so, makes them responsible for the support of the illegitimate child of the minor child of these grandparents.

In response to a question, Senator Cleveland noted that the bill would make grandparents on both sides responsible, if they were known.

The 1973 amendments replaced references to an “illegitimate child” with “child born of an unwed minor.” Both the enactment and amendments predate creation of the Title IV-D child support program and therefore make no reference to enforcement by the child support agency or the calculation of support pursuant to presumptive child support guidelines. However, by cross-referencing NH RSA § 167:2, the 2013 amendments to that statute tying enforcement to the authority of the Department of Health and Human Services to recover support under Title IV of the Social Security Act also apply to NH RSA § 167:3-a.

Chapter 458-C Child Support Guidelines

The other statutes that are relevant for this discussion are in Title XLIII: Domestic Relations, Chapter 458 Child Support Guidelines. NH RSA § 458-C:1 (2021) lays out the principles embodied in New Hampshire’s child support guidelines. Among those is the principle that “Both parents shall share responsibility for economic support of the children.” This statute was first enacted in 1988 to comply with the Family

Support Act of 1988, which required each state to establish presumptive child support guidelines for the establishment of a child support order. Subsequent statutory provisions address how to calculate the child support amount, applying the guideline formula to the income of the parents.

ISSUE

A 2015 New Hampshire legislative audit determined that state laws were not clear on grandparents' liability to provide support to their grandchildren under certain circumstances.¹⁵² The report noted that NH RSA § 167:3-a allowed the Department of Health and Human Services (DHHS) to recover from grandparents, public assistance rendered to their grandchildren when they are born to unwed minor parents. The statute allowed the State to recover such assistance from grandparents "in the same manner and by the same proceedings as provided . . . for recovery from other legally liable relatives." However, state law also required child support obligations to be established according to the child support guidelines within Chapter 458-C.

The guidelines stipulated "[b]oth parents shall share responsibility for economic support of the children." It further defined the obligor as the "parent responsible for the payment of child support under the terms of a child support order" [emphasis added]. According to DCSS¹⁵³ legal staff, RSA 167:3-a allowed recovery for the amount of actual assistance rendered and did not allow for establishment of an ongoing child support order. Further, the original intent of RSA 167:3-a may have been to allow the DHHS to seek ongoing child support against a grandparent or other relative; however, under current State law, the DCSS Child Support Establishment, Collection, And Disbursement must use the child support guidelines to establish an ongoing child support order. The guidelines did not provide for the consideration of a grandparent's income in determining ongoing support; therefore, there does not seem to be a way to actually establish an order for ongoing support against a grandparent under current law.

The audit report recommended that DCSS seek clarification from the Legislature regarding grandparents' liability for providing support to their grandchildren when they are born to unwed minors. DCSS concurred with the recommendation, stating that an "analysis of this subject will need to be conducted in a multidisciplinary approach with all stakeholders to determine the intent and purpose of this statute, the requirements of each respective agency in the recovery of public assistance, the position of state government on the subject and the proposal of legislation, if any." In its 2016 semi-annual status update report to the DHHS Office of Business Operations, Financial, DCSS reiterated the need for a multi-disciplinary approach.¹⁵⁴

The issue is whether there is a need to amend any of the statutes related to grandparent liability. BCSS estimates that 1% of current support orders involve a minor parent outside the home with children on public assistance. The agency also notes the confounding issue of a child in relative care, such as an aunt, who may have two sets of grandparents.

¹⁵² Office of Legislative Budget Assistant, State of New Hampshire, Health and Human Services, Division of Child Support Services Audit Report, 16-17. (Feb. 2016). "Re: Oct 2015 LBA Audit of Child Support; Semi-Annual Status Report." Retrieved from <https://www.nh.gov/transparentnh/audit/health-human/documents/2016-02-css.pdf>.

¹⁵³ In 2016 the Bureau of Child Support Services (BCSS) was known as the Division of Child Support Services (DCSS).

¹⁵⁴ Office of Legislative Budget Assistant, State of New Hampshire, Health and Human Services, Division of Child Support Services Audit Report, 16-17. (Feb. 2016). "Re: Oct 2015 LBA Audit of Child Support; Semi-Annual Status Report. Retrieved from <https://www.nh.gov/transparentnh/audit/health-human/documents/2016-02-css.pdf>.

Research

In preparing this report, Public Knowledge® (PK) conducted a literature review and statutory analysis. It also surveyed representatives of the Title IV-D child support agency in each of the other 11 states with grandparent liability statutes.

LITERATURE REVIEW

Relationship between Public Assistance and Child Support

Historically, biological or adoptive parents have a duty to support their child(ren). In the United States, this duty exists regardless of the marital status of the parents.

Since the 1930s, the federal government has also assisted in providing support for children. The Depression of the 1930s resulted in millions of Americans out of work. State and local governments and charities could no longer meet even minimum needs. President Franklin Roosevelt convened a national Committee on Economic Security. Based on its recommendations, President Roosevelt proposed to Congress economic security legislation. The Social Security Act was signed into law on August 14, 1935.¹⁵⁵ In addition to creating two social insurance programs, the Act established federal grants to enable states to extend and strengthen maternal and child health and welfare services. These grants became the Aid to Families with Dependent Children (AFDC) program.¹⁵⁶ In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA),¹⁵⁷ which reformed the welfare system and resulted in state block grants known as Temporary Assistance for Needy Families (TANF).

Since the creation of the AFDC program, there has been a connection between public assistance and child support. Initially, states were entitled to unlimited federal funds for reimbursement of AFDC benefits provided to persons eligible under federal law and whose income and resources were within state-set limits, at “matching” rates that were inversely related to state per-capita income.¹⁵⁸ As the cost of the AFDC program increased, Congress enacted the Social Security Amendments of 1967.¹⁵⁹ This law, among other provisions, amended Title IV of the Act to require state welfare agencies to establish a single unit whose mission was to collect child support and establish paternity for children on public assistance. States had to work cooperatively with each other under child support reciprocity agreements and with courts and law enforcement officials. Despite these efforts, by 1972, it was clear from the rapid increase in numbers of welfare recipients that the 1967 amendments had not produced the intended results. The Senate Finance Committee, under the chairmanship of Russell Long, compiled data on AFDC costs and child support enforcement and continued to push for a comprehensive Child Support

¹⁵⁵ Pub. L. No. 74-271, 49 Stat. 620 (1935).

¹⁵⁶ U.S. Social Security Administration. (n.d.). *Legislative History*. Retrieved from <https://www.ssa.gov/history/35activ.html>.

¹⁵⁷ Pub. L. No. 104-193, 110 Stat. 2105 (1996).

¹⁵⁸ U.S. House Committee on Ways and Means. (2012). “Chapter 8: Child Support Enforcement Legislative History.” *2012 Green Book*. Retrieved Nov. 2022 from <https://greenbook-waysandmeans.house.gov/2012-green-book/child-support-enforcement-cover-page/legislative-history>.

¹⁵⁹ Pub. L. No. 90-248, 81 Stat. 821.

Enforcement program. Its efforts led to passage of the Social Security Amendments of 1974.¹⁶⁰ Title IV-D of that legislation created the Program for Child Support Enforcement and Establishment of Paternity, known as the IV-D program.¹⁶¹ New eligibility requirements were added to the AFDC program requiring applicants for, or recipients of, AFDC to make an assignment of support rights to the State and to cooperate with the State in establishing paternity and securing support unless cooperation would not be in the best interests of the child.

In its 1992 report to Congress, the U.S. Commission on Interstate Child Support noted that some states created a debt for the child’s portion of any AFDC benefit. “This debt is assessed against the noncustodial parent without regard to ability to pay and may be in addition to the amount of the child support ordered. . . . This policy is counter to the federal law that requires that states use guidelines to establish a child support obligation amount.”¹⁶² The Commission recommended that Congress enact a law requiring states, as a condition of receiving IV-D funds, “to enact laws limiting any claims that may have against a noncustodial parent for reimbursement of the child’s portion of the AFDC grant to the amount specified as child support under a court or administrative order.”¹⁶³ Congress did just that when it enacted PRWORA.

Similar to the AFDC program, the new TANF program established by PRWORA requires an assignment of support rights. Section 408 of PRWORA provides:

A State to which a grant is made under section 403 shall require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family.¹⁶⁴

An assignment of support rights means the State can keep the child support money it collects from the noncustodial parent to reimburse itself and the federal government for the cost of providing cash assistance.¹⁶⁵ However, as recommended by the Interstate Child Support Commission, PRWORA limited the claims a state may have against a noncustodial parent for reimbursement of the child’s portion of the AFDC grant. 42 U.S.C. § 656 provides that the amount of such obligation shall be the amount

¹⁶⁰ Pub. L. No. 93-647, 88 Stat. 2351.

¹⁶¹ U.S. Department of Health and Human Services. (Jul. 2021). “Chapter 1: Child Support Enforcement in the United States”. *Essentials for Attorneys in Child Support Enforcement*. Retrieved from https://www.acf.hhs.gov/sites/default/files/documents/ocse/essentials_for_attorneys_01.pdf.

¹⁶² U.S. Commission on Interstate Child Support. (1993). *Supporting Our Children: A Blueprint for Reform*. p. 224.

¹⁶³ *Ibid.* at p. 224.

¹⁶⁴ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 408, 110 Stat. 2105, 2135, codified at 42 U.S.C. § 608. Section 408 also established limitations on assistance to teenage parents.

¹⁶⁵ Most states have “pass throughs” that allow families to keep at least a portion of child support payments—usually between \$50 and \$200 a month—and most disregard the full amount passed through so that it does not affect a family’s eligibility. See Center on Budget and Policy Priorities, Policy Basics: Temporary Assistance for Needy Families (updated Mar.1, 2022), retrieved from <https://www.cbpp.org/research/family-income-support/temporary-assistance-for-needy-families> (last visited Nov. 13, 2022). In 2015, Colorado became the first state to pass through and disregard 100% of child support payments.

specified in a court order which covers the assigned support rights, or “if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary.”¹⁶⁶

Federal law at 42 U.S.C. § 667 requires that each state, as a condition for having its State IV-D plan approved, must establish guidelines for child support award amounts within the state. All judges and other officials who have the power to determine child support awards within the state must establish such awards using the state’s child support guideline, unless there is a written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case. Implementing regulations at 45 C.F.R. § 302.56(c) require that child support guidelines must, at a minimum, provide that the child support order is based on the noncustodial parent’s earnings, income, and other evidence of ability to pay.

Grandparent Liability for Support

The Elizabethan Poor Laws, which made their way into the U.S. colonies’ laws, recognized an extended duty of support. The Elizabethan Act of 1601 for the Relief of the Poor, 43 Eliz. 1, c. 2, § VII (1601) (as amended), provided:

[T]he father and grandfather, the mother and grandmother, and the children of every poor, old, blind, lame and impotent person, or other poor person not able to work, being of a sufficient ability, shall, at their own charges, relieve and maintain every such poor person.

In the 1950s, 45 states and the District of Columbia still had family responsibility provisions based on the English model.¹⁶⁷ These statutes of general assistance differ from statutes related to categorical public assistance programs, such as TANF, which must conform to minimum standards established by federal and state law.¹⁶⁸ In fact, the legislative purpose of such family responsibility laws was to establish an obligation for relatives to provide support as an alternative to public assistance. However, in lawsuits seeking to enforce a support duty against a child’s grandparents based on a state’s family responsibility statute, courts refused to use such laws as a basis for finding grandparents liable for support.¹⁶⁹

In contrast to the expansive family responsibility state statutes, Congress expressly addressed grandparent liability for support in PRWORA. Section 373 of PRWORA amended 42 U.S.C. § 666(a) by adding paragraph 18.¹⁷⁰ As codified, the statute provides as follows:

¹⁶⁶ Implementing regulations are at 45 C.F.R. § 302.50.

¹⁶⁷ See generally Richard Mandelker, “Family Responsibility Under American Poor Laws, Parts I and II,” 54 Mich. L. Rev. 497, 54 Mich. L. Rev. 607 (1956); William Tratner, *From Poor Law to Welfare State: A History of Social Welfare in America* (4th ed. 1989).

¹⁶⁸ Mandelker, Richard. (1956). “Family Responsibility Under American Poor Laws, Part I.” 54 Mich. L. Rev. 497.

¹⁶⁹ See, e.g., *Levy v. Levy*, 536 So. 2d 742 (La. Ct. App. 3 Cir. 1988) (Louisiana law provided, “Children are bound to maintain their father and mother and other ascendants, who are in need, and the relatives in the direct ascending line are likewise bound to maintain their needy descendants.” Based on the law, the mother of two children filed suit against the paternal grandparents, seeking child support. The trial court ordered the grandparents to pay monthly support. The Louisiana Court of Appeals reversed. It held the father had the primary obligation to provide child support, and no obligation could be imposed on the grandparents “so long as his whereabouts are reasonably ascertainable and judicial proceedings can be taken against him to obtain child support.”).

¹⁷⁰ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 373, 110 Stat. 2105, 2255.

(a) Types of procedures required: In order to satisfy section 654(20)(A) of this title [i.e., have in place such procedures as would entitle a state to receive federal funds for child support enforcement], each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part: . . .

(18) Enforcement of orders against paternal or maternal grandparents. – Procedures under which, at the State’s option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parent of such child is receiving assistance under the State program under part A of this subchapter, shall be enforceable, jointly and severally, against the parents of the noncustodial parent of such child.

Under this provision, states are encouraged, but not required, to enact procedures under which any child support order relating to minor parents, whose custodial parent receives public assistance, will be enforceable jointly and severally against the parents of the noncustodial parent of the child.

There are several things to note about 42 U.S.C. § 666(a)(18):

- It is optional. States have discretion whether to enact such procedures.
- It only applies to children of minor parents.
- It only applies if the minor custodial parent is receiving TANF.
- It only addresses enforcement by the child support agency against the parents of the noncustodial parent.
- It does not eliminate the obligation of the noncustodial parent to provide support. If the noncustodial minor parent is unable to provide support as a minor, such parent still has an enforceable obligation when the parent is no longer a minor.

STATUTORY REVIEW

To date, 12 states have statutes that establish grandparent liability for support: Arizona, Idaho, Maryland, Missouri, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, South Dakota, Wisconsin, and Wyoming.¹⁷¹ Rhode Island has a statute enacted in 1896 that is modeled after the Elizabethan poor laws.¹⁷² NH RSA § 167.2, which is referenced in New Hampshire’s grandparent liability statute, was enacted in 1937 and also has a family responsibility provision based on the English model. Most of the state grandparent liability statutes appear to have been enacted between 1950 and 1980. Three states—Missouri, Ohio, and South Dakota—enacted grandparent liability statutes in the 1990s, but prior to federal enactment of the “state option” grandparent liability provision within PRWORA. The

¹⁷¹ A few legal articles identify Illinois as a state imposing grandparent liability for support. (See “Are Grandparents Obligated to Pay Support?” Retrieved from <https://www.rosen.com/childsupport/csupportarticles/grandparents/>. However, the statutory language in 305 Ill. Comp. Stat. 5/Illinois Public Aid Code does not clearly impose such liability, and an attorney with the Illinois child support agency and a former Illinois assistant attorney general indicated they were not aware of any Illinois statute imposing grandparent liability for support or reimbursement of public assistance for a minor unwed child [conversation on November 9, 2022, between Margaret Haynes (PK) and Debbie Packard (Public Service Administrator, Illinois Department of Healthcare and Family Services) and Diane Potts (former Illinois assistant attorney general)].

¹⁷² See R.I. Gen. Laws § 40-5-13 (2022). Rhode Island also addresses grandparent liability in R.I. Gen. Laws § 15-5-16.2(g) (2022).

South Carolina statute, enacted in 2008, is the most recent. A summary of each state’s grandparent liability statute(s) is in Appendix D.

In all states with grandparent liability statutes, the obligation applies to both maternal and paternal grandparents. However, in Missouri, the child support enforcement agency only has responsibility for enforcing support orders against the parents of the noncustodial parent in cases where such parents have a minor child who is the parent and the custodial parent is receiving Title IV-A public assistance.¹⁷³

In seven states, the obligation for grandparents to provide support for children of their unwed minor children is not limited to public assistance cases: Arizona, Idaho, North Carolina, Ohio, South Carolina, South Dakota, and Wisconsin.¹⁷⁴ This is especially true when the grandparent liability statute is found in a section of the state code related to divorce, family law, or domestic relations rather than in a section of the code related to public welfare.¹⁷⁵

In five states, the obligation for grandparents to provide support to the children of their unwed minor child is limited to cases where the unwed minor child is receiving public assistance: Maryland, Missouri, New Hampshire, Rhode Island, and Wyoming.¹⁷⁶ Wyoming further limits the reach of the statute to public assistance cases where the minor custodial parent is living with a qualified person other than a parent.

In almost all states with grandparent liability statutes, the statutes provide that the grandparents may be held jointly and severally liable with their unwed minor child for the support of the child of the unwed minor child until the minor reaches the age of majority.¹⁷⁷ Wisconsin allows the “parent of a dependent person who maintains a child of the dependent person,” after the dependent person reaches age 18, to seek restitution from the dependent person for the maintenance provided by the grandparent.¹⁷⁸ In contrast, N.C. Gen. Stat. § 50-13.4(b) (2022) states that in the absence of pleading and proof that the circumstances would otherwise warrant, if both parents of a child requiring support were unemancipated minors at the time of the child’s conception, the parents of both minor parents share primary liability with the minor parents for their grandchild’s support until both minor parents reach the age of 18 or become emancipated. Where only one parent of the child requiring support was an unemancipated minor at the time of the child’s conception, the statute imposes liability on the grandparents for child support arrearages owed by the adult or emancipated parent until the other parent reaches age 18 or becomes emancipated.

¹⁷³ See Mo. Rev. Stat. § 454-400(2)(16) (2022).

¹⁷⁴ See Ariz. Rev. Stat. § 25-810 (2022); Idaho Code § 32-706(4) (2022); N.C. Gen. Stat. § 50-13.4(b) (2022); Ohio Admin. Code Rule 5101:12-45-15 (2022); S.C. Code Ann. § 63-17-350 (2022); S.D. Codified Laws § 25-5-18.2 (2022); Wis. Stat. § 49.90 (2022).

¹⁷⁵ See Ariz. Rev. Stat. § 25-810 (2022); Idaho Code § 32-706(4) (2022); N.C. Gen. Stat. § 50-13.4(b) (2022); S.D. Codified Laws § 25-5-18.2 (2022).

¹⁷⁶ See Md. Family Law Code Ann. § 5-203(c) (2022); Mo. Rev. Stat. § 454.400(2)(16) (2022); NH RSA § 167:3-a (2022); R.I. Gen. Laws § 15-5-16.2(g) (2022); Wyo. Stat. Ann. § 42-2-103(e) (2022).

¹⁷⁷ See, e.g., Ariz. Rev. Stat. § 25-810 (2022); Md. Family Law Code Ann. § 5-203(c) (2022); R.I. Gen. Laws § 15-5-16.2(g)(2) (2022).

¹⁷⁸ Wis. Stat. § 49.90(13)(c) (2022).

The grandparent liability statutes of Arizona, Maryland, New Hampshire, South Carolina, and Wyoming are silent regarding how the grandparent’s support obligation is calculated. The grandparent liability statutes in Idaho, Missouri, and Wisconsin list factors the court may consider in determining the amount the parents of a minor parent should pay for the support and education of the child born to the minor parent(s) until the minor parent is no longer a minor. Such factors include:

- The financial resources of the child;¹⁷⁹
- The financial resources of the minor parent;¹⁸⁰
- The financial resource, needs, and obligations of the parent of the minor parent;¹⁸¹
- Consideration of the grandparents’ own future maintenance, making reasonable allowance for the protection of the property and investments from which they derive their living and their care and protection in old age;¹⁸²
- The responsibility of the parents of the father less than 18 years of age and the parents of the mother less than 18 years of age for the support of other children;¹⁸³
- The physical and emotional condition and needs of the child and his or her educational needs;¹⁸⁴ and
- The availability of medical coverage for the child at reasonable cost.¹⁸⁵

Missouri and Wisconsin require the court to consider in-kind support being provided by the grandparent.

Missouri’s statute provides that the amount of such payment “[s]hall not exceed the amount of the standard of need of the state’s public assistance plan for one child.” Rhode Island’s statute also provides that the court or its magistrate may order a grandparent of the minor child to reimburse the department “in an amount not to exceed the total amount of cash assistance benefits paid to or for the minor child . . . less any payment made to the department by the minor parent.”

Only two state grandparent liability statutes expressly require application of the state’s child support guidelines in calculating the support obligation: North Carolina and Ohio. North Carolina’s grandparent liability is in the Divorce and Alimony section of its code. N.C. Gen. Stat. § 50-13.4 governs an action of support of a minor child. It provides that in the absence of pleading and proof that the circumstances otherwise warrant, the father and mother shall be primarily liable for the support of a minor child. Similarly, it provides that parents of a minor, unemancipated child who is the custodial or noncustodial parent of a child shall share this primarily liability for their grandchild’s support with the minor parent, the court determining the proper share, until the minor parent reaches age 18 or becomes emancipated. In entering an order requiring any of these parties to provide for support, the court must

¹⁷⁹ See Idaho Code § 32-706(4) (2022).

¹⁸⁰ See Idaho Code § 32-706(4) (2022).

¹⁸¹ See Idaho Code § 32-706(4) (2022); Mo. Rev. Stat. § 210.847 (2022).

¹⁸² See Wis. Stat. § 49.90(4) (2022).

¹⁸³ See Mo. Rev. Stat. § 210.847 (2022).

¹⁸⁴ See Idaho Code § 32-706(4) (2022).

¹⁸⁵ See Idaho Code § 32-706(4) (2022); Wis. Stat. § 49.90(4) (2022).

determine the child support amount applying the presumptive guidelines. Ohio's grandparent liability statute is in its administrative code governing the child support enforcement agency. Ohio Admin. Code Rule 5101:12-45-15 expressly requires the agency to calculate the child support amount in accordance with the basic child support schedule "using the income of all grandparents instead of the income of the minors." It is the only grandparent liability statute that expressly addresses whose income should be used when calculating support under the uniform support guidelines.

In contrast, Mo. Rev. Stat. § 210.847, which states that the grandparent liability cannot exceed the public assistance standard of need for one person, expressly states that the Supreme Court rule providing for presumptive child support "shall *not* apply when a court determines the support obligation owed by the parents of a teen parent" (emphasis added). Wisconsin has a statute within its Public Assistance and Children code that broadly addresses the liability of relatives for maintenance of dependent persons who are unable to maintain themselves. The statute imposes an obligation on a grandparent to maintain a child of their minor child to the extent the minor child is unable to support his or her child. The maintenance obligation applies regardless of whether a court has ordered maintenance by the grandparent. However, where the court establishes a maintenance order from relatives, including support by grandparents for the child of their minor children, the statute requires application of child support guidelines "to the extent appropriate."

Several state statutes impose an obligation on grandparents to provide for the health care of their grandchild in addition to ongoing support.¹⁸⁶

Ohio's grandparent liability statute is the most detailed of any of the state statutes. The statute provides that any grandparent of a child born to parents who are unmarried and unemancipated who is providing support for the child, may request the child support enforcement agency (CSEA) to (1) determine parentage of the child, and (2) issue an administrative child support order requiring all the grandparents to pay child support for the child. As noted, the CSEA must calculate the support amount using the income of all the grandparents instead of the income of the minors. The statute goes on to outline how to calculate the support amount when the maternal or paternal grandparents are divorced or were never married. It also provides that when a child support order requires one of the minors to pay child support for the child, the amount the minor is required to pay must be deducted from any amount the grandparents are required to pay. The administrative order must also provide for the health care needs of the child.

Public Knowledge® (PK) also reviewed the state grandparent liability statutes to determine whether they address the role of the IV-D child support agency in establishing or enforcing such an obligation. Five of the 12 statutes place responsibility on the agency to establish and/or enforce such obligation. Exhibit 73, below, summarizes the statutes:

¹⁸⁶ See Idaho Code § 32-706(4) (2022); Ohio Admin. Code Rule 5101:12-45-15 (2022); Wis. Stat. § 49.90(4) (2022).

Exhibit 73: States with Statutes for Responsibility of Agency to Establish Obligations for Grandparent Liability

Missouri	The IV-D agency has responsibility to enforce support orders against grandparents of the noncustodial parent, jointly and severally, in cases where such grandparents have a minor child who is the parent and the custodial parent is receiving IV-A public assistance.
Ohio	A grandparent who is providing support for a child born to parents who are unmarried and unemancipated may request the IV-D agency to determine parentage of the child and issue a child support order requiring all the grandparents to pay child support for the child.
South Carolina	The IV-D agency may pursue support and maintenance for a child born to parents, either or both of whom are unmarried and under 18, from one or both of the child’s maternal and paternal grandparents as long as the parent of the child is under 18.
Wisconsin	A child support agency may initiate an action to obtain maintenance of a child by the child’s grandparent regardless of whether the child receives public assistance.
Wyoming	Where the child of minor parents is receiving IV-A public assistance, the Department shall through the local IV-D agency, enforce child support obligations of the parents of each minor parent, including the parents of the noncustodial minor parent.

PK sent a survey to representatives of child support agencies in the 11 states, other than New Hampshire, with grandparent liability statutes. There were responses from representatives in nine states.

Respondents universally stated that the statutes were rarely used. Most respondents said that in the preceding five years, they had never encountered cases where a grandparent had requested the child support agency to seek support from the other set of grandparents for the child of a minor child. Nor had they encountered cases where the IV-A agency had referred a case for consideration of support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance. One respondent noted: “There are numerous problems that arise, but mostly it boils down to the fact that the guidelines for determining support do not address or provide any direction to the program or the courts as to what support should be.”¹⁸⁷ Two other respondents noted a concern that seeking support from grandparents could very well drive a wedge between the minor parents and their family support system, which would be detrimental to all.

Respondents from North Carolina and South Dakota indicated that the establishment of a support order against a grandparent for the grandchild would be a non-IV-D action, likely initiated by a private attorney. The respondent from South Dakota stated if there was an existing support order, the IV-D agency would enforce it upon an application for services.

SURVEY

From October 27, 2022, to November 11, 2022, the Center for Policy Research hosted an online survey targeting responses from parents, attorneys, judges and hearing officers, court staff and administrators, BCSS staff and administrators, representatives of child advocacy organizations, and legislators and

¹⁸⁷ Response from Rob Rinard, Bureau Chief, Child Support Services, Idaho Department of Health and Welfare.

governmental officials to inform the quadrennial review of New Hampshire’s child support guidelines. There were 223 responses.

The surveys of judges/hearing officers, attorneys, and BCSS staff and administrators included questions specific to grandparent liability. Those questions and responses are noted below.

Survey Responses

There were three survey questions directed to judges/hearing officers, attorneys, and BCSS staff and administrators. Exhibit 74 shows the questions and responses. Approximately 95 individuals responded to these questions.

Exhibit 74: Survey Responses To Grandparent Liability (Judges/Hearing Officers, Attorneys, BCSS and Admin)

J.Q12 - In the last five years, how many cases have you encountered where there was a request or consideration of support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance? (N=93)

- 67% None
- 11% 1–5 cases
- 3% 11–20 cases
- 3% More than 20 cases
- 1% Other
- 15% Don’t know

J.Q15 - If a liability for support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance was imposed, what was typically used as the basis of the support order amount? (N=93)

- 4% The amount of the public assistance grant
- 6% Application of the guidelines to the income of the grandparents
- 60% Not applicable, never imposed liability
- 29% Don’t know

J.Q16 - If a liability for support from the grandparents of a child born to a minor unwed parent who is receiving public assistance was imposed, was it a secondary liability; that is, after an effort to seek support from the biological parent (who also may be a minor) failed? (N=94)

- 5% Yes
- 2% No
- 60% Never Imposed
- 33% Don’t know

The survey of judges/hearing officers and BCSS staff and administrators included a question about public assistance cases that was not in the survey of attorneys. Exhibit 75 shows the question and responses. There were 57 responses to this question.

Exhibit 76 shows the two questions that only judges and hearing officers were asked to answer.

In an open-ended question, the survey also asked judges and hearing officers and BCSS staff and administrators their opinion about the need for NH RSA § 167:3-a regarding grandparent liability for public assistance when such assistance is provided to a child born to an unwed minor. There were 11 judicial responses and 31 BCSS responses. Appendix C shows the open-ended responses of respondents who agreed to have their response published.

Exhibit 75: Public Assistance Cases for Grandparents of Children Born to Minor Parent (Judges/Hearing Officers, BCSS and Court Staff)

J.C.Q13 - In the past 5 years, approximately how often has the IV-A agency referred a public assistance case to you where they are seeking support from the grandparent of a child born to a minor parent? (N=57)

- 67% Never
- 9% 1-5 cases
- 2% 6-10 cases
- 2% 11-20 cases
- 5% More than 20 cases
- 16% Don't know

Exhibit 76: Grandparent Liability Questions (Judges/Hearing Officers)

J.J.Q18 - In the past 5 years, approximately how often have you imposed liability for support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance? (N=13)

- 100% Never

J.J.Q21 Have you ever refused to establish an obligation for a grandparent to provide support when the child support agency has sought such an obligation? (N=13)

- 23 % No
- 77% Not applicable, have never imposed liability

Survey Analysis

Based on the survey responses to closed-ended questions, there were very few cases where the court, BCSS staff, or private attorneys had encountered cases involving grandparent support for the child of their minor child. The majority (78%) of those 93 respondents said they had encountered fewer than six cases in the past five years. Although New Hampshire's grandparent liability statute is focused on public assistance cases, 67% of the 57 BCSS and judicial respondents indicated that the IV-A agency had never referred a case involving grandparents in the past five years; only 7% had encountered more than 11 cases in the past five years. And 100% of the 13 judicial respondents indicated they had never imposed liability for support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance. Although these 13 judicial respondents may have never imposed a support obligation on grandparents, other responses from BCSS, private attorneys, and judges/hearing officers indicate there are a few cases where grandparents have been ordered to pay support for grandchildren born to their minor unwed children. Such cases are rare, but when a support obligation is imposed, 10% of the 93 respondents indicated the amount of the obligation was based on either the amount of the public assistance grant or application of the support guideline to the income of the grandparents.

A review of the responses to the open-ended question about the need for NH RSA § 167:3-a reveals that judicial respondents were much more likely to think the statute was appropriate than BCSS staff.

Of the 11 judicial respondents, six judges/hearing officers believed the statute was needed for appropriate cases. Three judicial respondents said the statute had never been brought to their attention or they had never used it. Only two judges/hearing officers thought the statute was unfair.

In contrast, of the 31 BCSS respondents, only five believed the statute was fair. Four times as many respondents (20) voiced strong disagreement with the statute. Several respondents noted many grandparents are already shouldering the responsibility of care for their grandchildren, often due to the neglect or abuse of the minor parents and should not have an additional financial burden placed on them. Two respondents also noted the difficulty in enforcing the statute, one stating:

The problem with this statute is that before BCSS can implement it, significant time must be spent to figure out how it would be implemented, what factors would be considered (would the guidelines apply? would parental contribution apply? is DCYF involved? Etc.).

CHAPTER CONCLUSIONS AND RECOMMENDATIONS

New Hampshire's grandparent liability statute, NH RSA § 167:3-a, is patterned after similar language in NH RSA §§ 167:2 and 167:3, which require certain relatives to provide support for persons receiving public assistance. The statutes were initially enacted prior to creation of the Title IV-D program. NH RSA § 167:3-a provides that such assistance may be recovered from a grandparent "in the same manner and by the same proceedings as provided in RSA 167:2 and 167:3 for recovery from other legally liable relatives." Although NH RSA § 167:2 was subsequently amended in 2013 to provide that a parent is liable only for assistance provided to a child under the age of 18, "or for as long as the department of health and human services has the authority to recover support under Title IV of the Social Security Act," there was no amendment to NH RSA § 167:3-a. Since there is no obligation under Title IV-D of the Social Security Act to establish and enforce support orders against grandparents, there is a disconnect. As noted by BCSS legal staff, reimbursement of public assistance is not the same thing as establishment of an ongoing support obligation. Federal and state law require that decision-makers use presumptive child support guidelines when establishing an ongoing support obligation. New Hampshire's support guidelines are based on the income of parents. They do not identify circumstances in which the tribunal may consider the income of grandparents.

Conclusion

Current New Hampshire law imposes grandparent liability for public assistance provided to children born to their unwed minor children but does not address how to establish an ongoing obligation for such grandparents. As noted below in the Recommendations, New Hampshire should review the public policy behind imposing an obligation on grandparents to support the children of their unwed minor children. If it determines that public policy no longer supports such liability, New Hampshire should repeal NH RSA § 167:3-a. If New Hampshire determines that liability is appropriate in certain circumstances, it should amend its laws to address how such an obligation will be established.

Recommendations

1. New Hampshire should review the public policy behind imposing an obligation on grandparents to support children born to their unwed minor children and determine whether it wants to require such liability in appropriate circumstances.

Most states do not have statutes imposing grandparent liability. Possible rationales may be a reluctance to hold grandparents accountable for the actions of their minor children, the difficulty in determining a support amount, and a fear that such action may have a negative impact on parent–child relations.

However, a number of the New Hampshire judges and hearing officers who responded to the 2022 CPR survey regarding grandparent liability felt that such a statute was needed, beneficial, or appropriate in certain circumstances.

2. If New Hampshire decides that a statute imposing grandparent liability is appropriate in certain circumstances, it should decide whether to limit such liability to public assistance cases.

States with grandparent liability statutes are almost evenly divided on whether liability is limited to public assistance cases. States that limit liability to public assistance cases are focused on recovery of state funds. However, the child support program is no longer viewed as a recoupment of public assistance program. And increasingly states are passing through child support to current recipients of public assistance and disregarding such payments in determining the assistance amount. If the goal of grandparent liability is to ensure that children of minor children are adequately supported, it should not matter whether such children are receiving public assistance.

3. If New Hampshire decides to maintain a statute imposing grandparent liability and to limit liability to public assistance cases, it should decide whether it wants to limit liability to grandparents with whom the minor child is not residing.

Wyoming takes such an approach, which is consistent with the views of several BCSS respondents to the 2022 survey:

“If the child and grandchild reside with the grandparents, it should not apply.”

“I do not think it is a grandparent’s responsibility. I believe they already allow the minor and new baby to reside with them in the home and already provide meals, light, heat, bedding and transportation.”

“It would be almost unconscionable to start to pursue grandparents again for financial child support when we need them the most to be a valued, consistent resource for these adrift children. They are already bearing the cost of all of this happening. It would be even more detrimental to the family unit and child(ren) more so [*sic*] to pursue cash child support from Grandparents.”

4. If New Hampshire decides to maintain a statute imposing a grandparent liability but not to limit such liability to public assistance cases, the state should enact provisions addressing who can initiate an action seeking the establishment of an obligation for support against the grandparent of a child born to unwed minor parents and in what circumstances.

5. If New Hampshire decides to maintain a statute imposing grandparent liability, regardless of whether New Hampshire limits such liability to public assistance cases, the state should amend its laws to address the following:
- Application of the statute to both maternal and paternal grandparents;
 - Establishment of the grandparents' obligation pursuant to New Hampshire's presumptive support guidelines, including:
 - Identification of the income to be used;
 - Any recognition of in-kind support provided by the grandparent(s) caring for the child;
 - Any deduction of support provided by the minor parent(s) from the grandparent obligation; and
 - Any need to amend deviation factors to include grandparent liability when minor parents are unable to support their child;
 - Joint and several liability with the minor parent until such time as the minor parent reaches the age of majority or is emancipated;
 - Provision of healthcare for the child of the minor parents; and
 - Role of the child support agency in establishing and enforcing such obligations.

As noted by BCSS in 2016, a review of these policy questions and related factors is best accomplished through a multidisciplinary approach with all stakeholders. Information in this report regarding other states' enactment and implementation of grandparent liability statutes will inform that discussion. Other factors to consider are the impacts of any legislative changes on BCSS systems, business processes, and policies.

CHAPTER 7: TIMESHARING FORMULAS IN OTHER STATES

Adjustments for shared-parenting time are important. Research generally shows that children do better when both parents are involved in their children’s lives even if the parents live apart. New Hampshire is one of nine states that do not provide a formulaic adjustment for timesharing in their child support guidelines.¹⁸⁸ Based on the findings from the case file data, almost three-quarters (74%) of divorce and parenting petitions have a parenting plan that provides that the child will be in the physical care of each parent for a significant share of the child’s time.¹⁸⁹ The majority (61%) deviate from the New Hampshire guidelines. The primary deviation reason is the parenting-time schedule.

Federal regulation (45 C.F.R. § 302.56(h)) directs states to use the findings from their case file data to ensure that deviations from the guidelines are limited. The obvious policy response for New Hampshire is to adopt a presumptive timesharing formula. As is, New Hampshire addresses the parenting-time schedule through its deviation criteria. A presumptive timesharing formula (based on a court-ordered parenting-time plan) would produce more consistent and predictable child support outcomes for parents. It also may encourage parents to develop a parenting-time plan that can reduce conflict and be better for children.¹⁹⁰ Policymakers and judges in other states¹⁹¹ observe that presumptive timesharing formulas coupled with user-friendly¹⁹² guidelines calculators reduce litigation because they arm parents contemplating divorce or separation or child support with information about what factors the court will consider in the guidelines calculation and the likely support amount that could be ordered.

This chapter recommends that New Hampshire adopt one of the following: the cross-credit formula with a multiplier, the Oregon timesharing formula, or the Arizona timesharing formula. There are strengths and weaknesses to each of these. The findings from the case file review and the web-based stakeholders’ survey echo the need for a presumptive formula. The findings from the stakeholders’ survey point toward the cross-credit formula with a multiplier, but a recommendation for which formula type was not definitive. If a timesharing formula is adopted, the online guidelines calculator provided for and maintained by the DHHS should include the timesharing formula, link to the parenting plan, and be redesigned to be user-friendly with public users in mind.

¹⁸⁸ The other states are Alabama, Alaska, Connecticut, Georgia, Mississippi, New York, Texas, and Washington. Alabama is in the process of adopting an adjustment. Georgia has convened a workgroup to address the issue in 2023.

¹⁸⁹ According to the case file data (which was pulled from 2021 order establishments and modifications), only three state petitions had parenting plans. It is unclear whether the COVID-19 pandemic affected this. BCSS administrators believe the percentage is higher based on their observations over time.

¹⁹⁰ Written parenting plans document the parenting-time schedule (including what is considered a holiday), decision-making, attendance to school activities, pickup and dropoff, and other details. Although the New Hampshire parenting-time form is very long, it is very clear and its detail probably reduces further conflict on parenting issues. The parenting plan is available at <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-04/nhjb-2064-f.pdf>.

¹⁹¹ This is based on conversations between Kentucky legislators and legislative staff with former chairs of the Arizona child support guidelines review committee (i.e., Judge Bruce Cohen and Judge David Gass), the Oregon child support program director (Ms. Kate Richardson) and Oregon legal counsel for the child support program. The conversations were held on November 7, 2022, and December 2, 2022, via web-based conferencing. Dr. Jane Venohr, who is the project director for the New Hampshire child support guidelines review, also serves an economic consultant to Kentucky on its timesharing adjustment. Kentucky recently adopted a timesharing adjustment.

¹⁹² User-friendly includes using plain language rather than legalese. More information about plain language for the use of government documents can be found at <https://www.plainlanguage.gov>.

SUMMARY OF NEW HAMPSHIRE'S CURRENT TIMESHARING APPROACH

New Hampshire addresses its timesharing formula through deviation criteria (see Exhibit 77). When a deviation is applied, the deviation criteria also address many sub-issues that other states find can be issues in cases with timesharing adjustments. This includes the consideration of how the parties will share variable expenses (e.g., school supplies, extracurricular activities, and other expenses). Most states do not specify this level of detail in their child support guidelines or parenting plans, but many states without a similar provision have found that which parent is responsible for each of these expenses can be confusing, particularly in equal timesharing. This provision is a strength of the New Hampshire guidelines and parenting plan. New Hampshire addresses most of these expenses in the child support order or the parenting plan. For example, the New Hampshire parenting plan form (required by the court) provides a checkbox requiring each parent to supply the appropriate clothing for the child for the child's time with the other parent and that the clothing be returned with the child.¹⁹³

Exhibit 77: 458-C:5 Adjustments to the Application of Guidelines Under Special Circumstances

I. Special circumstances, including but not limited, to the following, if raised by any party to the action or by the court, shall be considered in light of the best interests of the child and may result in adjustments in the application of support guidelines provided under this chapter. The court shall make written findings relative to the applicability of the following:
(d) Reasonable expenses incurred by the obligor parent in exercising parental rights and responsibilities, provided that the reasonable expenses incurred by the obligee parent for the minor children can be met regardless of such adjustment.

....

(h) Parenting schedule.

(1) Equal or approximately equal parenting residential responsibilities in and itself shall not eliminate the need for child support and shall not by itself constitute ground for an adjustment.

(2) In considering requests for adjustments to the application of the child support guidelines based on the parenting schedule, the court may consider the following factors:

(A) Whether, in cases of equal or approximately equal residential responsibility, the parties have agreed to the specific apportionment of variable expenses for the children, including but not limited to education, school supplies, day care, after school, vacation and summer care, extracurricular activities, clothing, health care coverage costs and uninsured health care costs, and other child-related expenses.

(B) Whether the obligor parent has established that the equal or approximately equal residential responsibility will result in a reduction of any of the fixed costs of child rearing incurred by the obligee parent.

(C) Whether the income of the lower earning parent enables that parent to meet the costs of child rearing in a similar approximately equal style to that of the other parent.

Another key provision of New Hampshire deviation criteria pertaining to timesharing adjustments is the ability to consider whether the income of the lower earning parent enables the parent to meet the cost of child rearing in a similar approximately equal style to that of the other parent. Most formulas for timesharing address income disparity—that is, the adjustment is not only based on the amount of time the child is with each parent, but also concerns the incomes of each parent and the difference.

The only deviation criterion pertaining to timesharing that was identified to be problematic was the criterion to consider whether the child's time with the obligor-parent reduced the fixed costs of childrearing incurred by the receiving parent. One survey respondent pointed out that the criterion is

¹⁹³ This provision is a checkbox. It is checked in the vast majority of parenting plans analyzed.

non-sensible due to the definition of a fixed cost (e.g., housing expenses). A fixed expense does not vary with time (e.g., the obligee-parent would not incur reduced housing expenses).

Summary of Findings from the Case File Data and Stakeholders Survey on Parenting Time

There are numerous statistics from the case file data and stakeholders survey that pertain to timesharing adjustments.

Major Findings from the Analysis of Parenting Plans

- 59% of all analyzed orders had a parenting plan:
 - 98% of divorce and parenting petitions had a parenting plan:
 - 74% clearly indicated that each parent had significant time with the child; and
 - Less than 1% of state petitions had a parenting plan.¹⁹⁴

- Among divorce and parenting petitions with parenting plans, the amount of parenting time varied:
 - 44% were for equal timesharing;
 - 42% were for something less than equal but routine (e.g., every other weekend and one night per week);¹⁹⁵
 - 7% were for unconventional arrangement (e.g., parents still lived together or the teenage child chooses where to reside); and
 - 7% were for no time.

- The median adjusted gross incomes of parents with parenting plans
 - For equal timesharing was:
 - \$4,240 per month for the obligor-parent¹⁹⁶ and
 - \$2,843 per month for the obligee-parent;
 - For less than equal timesharing was
 - \$3,560 per month for the obligor-parent and
 - \$2,500 per month for the obligee-parent.

- The parents' incomes among those with parenting plans was:
 - About equal income in 19% of orders;
 - Unequal where the obligor-parent had income greater than the obligee-parent in 59% of orders; and
 - The obligor-parent had income less than the obligee-parent in 21% of orders.

- The median income disparity between the greater earner and lesser earner was:

¹⁹⁴ IV-D cases generally tend to consist of more never-married parents than divorcing cases.

¹⁹⁵ The exact number of days is not listed on the parenting plan. The number of days is an important component of a timesharing adjustment. It is recommended that number of days that each party have the children be required to be noted in the parenting plan.

¹⁹⁶ This is based on which parent was identified as the obligor or obligee on the first page of the order.

- \$1,646 per month in equal timesharing cases; and
- \$1,928 per month in less than equal timesharing cases.

Major Findings from the Analysis of Deviations for Parenting Time

- 30% of divorce and parenting petitions had a deviation that was clearly due to parenting time; and
- The percentage is likely to be higher because some parents agreeing to the deviation may have only specified “agreement” as the issue and did not specify timesharing arrangement as the reason.
- Most (95%) of the deviations for timesharing involved cases with parenting plans.

- 74% of deviations for timesharing were to a zero-order amount:
 - 88% of deviations to zero had equal timesharing;
 - 10% of deviations to zero had less than equal timesharing;¹⁹⁷
 - 32% of deviations to zero involved parents with almost equal incomes;¹⁹⁸ and
 - 43% of deviations to zero involve parents with less than \$1,000 per month difference in adjusted gross income.

- 26% of deviations for timesharing were to a non-zero order amounts;
 - 81% of deviations to a non-zero order amount had equal timesharing;
 - 19% of deviations to a non-zero order amount had less than equal timesharing;
 - 5% of deviations to a non-zero order amount involved parents with almost equal incomes; and
 - 24% of deviations to a non-zero order amount involve parents with less than \$1,000 per month difference in adjusted gross income.

Major Findings from the Survey of Stakeholders

Findings Relevant to Providing an Adjustment

- Over half (54%) respondents believe that child support for equal physical custody is not calculated consistently across the state.
- Over half (56%) respondents believe that the child support order should be automatically adjusted for the parenting-time schedule. (The percentage was higher for parents and lower for judicial officers/attorneys/court staff.)

¹⁹⁷ Another 2% had an unconventional timesharing arrangement.

¹⁹⁸ Equal incomes are defined as each parent’s share of the combined adjusted gross income being in the range of 45%–55%.

Findings Relevant to Structuring a Formula

The survey asked respondents their level of agreement on three statements that can be used to identify the appropriate timesharing formula for New Hampshire. The findings from those statements are:

- Most (67%) respondents believe that the child support order should be \$0 when the parents have about equal incomes and about equal physical custody;
- Most (69%) respondents believe that it costs more to raise a child in two households than one household and that fact should be considered in any timesharing adjustment; and
- Most (66%) respondents believe that in equal physical custody cases, there is always one parent that spends more on childrearing expenses than the other.

When respondents were directly asked which guidelines formula they preferred, no option emerged as a clear majority. The top choice was for the cross-credit formula, which is the formula used in most states. It was favored by 32% of respondents. It was favored by almost half (48%) of judicial officers, attorneys, and court staff responding to the survey and 31% of parents. It was the most frequent choice among all respondent subgroups except BCSS respondents. BCSS respondents preferred a sliding-scale percentage adjustment.

Written comments did not point to a particular type of timesharing adjustment or timesharing threshold for applying an adjustment other than there should be an adjustment for equal timesharing. Further, comments were mixed whether a zero order should be granted for equal timesharing and whether income disparity should be considered.

Timesharing Threshold for Applying the Adjustment

Based on the survey results, it was clear that a timesharing adjustment should apply to equal physical custody situations. It was not clear whether it should apply to less than equal physical custody and, if so, what level of physical custody. Two questions were asked to identify this threshold. One asked respondents their opinion on how many days per month of parenting time must occur before the obligor-parent has a reduction to their child support order. The other asked how many days per month of parenting time must occur before the obligee-parent incurs a reduction in childrearing expenses. Surprisingly, the results were very similar. The average number of days for the former question was 11.8 and the average number of days for the latter question was 11.5. In all, this suggests a timesharing threshold of 33%–39% timesharing before an adjustment applies (i.e., the median multiplied by 12 months, then divided by 365 days per year).

APPROACHES USED IN OTHER STATES

Exhibit 78 is an attempt to group the types of timesharing formulas in state child support guidelines. Even though Exhibit 78 shows eight groups, no state formula is exactly like. Those using simple percentages or sliding scale adjustment vary in the percentages they use by bands of number of days with the obligor-parent. Even those states using the cross-credit with a 1.5 multiplier vary in the

percentage of parenting time that must be met before applying the formula and the criteria that must be met for the adjustment to occur. As shown in Exhibit 79, state thresholds for applying the timesharing formula vary.

Exhibit 78: Types of Timesharing Formulas in State Child Support Guidelines

Formula	States
Cross-Credit with 1.5 Multiplier	18 states (AK, CO, DC, IL, ID, FL, LA, ME, MD, NE, NC, NM, SC, SD, VT, WV, WY, WI) and IA ^a for equal custody
Cross-Credit with No or Alternative Multiplier	4 states (MT, NV, OK, VA)
Offset	2 states (RI, MA) and ND ^a for equal custody
Simple Percentage or Sliding Scale Adjustment	7 states (AZ, DE, IA, ^a KS, KY, ^b OH, UT)
Consideration of Transferable and Fixed Expenses	3 states (IN, MO, NJ)
Non-Linear Formulas	3 states (MI, MN, OR)
Per Diem Adjustment	4 states (HI, PA, ND, ^a TN)
Timesharing Incorporated into Base Formula	1 state (CA)
States with a Formula	42 states
States without a Formula	9 states (AL, ^c AR, CT, GA, ^d MS, NH, NY, TX, WA)

^a State is listed twice because it has two different formulas, depending on the amount of time.

^b The Kentucky sliding scale percentage will be effective April 2023.

^c Alabama is in the process of making rule changes that will add a parenting time formula to the Alabama child support guidelines.

^d Georgia has convened a work group that will review parenting-time formulas in 2023.

Maine and Vermont use the cross-credit formula, which is most commonly used. Exhibit 78 also shows nine states without a formula. The Massachusetts child support guidelines uses the offset when there is equal (50/50%) custody; otherwise, the Massachusetts guidelines percentages assume the children reside with one parent at least two-thirds of the time. Most of the states without a formula (Alabama, Connecticut, Georgia, Mississippi, New Hampshire, and New York) are currently reviewing their guidelines. Alabama is in the process of rulemaking changes to its guidelines to adopt a timesharing formula.

Exhibit 79 shows a wide variation in the timesharing threshold before applying a state’s timesharing adjustment. As a reference point, the web-based survey results indicated a timesharing threshold of 38%–39% was appropriate. A perceived advantage of setting the threshold higher is limiting the timesharing adjustment to cases where there is significant timesharing. A major disadvantage of higher thresholds is they can create a precipitous decrease. If a state sets its threshold at 40% timesharing, there may be a several hundred dollar decrease in the guidelines-determined amount from 39%–40% timesharing. In contrast, the lower the threshold, the

Many state policymakers prefer using a high percentage of timesharing (e.g., over 30%), but there is a tradeoff. The lower the timesharing threshold, the more gradual the decrease from the sole-custody order to an order adjusted for timesharing. Higher thresholds produce larger decreases. Some believe larger decreases create a financial incentive to seek more or less time with the child.

more opportunity for the guidelines-calculated amount to decrease gradually as the number of overnights with the obligor-parent increases.

Exhibit 79: Threshold for Applying Parenting-Time Formula

Threshold for Shared-Parenting Time Adjustment	States
1%–10% parenting time	8 states (AZ, CA, MI, MN, MO, NV, NJ, OR)
11%–15% parenting time	1 state (IN)
16%–20% parenting time	1 (FL)
21%–25% parenting time	9 states (CO, DE, ID, KY, OH, TN, VT, VA, WI)
26%–30% parenting time	7 states (AK, MT, NE, ND, NM, SC, UT)
31%–35% parenting time	8 states (DC, IA, KS, MA, MD, NC, OK, WV)
36%–40% parenting time	4 states (HI, IL, PA, WY)
41%–45% parenting time	None
46%–50% parenting time	4 states (KS, LA, ME, SD)
States with a Formula	42 states
States without a Formula	9 states (AL, AR, CT, GA, MS, NH, NY, TX, WA)

*Nevada does not specify a threshold.

Impact on Order Amounts in New Hampshire Using Different Formulas

Exhibit 80 compares the order amounts as the child’s time with the obligor-parent increases for a scenario involving one child and parents with equal incomes (\$4,000 gross per month) applying six different timesharing formulas using the 2022 New Hampshire schedule. The six different timesharing formulas are the cross-credit with the 150% multiplier starting at a 25% timesharing threshold; Vermont’s cross-credit, which adds more between 25%–30% timesharing; the Arizona formula (a sliding scale percentage); the Indiana formula (considers variable, duplicated and non-duplicated, fixed expenses); the Minnesota formula (is a non-linear formula); and the Oregon formula (is also a non-linear formula that can be reduced to a table). More detail about each of these formulas is provided later. For now, the discussion focuses on the differences in their outcomes.

The major observations are:

- All but the Indiana formula produce a zero order when there is equal timesharing, which is the expected outcome for equal incomes;
- The Arizona approach produces a staircase effect as the child’s time with the obligor-parent increases;
- The Minnesota and Oregon formulas produce gradual decreases as the child’s time with the obligor-parent increases;
- The cross-credit formulas produce a precipitous decrease right at the timesharing threshold of 25%; and
- The Vermont cross-credit formula produces a less precipitous decrease due to the additional support for 25%–30% time sharing.

Exhibit 80: Comparisons of Selected Timesharing Formulas Applied to 2022 New Hampshire Child Support Guideline Calculation Table for One Child: Equal Incomes (\$4,000 gross per month)

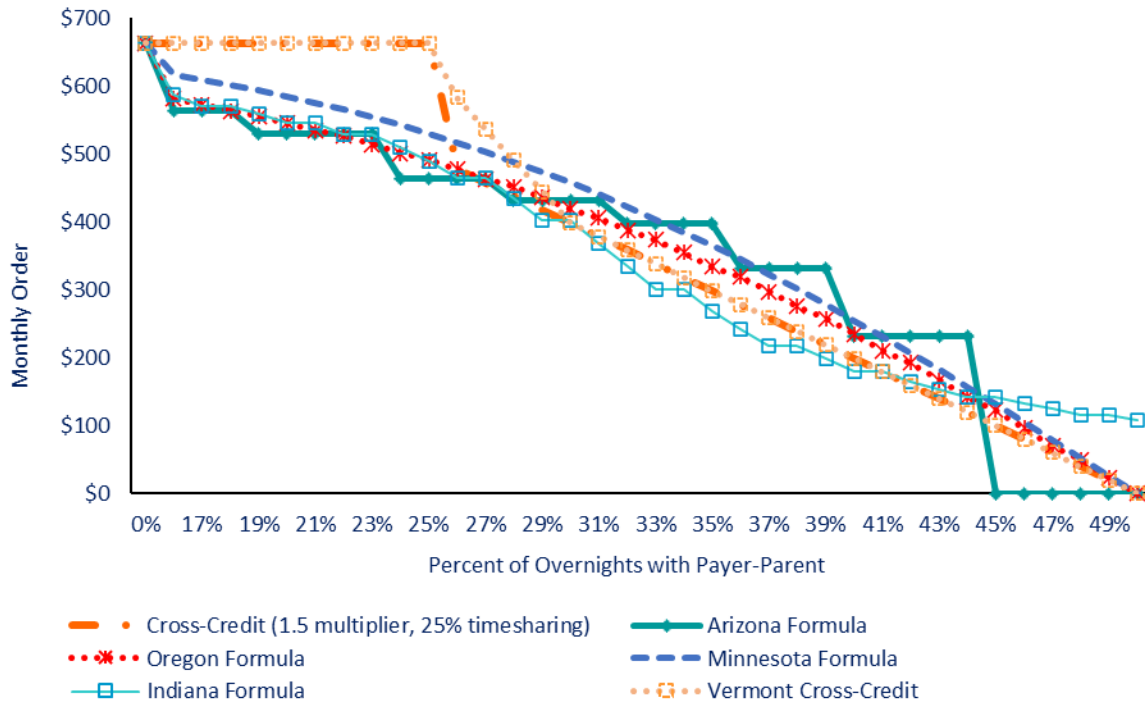


Exhibit 81 and Exhibit 82 consider slightly different scenarios. Exhibit 81 shows a scenario where the obligor-parent has more income than the obligee-parent. None of the six formulas yield a zero order under this scenario when there is equal timesharing. Exhibit 82 considers a scenario where the obligor-parent has less income than the obligee-parent. All the six formulas yield a negative formula when the obligee-parent has more income. A negative amount means the obligee-parent owes the obligor-parent.

Exhibit 81 Comparisons of Selected Timesharing Formulas Applied to 2022 New Hampshire Child Support Schedule for One Child: Obligor-Parent Has *More* Income than Obligee-Parent (\$4,240 and \$2,843 per month)

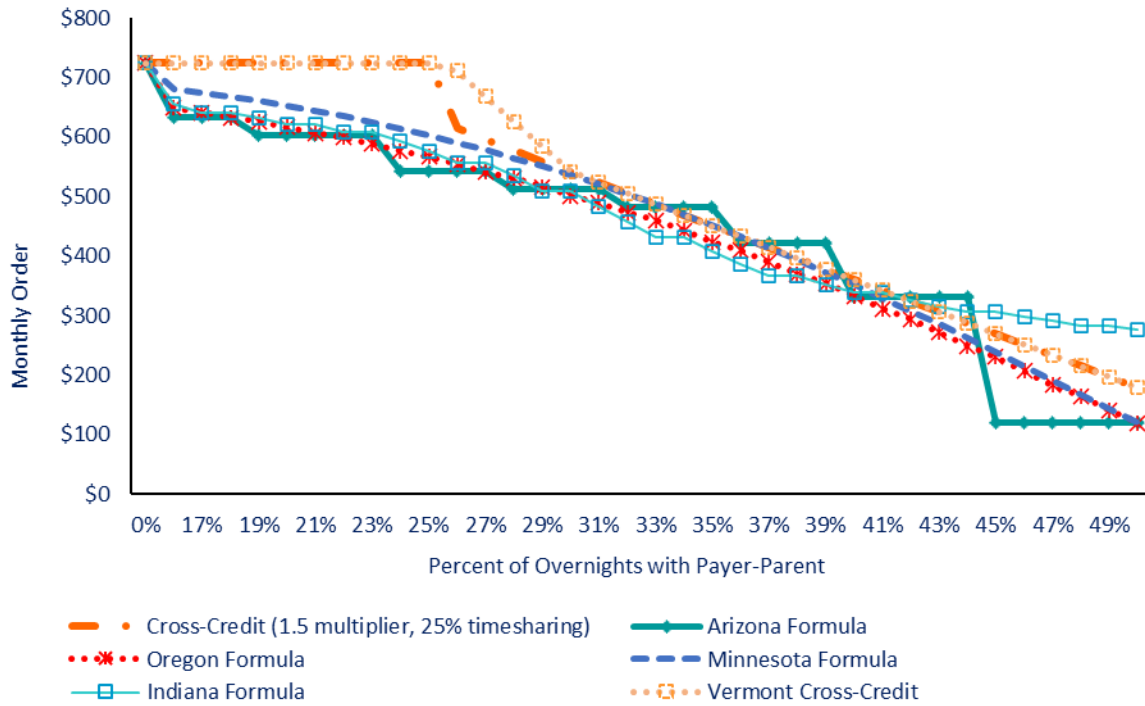
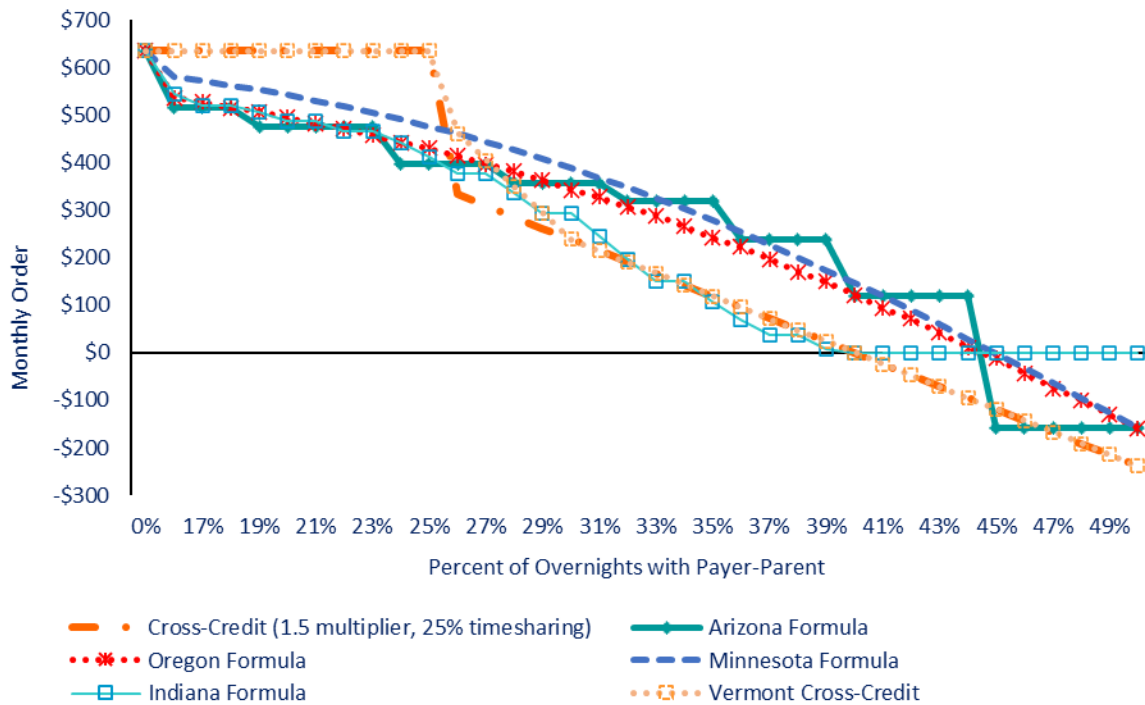


Exhibit 82 Comparisons of Selected Timesharing Formulas Applied to 2022 New Hampshire Child Support Schedule: Obligor-Parent Has *Less* Income than Obligee-Parent (\$4,000 and \$6,000 per month)



Advantages and Disadvantages of Types of Timesharing Formula

Exhibit 83 compares key features of the different times of timesharing formulas and the strengths and limitation of each formula. There are tradeoffs for each formula.

- The formula with the strongest theoretical base is the cross-credit with a multiplier, but it has a large decrease at the timesharing threshold.
- Formulas based on the concepts of variable, duplicated and non-duplicated, fixed expenses have a strong theoretical base, but they are also complicated.
- Non-linear formulas (Minnesota and Oregon) have the most gradual decreases as the child's time with the obligor-parent increases, but they are the most mathematically complicated and difficult to calculate manually.
- The sliding-scale percentages are simple, but typically produce precipitous decreases between parenting-time bands.

Overview of Types of Timesharing Formulas

This subsection provides for detail on the more common timesharing adjustment formulas.

Cross-Credit Formula

The most commonly applied formula is the cross-credit formula. Theoretical orders are calculated for each parent based on the time the child is with the other parent, and then offset against each other so that the parent with the higher theoretical order owes the difference. Exhibit 84 illustrates the cross-credit calculation using a modified version of the New Hampshire worksheet. It is called the "cross-credit" because Line 8 of Exhibit 84 could also be achieved by cross multiplying each parent's new Line 11 by the other parent's new Line 13. Most states (including Maine and Vermont) relying on the cross-credit formula increase the basic obligation by 150% to account for it costing more to raise the child in two households than one household. Specifically, housing and some transportation expenditures are believed to be duplicated, but there is no quantitative research confirming that largely because of the lack of data sets of matched parents with timesharing arrangements. Virginia uses a 140% multiplier, and Oklahoma uses a sliding scale multiplier. Montana and Nevada do not use a multiplier, but they do not use the income shares model either. Colorado was the first state to use the cross-credit, as it began using in 1986.

Exhibit 83: Comparison of Features and Major Strengths and Limitations of Different Types of Timesharing Formulas

Formula	Produce \$0 order when Equal Custody and Equal Income	Greater-time Parent is Always the Obligee-Parent	Requires Timesharing Threshold or Timesharing Bands	Major Strengths	Major Limitations
Cross-Credit with 1.5 Multiplier	Yes	Not when greater-time parent has a lot more income	Yes	<ul style="list-style-type: none"> Adjustment has a theoretical basis Explainable Used by many states and for many years 	<ul style="list-style-type: none"> Requires another worksheet Does not work mathematically at low levels of timesharing^a There can be a precipitous decrease in the support amount at the timesharing threshold Not consistent with the income shares model^b
Cross-Credit with No or Alternative Multiplier	Yes		Yes	<ul style="list-style-type: none"> Same as above No multiplier is easier to calculate Multiple variable reduces large decreases at timesharing threshold 	<ul style="list-style-type: none"> Same as above No consideration of duplicated expenses when there is no multiplier No theoretical basis for sliding scale multiplier
Offset	Yes		Yes	<ul style="list-style-type: none"> Simple to calculate Understandable 	<ul style="list-style-type: none"> Provides no adjustment when the primary custodial parent has no income Does not factor timeshare Does not work mathematically for timesharing arrangements other than 50/50% timesharing.
Simple Percentage or Sliding Scale Adjustment	Depends on the percentages	Typically	Yes	<ul style="list-style-type: none"> Simple to calculate Understandable 	<ul style="list-style-type: none"> Large changes between overnight intervals Theoretical basis less clear than the cross-credit
Consideration of Transferable and Fixed Expenses	No	Not always	Yes	<ul style="list-style-type: none"> Has a theoretical basis Considers breakdown of actual childrearing expenditures Makes it clear which parent is responsible for the child's clothing and school expenses 	<ul style="list-style-type: none"> Complicated to calculate
Non-Linear Formulas	Yes	Not when greater-time parent has a lot more income	No	<ul style="list-style-type: none"> No large decrease at the timesharing threshold Reduced litigation in Oregon Can adjust for one night (which is an arguable strength depending on the policy perspective) 	<ul style="list-style-type: none"> Complicated to calculate Difficult to explain.

^a This is because the cross-credit amount can be more than the sole-custody calculation. A simple solution to this is to take the lower of the two calculations.

^b The adjustment is based on timeshare rather than the child having the same standard of living as if the parents lived together and shared financial resources and each parent is responsible for their prorated share of those expenses based on their income.

Exhibit 84: Illustration of Cross-Credit Formula Using Modified New Hampshire Child Support Worksheet

Calculation when There Are No Work-Related Childcare Expenses			
	Parent A	Parent B	Combined
Line 6: Adjusted monthly gross income	\$2,000	\$3,000	\$5,000
Line 7A: Child support guideline amount			\$1,000*
New Line 8: Shared-parenting obligation (Line 7A multiplied by 1.5)			\$1,500
Line 9: Total adjusted monthly gross income	\$2,000	\$3,000	\$5,000
Line 10: Proportional share of income	40%	60%	100%
New Line 11: Each parent's share of shared-parenting obligation	\$600	\$900	\$1,500
New Line 12: Number of nights the child(ren) are with each parent (total must add to 365 nights)	221	144	365
New Line 13: Overnights as a Percentage of 365 (the amount from each parent's new Line 12 divided by 365)	61%	39%	100%
New Line 14: Amount retained by parent to cover childrearing expenses when the child is in their home (new Line 11 multiplied by new Line 13)	\$366	\$351	\$366
New Line 15: Amount owed to the other parent for the other parent's time share (new Line 11 minus new Line 14)	\$234	\$549	
New Line 16: Parental support obligation (Subtract the larger amount from new Line 15 from the smaller amount from new Line 15, the difference is owed by the parent with the larger income. Put the difference in that parent's column. Leave the other parent's column blank.)		\$315	

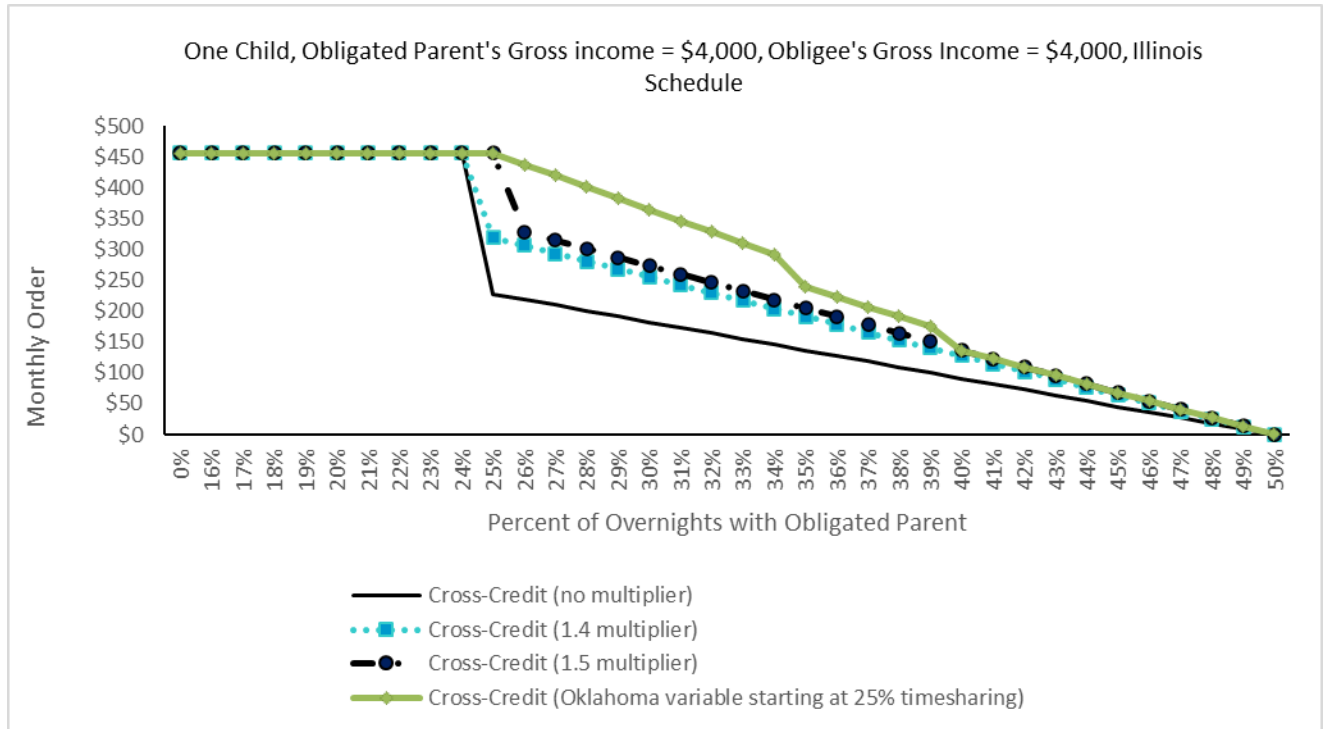
* For simplicity of the calculation, it is assumed the child support guidelines amount is \$1,000.

Exhibit 85 shows how the cross-credit formula can result in a cliff effect when it reaches the timesharing threshold. For this particular example, the timesharing threshold is 25% timesharing. The example is adapted from a recent *Family Law Quarterly* article.¹⁹⁹ It relies on the Illinois schedule for its illustration, which calculates orders on a net-income basis.

Vermont actually adds an additional amount (2%–10% of the basic obligation) to the cross-credit for timesharing between 25% and 30%. The additional amount partially alleviates the precipitous decrease at the timesharing threshold. Maine applies the cross-credit formula when there is “substantially equal care,” which Maine defines as when both parents participate substantially equally in the child's total care, which may include, but is not limited to, the child's residential, educational, recreational, childcare and medical, dental, and mental healthcare needs.

¹⁹⁹ Oldham, Thomas, & Venohr, Jane. (May 2021). “The Relationship between Child Support and Parenting Time. *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

Exhibit 85: Illustration of the “Cliff Effect” in the Cross-Credit Formula and the Impact of Different Multipliers



Offset Formula

The offset formula is a close cousin of the cross-credit, but simpler. When applied to the income-shares model, the calculation is based on each parent’s prorated share of the basic obligation (New Line 15 in Exhibit 84 case example) and taking the difference. Using the case scenario in Exhibit 84, the order would be calculated first determining each parent’s prorated share of the schedule amount shown on Line 7A for each parent. This would be \$600 for the obligee-parent and \$400 for the obligor-parent. The difference is \$200 per month. That becomes the order amount for the obligor-parent. If the state uses a 1.5 multiplier like Rhode Island does for its offset formula, the difference would be increased by 50%, which would yield \$300 per month using the case example in Exhibit 84.

Simple Percentage or Sliding Scale Percentages

Exhibit 86 shows the sliding scale percentages used by Arizona, Iowa, Kentucky, and Missouri. Iowa uses its percentages for low-levels of timesharing and the cross-credit with a 150% multiplier when custody is about equal. Missouri also uses its percentages for low levels of timesharing, but then provides almost equal timesharing is a deviation factor. Arizona first adapted its adjustment in the mid-1990s. It used the concept of transferable/duplicated expenses, which is discussed next, to develop it. Since then, Arizona has tweaked it several times. Missouri and Kentucky considered the Arizona percentages when crafting their sliding scale. Kentucky also considered typical timesharing arrangements, childrearing expenses, that there is not always a \$1-for-\$1 transfer of expenses from one parent to the other parent, and other factors. In designing the adjustment, Kentucky policymakers aimed to keep the adjustment simple, appropriate, fair, and produce gradual amounts to minimize litigation over one or two overnights. Sliding-scale percentages produce staircase decreases in order amounts as the child’s time with the

obligor-parent increases. This was shown in earlier examples that compared the Arizona formula to the formulas of other states.

Exhibit 86: Examples of Sliding-Scale Percentage Adjustments

<p>Iowa</p> <table border="0"> <tr> <td>128–147 overnights</td> <td>15%</td> </tr> <tr> <td>148–166 overnights</td> <td>20%</td> </tr> <tr> <td>167 or more but less than equally shared physical care</td> <td>25%</td> </tr> </table> <p>Cross-credit with 150% multiplier for equally shared</p>	128–147 overnights	15%	148–166 overnights	20%	167 or more but less than equally shared physical care	25%	<p>Missouri: Deviation allowed for equal custody</p> <table border="1"> <thead> <tr> <th>Number of Overnights</th> <th>Adjustment</th> </tr> </thead> <tbody> <tr><td>Less than 36</td><td>0%</td></tr> <tr><td>36–72</td><td>6%</td></tr> <tr><td>73–91</td><td>9%</td></tr> <tr><td>92–109</td><td>10%</td></tr> <tr><td>110–115</td><td>13%</td></tr> <tr><td>116–119</td><td>15%</td></tr> <tr><td>120–125</td><td>17%</td></tr> <tr><td>126–130</td><td>20%</td></tr> <tr><td>131–136</td><td>23%</td></tr> <tr><td>137–141</td><td>25%</td></tr> <tr><td>142–147</td><td>27%</td></tr> <tr><td>148–152</td><td>28%</td></tr> <tr><td>153–158</td><td>29%</td></tr> <tr><td>159–164</td><td>30%</td></tr> <tr><td>165–170</td><td>31%</td></tr> <tr><td>171–175</td><td>32%</td></tr> <tr><td>176–180</td><td>33%</td></tr> <tr><td>181–183</td><td>34%</td></tr> </tbody> </table>	Number of Overnights	Adjustment	Less than 36	0%	36–72	6%	73–91	9%	92–109	10%	110–115	13%	116–119	15%	120–125	17%	126–130	20%	131–136	23%	137–141	25%	142–147	27%	148–152	28%	153–158	29%	159–164	30%	165–170	31%	171–175	32%	176–180	33%	181–183	34%		
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Formulas that Consider Transferable and Fixed Expenses

Indiana, Missouri, and New Jersey formulas are based on the concept that some childrearing expenditures are transferable between parents while others are fixed, yet the formulas vary significantly. The original Arizona timesharing formula was also based on transferable- and fixed-expenditures concept. Over the years, however, Arizona has modified its timesharing formula extensively. The existing Arizona timesharing formula is essentially a lookup table (shown in Exhibit 86) and has no mention of transferable or fixed expenditures.

Indiana Formula

The Indiana adjustment is rooted in work by Professor David Betson, University of Notre Dame, who developed the measurements of childrearing expenditures underlying most state guidelines. The Indiana formula is premised on a consideration of three types of childrearing expenditures:

- Transferable (variable) expenses;
- Duplicated, fixed expenses; and
- Non-duplicated, fixed expenses.²⁰⁰

At low levels of time-sharing, the adjustment is for transferable expenses only. When time-sharing becomes more substantial, the adjustment also considers duplicated, fixed expenses. Variable expenses are those that are transferable between the parents, depending on which parent has time with the child. For example, food expenses are typically considered a variable childrearing expense. If one parent buys the child food, there is no need for the other parent to purchase food also. Duplicated, fixed costs are those childrearing expenses that both parents incur and the other parent's time with the child does not reduce that expense for the first parent (e.g., housing for the child). Non-duplicated, fixed costs are childrearing expenses that are not affected by the parent's time and are not duplicated. For example, the child has one set of clothes that are generally not duplicated. Due to the non-duplicated, fixed costs, one parent even in equal custody and equal income situations incurs more childrearing expenditures (i.e., one parent buys the child's clothes, cell phone, and other non-duplicated, fixed items). This means the order is never zero in Indiana when the parents have equal incomes and equal timesharing.

Exhibit 87 shows the different breakdowns among transferable (variable); fixed, duplicated, and fixed, non-duplicated childrearing expenses used by different states and studies.

²⁰⁰ Indiana Rules of Court. (Oct. 2016). Child Support Rules and Guidelines. Retrieved from https://www.in.gov/judiciary/rules/child_support/#g6.

Exhibit 87: Percentage of Childrearing Expenditures Deemed to Be Transferable and Duplicated

	Transferable (Variable)	Fixed, Duplicated	Fixed, Non-Duplicated	Source	Notes
Arizona ²⁰¹	38% (Food home and away and household operations and utilities)	28% (furnishings and shelter), but rounded up to 30% initially	34% (all other expenses ²⁰²)	1995 analysis by Professor Shockey, University of Arizona using 1991 CE	No longer adhered to; converted to sliding scale that has been modified several times since originally adapted in the late 1990s
Indiana	35% (food and transportation)	50% (shelter)	15% (clothing, education, schoolbooks and supplies, ordinary uninsured health care and personal care)	6% uninsured healthcare expenses (Espenshade)	Fixed, non-duplicated are called “controlled” expenses
Missouri	30%	38%	32%	Looked at other states, and designed to create gradual change	Converted to a sliding scale similar to Arizona
New Jersey	37% (food and transportation)	37% (housing)	25% (clothing, personal care, entertainment and miscellaneous)	USDA (early 1990s—year unknown)	
Melli and Brown (1994) ²⁰³	Estimated 40%–50% (food, recreation, and some transportation)	Estimated at 25%–33% (utilities, household furnishing, pay and study space, toys and play equipment)	Estimated 25% (clothing, medical care, childcare, and school expenses)	Unknown (possibly Espenshade)	

²⁰¹ Shockey, J. W. (1995). *Determining the Cost of Raising Children in Nonintact Arizona Households*, Report to Arizona Judicial Council, University of Arizona Department of Sociology, p. 27.

²⁰² Although not explicitly stated, this would be apparel, transportation, reading, and entertainment, healthcare, and other using Shockey’s categories on page 9 of his report.

²⁰³ Melli, Marygold S., & Brown, Patricia R. (1994.) *The Economics of Shared Custody: Developing an Equitable Formula for Dual Residence*. 31 *Hous. L. Rev.* 543.

Indiana Adjustment

Indiana’s existing formula consists of a worksheet with percentage adjustments (shown in Exhibit 88). The most unusual part of the Indiana parenting-time adjustment is the controlled expenses. On the one hand, this means the formula does not produce a zero order when there is equal custody and equal timesharing. On the other hand, it clarifies which parent is responsible for some of the childrearing expenses that are not always clearly allocated (*e.g.*, which parent is responsible for purchasing the child’s prom dress and which parent is responsible for purchasing the child’s cell phone), since these are controlled expenses.

Exhibit 88: Indiana Parenting-Time Worksheet and Percentage Adjustment Table

Line:				
1PT	Enter Annual Number of Overnights			
2PT	Enter Weekly Basic Child Support Obligation – BCSO (Enter Line 4 from Child Support Worksheet)			
3PT	Enter Total Parenting Time Expenses as a Percentage of the BCSO (Enter Appropriate TOTAL Entry from Table PT)			
4PT	Enter Duplicated Expenses as a Percentage of the BCSO (Enter Appropriate DUPLICATED Entry from Table PT)			
5PT	Parent’s Share of Combined Weekly Income (Enter Line 2 from Child Support Worksheet)			
		Percentage Adjustment		
		ANNUAL OVERNIGHTS		
6PT	Average Weekly Total Expenses during Parenting Time (Multiply Line 2PT times Line 3PT)	FROM	TO	TOTAL
7PT	Average Weekly Duplicated Expenses (Multiply Line 2PT times Line 4PT)			DUPLICATED
8PT	Parent’s Share of Duplicated Expenses (Multiply Line 5PT times Line 7PT)	1	51	0
9PT	Allowable Expenses during Parenting Time (Line 6PT – Line 8PT)	52	55	0.062
	Enter Line 9PT on Line 7 of the Child Support Worksheet as the Parenting Time Credit	56	60	0.07
		61	65	0.08
		66	70	0.093
	
		151	155	0.623
		156	160	0.634
		161	165	0.644
		166	170	0.652
		171	175	0.66
		176	180	0.666
		181	183	0.675
				0.476
				0.483
				0.488
				0.491
				0.494
				0.495
				0.5

The Indiana formula used to adjust the child support order for timesharing complements the Indiana parenting time guidelines that is used to help parents develop a parenting plan that spells out each parent’s time with the child including holidays and pickup and dropoff times. Indiana strongly encourages the use of its parenting-time guidelines to establish a parenting plan and encourages that the parties file the parenting plan with the courts.

Determining which parent is responsible for controlled expenses can be challenging, but both Indiana and Missouri provide clear guidance. Indiana has almost two decades of experience with the successful implementation of its adjustment, which complements its parenting time guidelines and encourages the filing of a parenting plan with the courts. Missouri adopted its adjustment about six years ago and does not have statewide parenting-time guidelines.

Non-Linear Formulas

In contrast to sliding-scale formulas, “non-linear” formulas do not produce the staircase effect with more parenting days. Usually, this is achieved by using exponential functions or taking something to the power of another value (e.g., squared when something is multiplied by itself and cubed when something is multiplied by itself thrice). Michigan, Minnesota, and Oregon use nonlinear formulas.

Minnesota/Michigan Formula

After forming a legislated committee that extensively investigated alternative formulas, Minnesota decided to adopt Michigan’s formula at the time. Minnesota’s formula is shown below.

$$\frac{(A_0)^3(B_s)^3 - (B_0)^3(A_s)^3}{(A_0)^3 + (B_0)^3}$$

Where

A₀ – Approximate annual number of overnights the children will spend with Parent A

B₀ – Approximate annual number of overnights the children will spend with Parent B

A_s – Parent A’s base support obligation

B_s – Parent B’s base support obligation

As Minnesota deliberated the Michigan formula, Michigan changed its parameter from taking the number of overnights and base support obligations to the third power (as noted by the “3” in superscript) to a power of 2.5. The base of the formula is essentially a cross-credit. Taking it to the third power (or 2.5th power) results in a gradual decrease when the obligor-parent has more time with the child. The higher the power, the more gradual the adjustment. Michigan originally started with using the second power, switched to the third power, and then settled to a power of 2.5. Minnesota extensively reviewed several formulas, including the Oregon formula, and, using different powers with the Michigan formula, eventually settled on using the third power.²⁰⁴

Oregon Formula

Oregon consulted with a mathematics professor to develop an adjustment that gradually changes as the obligor-parent had more time with the child, but results in a zero order when the parents have equal time with the child and equal incomes.²⁰⁵ The Oregon formula²⁰⁶ for determining each parent’s parenting time credit percentage is:

²⁰⁴ Minnesota Department of Hyman Services Child Support Work Group. (Jan. 29, 2016). *Child Support Work Group Final Report*. Retrieved from <https://www.leg.state.mn.us/docs/2016/mandated/160242.pdf>.

²⁰⁵ Oregon Guidelines Advisory Committee. (May 27, 2012). *Oregon Child Support Program 2011–12 Child Support Guidelines Review: Report and Recommendations*. Retrieved from https://justice.oregon.gov/child-support/pdf/guidelines_advisory_committee_report_and_recommendations_2011-12.pdf.

²⁰⁶ Oregon Child Support Guidelines Rule OAR 137-050-07030. Retrieved from <https://justice.oregon.gov/child-support/pdf/137-050-0730.pdf>.

$$1/(1+e^{(-7.14*((\text{overnights}/365)-0.5))}-2.74\%+(2*2.74\%*(\text{overnights}/365))}$$

Oregon converted the formula into a table for ease of use (shown in Exhibit 89). It results in a 0.07% credit for one overnight per year, a 0.14% credit for two overnights per year, a 0.2% credit for three overnights per year, and so forth up to a 49.75% for 182 overnights—effectively a 50.0% credit for 182.5 overnights.

The Kentucky and Colorado child support review commissions conducted extensive reviews of various timesharing formulas and opted for the Oregon formula. The major reason is Oregon’s experience with it reducing litigation. Neither Colorado or Kentucky were able to legislate it though. Some Kentucky legislators thought it was too complicated. A representative of the Colorado Bar Association testified it would increase litigation because of the low timesharing threshold. The Colorado child support agency had concerns about the resources needed to program the adjustment in its automated child support calculator.

OTHER CONSIDERATIONS IN TIMESHARING ADJUSTMENTS IN CHILD SUPPORT GUIDELINES

There are several other factors considered in a timesharing adjustment: how to define days or overnights, what to do if the timesharing does not occur as calculated in the order, how the timesharing formula interacts with the low-income adjustment, and how to address timesharing situations when there are two or more children and the timesharing arrangement varies with each child.

Exhibit 90 shows definitions of days/overnights from selected states. The states are shown from the least to most restrictive. Most states provide that the financial order can be modified if timesharing does not occur pursuant to the parenting plan. As long as the low-income adjustment (the self-support reserve test in New Hampshire) is the last step in the child support calculation, it does not skew the results from application of the timesharing adjustment. When there are two or more children and the timesharing arrangement varies for each child, as long as one parent has primary custody for both children, the common practice is to average the percentage of time. However, the calculation is different if one child has primary custody for at least one child and the other parent has primary custody for at least one child. This is known as a split custody case. The common practice is to calculate a theoretical order for the children living with one parent and another theoretical order for the children living with the other parent; in turn, the orders are offset against each other. The parent owing the larger amount is the obligor-parent and the support order is set at the difference. Several New Hampshire judges responding to the survey noted that they use this method.

Exhibit 89: Excerpt of Oregon Parenting Time Credit Table

Overnights	Credit %	Overnights	Credit %	Overnights	Credit %	Overnights	Credit %
0	0	36	0.0319	72	0.0867	108	0.1777
1	0.0007	37	0.033	73	0.0887	109	0.1809
2	0.0014	38	0.0342	74	0.0907	110	0.1841
3	0.0021	39	0.0354	75	0.0927	111	0.1873
4	0.0028	40	0.0366	76	0.0948	112	0.1906
5	0.0035	41	0.0378	77	0.0968	113	0.1939
6	0.0042	42	0.0391	78	0.099	114	0.1972

7	0.0049	43	0.0404	79	0.1011	115	0.2006
8	0.0057	44	0.0416	80	0.1033	116	0.204
9	0.0065	45	0.043	81	0.1055	117	0.2075
10	0.0072	46	0.0443	82	0.1077	118	0.211
11	0.008	47	0.0456	83	0.11	119	0.2145
12	0.0088	48	0.047	84	0.1123	120	0.2181
13	0.0096	49	0.0484	85	0.1147	121	0.2217
14	0.0104	50	0.0498	86	0.117	122	0.2254
15	0.0113	51	0.0512	87	0.1194	123	0.229
16	0.0121	52	0.0527	88	0.1219	124	0.2327
17	0.0129	53	0.0541	89	0.1243	125	0.2365
18	0.0138	54	0.0556	90	0.1268	126	0.2403
19	0.0147	55	0.0571	91	0.1294	127	0.2441
20	0.0156	56	0.0587	92	0.1319	128	0.248
21	0.0165	57	0.0602	93	0.1345	129	0.2519
22	0.0174	58	0.0618	94	0.1372	130	0.2558
23	0.0184	59	0.0634	95	0.1398	131	0.2598
24	0.0193	60	0.0651	96	0.1425	132	0.2638
25	0.0203	61	0.0667	97	0.1453	133	0.2678
26	0.0212	62	0.0684	98	0.148	134	0.2719
27	0.0222	63	0.0701	99	0.1508	135	0.276
28	0.0232	64	0.0719	100	0.1537	136	0.2801
29	0.0243	65	0.0736	101	0.1566	137	0.2843
30	0.0253	66	0.0754	102	0.1595	138	0.2885
31	0.0264	67	0.0772	103	0.1624	139	0.2927
32	0.0274	68	0.0791	104	0.1654	140	0.297
33	0.0285	69	0.0809	105	0.1684	141	0.3013
34	0.0296	70	0.0828	106	0.1715	142	0.3056
35	0.0308	71	0.0847	107	0.1746	143	0.31
...

Exhibit 90: Definition of Days/Overnights from Selected States

State	Overview of Measurement	Excerpt
MO	Court-ordered overnights	This adjustment is based on the number of periods of overnight visitation or custody per year awarded to and exercised by the parent obligated to pay support under any order or judgment.
MN	Permissible to use something other than overnights if the parent has significant time periods	The percentage of parenting time may be determined by calculating the number of overnights or overnight equivalents that a parent spends with a child pursuant to a court order. For purposes of this section, overnight equivalents are calculated by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight.
IN	Recognizes "overnight" will not always mean 24-hour block Encourages consideration of whether party feed or transported child	An overnight will not always translate into a twenty-four hour block of time with all of the attendant costs and responsibilities. It should include, however, the costs of feeding and transporting the child, attending to school work and the like. Merely providing a child with a place to sleep in order to obtain a credit is prohibited.
LA	Court discretion but no less than 4 hours can constitute a day	A day for the purposes of this Paragraph shall be determined by the court; however, in no instance shall less than four hours of physical custody of the child constitute a day.
TN	More than 12 consecutive hours	(10) "Days" — For purposes of this chapter, a "day" of parenting time occurs when the child spends more than twelve (12) consecutive hours in a twenty-four (24) hour period under the care, control or direct supervision of one parent or caretaker. The twenty-four (24) hour period need not be the same as a twenty-four (24) hour calendar day. Accordingly, a "day" of parenting

State	Overview of Measurement	Excerpt
OR	Alternatives such as 12-hour blocks, but never less than 12-hour blocks	<p>time may encompass either an overnight period or a daytime period, or a combination thereof.</p> <p>(a) Determine the average number of overnights using two consecutive years.⁵</p> <p>(c) Notwithstanding the calculation provided in subsections (2)(a) and (2)(b), parenting time may be determined using a method other than overnights if the parents have an alternative parenting time schedule in which a parent has significant time periods where the minor child is in the parent’s physical custody but does not stay overnight. For example, in lieu of overnights, 12 continuous hours may be counted as one day. Additionally, blocks of time of four hours up to 12-hours may be counted as half-days, but not in conjunction with overnights. Regardless of the method used, blocks of time may not be used to equal more than one full day per 24-hour period.</p> <p>⁵ Commentary: Parenting time cannot be calculated using speculative data. Since parenting time is calculated based on 365 days in a year, averaged over two consecutive years, practitioners may calculate the number of days spent with the parent for known periods of time (E.g., “The child will spend Memorial Day weekend with the Mother,”: quantifiable as 3 overnights). Unknown or unquantifiable periods of time would not be calculated (E.g., “The child will spend time during the summer months with the Father”: unquantifiable period of time; no overnights can be calculated). The determination of overnights applies to the parenting plan that will be followed while the new support order is in effect.</p>
AZ	Breaks down to three-hour blocks	<p>To adjust for the costs of parenting time, first determine the total annual amount of parenting time indicated in a court order, a parenting plan, by the parents’ expectation, or by historical practice. Using the following for guidance, add together each block of parenting time to arrive at the total number of parenting-time days per year. Calculate the number of parenting-time days arising from any block of time the child spends with the parent with less parenting time in the following manner:</p> <ol style="list-style-type: none"> 1. Count 1 day of parenting time for each 24 hours within any block of time; and 2. 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 which is in total less than 24 hours in duration: <ol style="list-style-type: none"> a. A period of 12 hours or more counts as 1 day; b. A period of 6 to 11 hours counts as a 1/2-day; c. A period of 3 to 5 hours counts as a 1/4-day; and d. Periods of less than 3 hours may count as a 1/4-day if, during those hours, the parent with less parenting time pays for routine expenses of the child, such as meals.

CHAPTER 8: CONCLUSIONS AND RECOMMENDATIONS

New Hampshire is reviewing its child support guidelines. This report documents that New Hampshire has met all review requirements imposed by federal regulation (45 C.F.R. § 302.56). The federal requirements direct states to consider economic data on the cost of raising children; examine case file data to analyze the application and deviation from the guidelines, payment data, and the rates of income imputation, default, and application of the low-income adjustment; consider labor market data; and obtain input from low-income parents and the state child support agency. The findings from the analysis are to be used to develop informed recommendations appropriate for the State.

Additionally, this report examines whether New Hampshire complies with 2016-added federal requirements to consider the subsistence needs of the obligor-parent, consider the actual circumstances of the obligor-parent when income imputation is authorized, and not treat incarceration as voluntary unemployment. Other issues addressed in this report are grandparent liability and timesharing adjustments.

FINDINGS FROM THE ANALYSIS

Economic Data on the Cost of Raising Children

There are 11 studies of childrearing expenditures that underly state child support guidelines. The studies vary in data years and methodology used to separate childrearing expenditures from total household expenditures. Economists do not agree which methodology best measures childrearing expenditures. New Hampshire and 33 other states rely on a study using the Rothbarth methodology to separate childrearing expenditures from total household expenditures. Most economists believe that the Rothbarth methodology understates actual childrearing expenditures. Which study to use is a policy decision.

The existing New Hampshire guidelines percentages are generally based on an economic study (applying the Rothbarth methodology) published in 2006 using 1998–2004 expenditure data. Since 2006, several economic studies of childrearing expenditures have been conducted. The most current are from 2021 and rely on expenditure data from 2013–2019. Both rely on the Rothbarth methodology. One was conducted for Florida; the other was conducted by the same economist (Dr. David Betson) who developed the 2006 study. The 2021 Betson-Rothbarth (BR) study indicates little change to the percentage of total expenditures devoted to one child and small increases to the percentages for two and three children. (The studies do not extend to four or more children because of limited sample size. Instead, multipliers are used to extend the estimate for three children to four or more children.) Six states rely on the 2021 BR study for their guidelines schedule/percentage and several other states are proposing updated schedules/percentages using the more current BR study.²⁰⁷ The Florida study is not in use.

Besides the economic study, there are several other factors considered in the development of guidelines percentages and the child support schedule. Many of these were also updated. The guidelines

²⁰⁷ The most current BR study is also called BR5 in this report because it is the fifth study that has Betson has conducted over time using the Rothbarth methodology. For each study, he applies the Rothbarth methodology to more current expenditure data.

percentages set in state statute relate to net income. They were adopted from an Oregon study that converted the 2006 BR measurements to a net-income base by using average expenditures-to-income ratios from the same families that Betson used to develop his 2006 estimates. They were also adjusted to exclude childcare expenses and all but the first \$250 per child per year in the child's out-of-pocket healthcare expenses. Similar adjustments were made for this study using more current data. Comparisons of the adjusted percentages to the existing New Hampshire guidelines percentages find that the current guidelines percentages are too low for two and more children at low- and middle-incomes and too high at very high incomes. The 2018 review concluded the same finding at higher incomes.

When conducting the economic analysis, several other findings about the child support schedule and worksheet were noted. The findings considered equity in the calculation, simplicity in use, and understandability to parents. New Hampshire is one of a few states that treat childcare expenses and out-of-pocket healthcare expenses as income deductions. A more equitable approach is to prorate the expense between the parties and add-on the obligor-parent's share of that expense to the obligor-parent's base support.

Case File Data

Case file data were obtained from 500 random sampled petitions for child support in 2021. The sample was stratified over 10 courts: Berlin, Claremont, Concord, Derry, Keene, Laconia, Manchester, Ossipee, Plymouth, and Rochester. The sample included 430 orders for child support and 71 state petitions resulting in medical-support-only orders. Among the 430 orders for financial child support, 301 orders were generated from divorce and parenting petitions, and 129 were generated from state petitions.

Guidelines Deviations.

Federal regulation directs states to keep guidelines deviations at a minimum. The analysis of the 2021 sample found a deviation rate of 48%. The rate is 20% among state petitions and 61% among divorce and parenting petitions. The rate is lower than that from the previous review. Still, New Hampshire's deviation rate is much higher than that of other states. Over half of the deviations were known to be due to the parenting schedule. Deviations classified as "other" or due to agreement between the parties may have also factored in the parenting schedule.

Default Orders.

An order is generally entered by default if the obligor-parent does not show for the scheduled court hearing. The narrative surrounding the federal requirement to analyze default rates suggests that states should try to limit the use of default and engage parents in the order establishment process. The 2021 sample indicates a 21% default rate. It was higher (49%) among state petitions and lower among 8% among divorce and parenting petitions. The rate among state petitions is high compared to that of other states. The default rate was not measured for the last review. It is unknown whether the COVID-19 pandemic affected physical appearance.

Income Imputation.

Income imputation was indicated for 15% of all orders, 38% of state petitions, and 3% of divorce and parenting orders. The rate is high among state petitions. Other information provided on the forms indicated many parents had low-income, were unemployed, and did not have stable income. This may contribute to the high income-imputation rate.

Application of the Low-Income Adjustment.

The self-support reserve (SSR) was applied to 21% of 2021 sampled orders, 41% of state petitions, and 11% of divorce and parenting petitions. The high application rate in state petitions underscores that many parents in the TANF and Medicaid caseloads have very low incomes. With some exceptions for good cause, a parent enrolled in TANF must cooperate with BCSS for the establishment and enforcement of a financial child support order. A parent with a BCSS case in which the child(ren) is enrolled in Medicaid must cooperate with BCSS for the establishment and enforcement of a medical support order.

Other Findings.

There are several other findings from the case file review that are useful to creating a snapshot of the circumstances to which the New Hampshire guidelines apply.

- Most (63%) orders involve one child, 31% involve two children, and 6% involve three or more children.
- The median gross income of obligor-parents was \$4,000 per month among divorce and parenting petitions and \$1,732 per month among state petitions. The median gross income of obligee-parents was \$3,020 per month among divorce and parenting petitions and zero among state petitions.
- Deductions for work-related childcare expenses and the child's medical expenses were applied more often in divorce and parenting petitions but still applied infrequently. Work-related childcare expenses in divorce and parenting petitions were deducted from the income of 11% of obligor-parents and 18% of obligee-parents. The child's medical expenses in divorce and parenting petitions were deducted from the income of 25% of obligor-parents and 20% of obligee-parents.
- The median order was \$200 per month among divorce and parenting petitions and \$346 per month among state petitions. Many (42%) divorce and parenting petitions were set at zero. This dragged the median down. Most zero orders among divorce and parenting petitions are based on deviations, including deviations for parenting time schedules.

Labor Market Data

Federal regulation requires the analysis of labor market data. The intent is to gather information about the employability of low-skilled workers within a state to help inform income imputation provisions and the low-income adjustment. In most states, many parents with government child support cases have barriers to employment and earnings including limited job skills, low educational attainment, history of incarceration, and other barriers.

Although state data are not available, national data finds that 35% of parents not living with at least one of their children have incomes below 200% of poverty, almost half have a high school degree or less, and they are less likely to work full-time and year-round. Labor market data reveals that many low-skilled and low-paying jobs do not offer a 40-hour work week or an opportunity for paid work each week of the year. The average number of hours worked per week in New Hampshire is 33.6 hours per week. The average hours worked is significantly less in some industries, particularly those paying low wages (e.g., the average hours worked per week in the New Hampshire leisure and hospitality was 25.6 hours per week). Still there are job opportunities in New Hampshire. New Hampshire's unemployment rate is low (was 2.0% in August 2022), while it was 3.7% for the nation as a whole in August 2022.

Web-Based Survey

To obtain input from a variety of stakeholders, particularly parents, a web-based survey was made available for almost four weeks. The survey also sought input from the judiciary (i.e., judges, attorneys, and court personnel); advocates for parents and children; Department of Health and Human Services (DHHS), Division of Economic and Housing Stability (DEHS), Bureau of Child Support Services (BCSS) staff; legislators; and others with an interest in the New Hampshire child support guidelines. The survey was announced through several sources including social media, flyers, and the courts.

There were 224 survey respondents: 32% were parents, 25% were BCSS staff, 21% were judicial officers/attorneys/court staff, and 21% were other (e.g., representatives of organizations that advocate for children and legislators). The major finding was the need for a timesharing adjustment. Except for BCSS respondents, most respondents favored a cross-credit adjustment that calculates a theoretical order for each parent adjusted for the child's time, then bases the support order on the difference. The parent with the larger amount owes the other parent the difference.

There was no consensus that the guidelines amounts were too high or too low. There was some evidence that survey respondents thought the existing self-support reserve was too low. Survey respondents generally favored a minimum order and income imputation to able-bodied parents who do not work when employers are hiring. Survey respondents generally did not favor ordering grandparents of a child born to a minor unwed parent who is receiving public assistance to pay support for their grandchild. There were several comments to make the guidelines simpler and to improve parents' understanding of the guidelines.

Analysis of New Hampshire's Compliance with 2016-Added Federal Requirements
The Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) rule of 2016 added several requirements to state guidelines:

- Base the guidelines amount on the parent's income and earnings and evidence of ability to pay;
- Consider the basic subsistence needs of obligor-parents with limited ability to pay;
- Take into consideration the individual circumstances of the obligor-parent when income imputation is authorized;
- Provide that incarceration is not voluntary unemployment; and
- Allows states to provide that public coverage (e.g., Medicaid) can be considered healthcare coverage.

The timeline for meeting the 2016-added federal requirements relates to a state’s guidelines review cycle. For New Hampshire, that means January 1, 2024.

The authors of this report do not have the authority to determine whether New Hampshire complies with these 2016-added requirements. Only the federal Office of Child Support Enforcement (OCSE) has that authority. Nonetheless, in general New Hampshire appears to meet all the requirements through their existing guidelines, case law, and practices.

Analysis of Grandparent Liability

Current New Hampshire law imposes grandparent liability for public assistance provided to children born to their unwed minor children but does not address how to establish an ongoing obligation for such grandparents. The law predates the establishment of the child support program and is generally outdated. Since child support programs focus on obtaining support from the parents, there is less need to pursue grandparents. Most respondents to the web-based survey did not favor assessing grandparent liability. Judges, attorneys, court staff, and BCSS staff noted very few cases where grandparent liability was an issue or ordered. Many judges favored retaining some discretion over grandparent liability so they could order it when appropriate.

Timesharing Adjustments in State Guidelines Formulas

Adjustments for shared-parenting time are important. Research generally shows that children do better when both parents are involved in their children’s lives even if the parents live apart. New Hampshire is one of nine states that do not provide a formulaic adjustment for timesharing in their child support guidelines.²⁰⁸ Based on the findings from the case file data, almost three-quarters (74%) of divorce and parenting petitions have a parenting plan that provides that the child will be in the physical care of each parent for a significant share of the child’s time.²⁰⁹ The majority (61%) of these cases deviate from the New Hampshire guidelines.

No state child support guidelines formula for timesharing is exactly alike. The most common approach is a cross-credit adjustment with a 150% multiplier. It is used in 18 states, but these states vary in the time-sharing threshold that must be reached to apply the adjustment. In the cross-credit formula, theoretical orders are calculated for each parent based on the time the child is with the other parent, then offset against each other so that the parent with the higher theoretical order owes the difference. Most states (including Maine and Vermont) relying on the cross-credit increase the basic obligation by 150% to account for it costing more to raise the child in two households than one household. A criticism of the cross-credit is that it produces a large decrease at the timesharing threshold as the child’s time with the obligor-parent increases in some circumstances. The Oregon formula was developed to address this limitation of the cross-credit formula. It produces more gradual changes in the order amount when

²⁰⁸ The other states are Alabama, Alaska, Connecticut, Georgia, Mississippi, New York, Texas, and Washington. Alabama is in the process of adopting an adjustment. Georgia has convened a workgroup to address the issue in 2023.

²⁰⁹ According to the case file data (which was pulled from 2021 order establishments and modifications), only three state petitions had parenting plans. It is unclear whether the COVID-19 pandemic affected this. BCSS administrators believe the percentage is higher based on their observations over time.

the child's time with the obligor-parent increases. Oregon leaders purport that the formula has reduced litigation. The limitation of the Oregon formula is that it is complicated. Some do not like that it adjusts for even a few nights per year, but that is mathematically necessary to achieve a gradual adjustment.

RECOMMENDATIONS

1. **Update the guidelines percentages set in statute.** The guidelines percentages are out of date. They are too low for two and more children at low and middle incomes.
2. **Revise the statutory provisions covering the preparation of the schedule/guidelines and annually update it to make the schedule simpler to understand.** The statutory provisions produce a very long schedule (called the Child Support Guideline Calculation Table in practice) with a lot of extraneous information that can be cumbersome and make the calculation more difficult to understand.
3. **Replace the income deductions for work-related childcare expenses and out-of-pocket medical costs with add-ons to base support.** Treating these expenses as income deductions is not consistent with the income shares model, where each parent is responsible for their prorated share of childrearing expenses. Income deductions place more financial burden on the parent incurring the expense.
4. **Revise statutory provisions that enable the courts to simplify the worksheet.** The worksheet generally follows the statutory provisions. There are many nuanced changes that could make the worksheet simpler (e.g., eliminate lines that are unnecessary to the calculation and have one line for each parent's work-related childcare expenses rather than two separate lines).
5. **Increase the self-support reserve (SSR). The existing SSR is 115% of the federal poverty guidelines (FPG) for one person.** Several stakeholders suggested increasing it. A SSR based on 130% of the FPG would align with the income eligibility threshold for the Supplemental Nutrition Assistance Program (SNAP) and better reflect New Hampshire cost of living.
6. **Adopt a timesharing adjustment.** The high guidelines deviation rate and the recommendations from survey respondents speak to the overwhelming need for New Hampshire to adopt a statutory formula. New Hampshire is currently one of nine states that does not provide a formula in their guidelines. Many of these states are also in the process of adopting or considering adopting a timesharing formula. When adopting a timesharing adjustment, the guidelines deviation criteria should also be revamped. Many of the deviation criteria relate to timesharing.
7. **Either repeal the law providing for grandparent liability to support the children of their unwed minor children or add more specification to it.** There are numerous justifications to eliminate it: it is not a common issue, child support from the parent (if able) should be prioritized, and establishing policies for consistent treatment would require a lot of time and resources for few cases. More specification would entail whether to limit liability only to public assistance cases, application to

both the maternal and paternal grandparents, identification of income to be used, and several other specifications.

8. **Codify New Hampshire case law that does not treat incarceration as voluntary unemployment and New Hampshire practices to consider the actual circumstances of a parent when income imputation is authorized.** This would bring New Hampshire in compliance with the 2016-added federal requirements. To unambiguously comply with the requirement to not treat incarceration as voluntary employment, there should be no exception in the provision based on the reason for incarceration (e.g., an exception when the reason is domestic violence against custodial parent or children).
9. **Add information to court forms that facilitate the calculation of timesharing adjustments and improve the data quality for the next guidelines review.** This includes dropboxes for deviation reason and a check box for noting whether income was imputed on the Uniform Support Order and clearly stating the number of days with each parent over the year in the parenting plan.
10. **Encourage DHHS to develop a user-friendly, automated child support calculator.** Some web-based respondents complained about the complexity of the guidelines. A user-friendly using simplified languages and mouse-overs to clarify legal terms and other user-friendly features, automated calculator may alleviate this issue. It would also make it easier to calculate the timesharing adjustments.

APPENDIX A: COPY OF SURVEY

Survey Introduction

The Department of Health and Human Services, Bureau of Child Support Services wants to hear from you! Take our survey to give us your input on the child support guidelines in New Hampshire.

The guidelines established in NH RSA Chapter 458-C help to calculate the amount parents pay in child support. DHHS is conducting a comprehensive review of the child support guidelines in accordance with state and federal law to determine whether the application of these guidelines result in appropriate child support amounts or if any changes should be made.

DHHS is seeking input from stakeholders, including parents, child advocates, judges, attorneys, court staff, child support staff, and the public. The survey findings will be reported to the New Hampshire Legislature. Please be assured that your responses are completely confidential.

This survey will take approximately 15 minutes to complete. Thank you for your participation

Base Survey (All Participants)

A.Q1. Below are several statements about child support.						
On a scale of 1 to 5, please tell us how much you agree or disagree with each statement. (5 being strongly agree, 1 being strongly disagree; if you don't know, please select don't know)						
	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	Don't know
A.Q1_1 Parents who do not live with their child are important to the child's overall well-being.	5	4	3	2	1	9
A.Q1_2 Child support is important to a child's well-being.	5	4	3	2	1	9
A.Q1_3 The parents should be financially responsible for their child.	5	4	3	2	1	9
A.Q1_4 Parents should show up for their court hearing to establish a child support order.	5	4	3	2	1	9
A.Q1_5 Even when both parents have no or little income, the child's needs should come first.	5	4	3	2	1	9
A.Q1_6 If the parent paying child support has income below the federal poverty guidelines [?], the child support order should be zero.	5	4	3	2	1	9
A.Q1_7 If the parent paying child support has income below the federal poverty guidelines [?], there should still be a small child support order (e.g., \$50 per month) even though it costs more than \$50 per month to raise a child.	5	4	3	2	1	9
A.Q1_8 The self-support reserve [?] provided in the New Hampshire child support guidelines is appropriate and fair. (See Section 458-C:2 Definitions.)	5	4	3	2	1	9
A.Q1_9 The self-support reserve [?] provided in the New Hampshire child support guidelines is too high.	5	4	3	2	1	9
A.Q1_10 The self-support reserve [?] provided in the New Hampshire child support guidelines is too low.	5	4	3	2	1	9
A.Q1_11 If an able-bodied parent doesn't work and employers are hiring, courts should assume that parent has at least minimum wage earnings.	5	4	3	2	1	9
A.Q1_12 If an able-bodied parent doesn't work and employers are hiring at \$10 per hour, courts should assume that parent can earn \$10 per hour when calculating the child support order.	5	4	3	2	1	9
A.Q1_13 In general, child support is calculated consistently across the state.	5	4	3	2	1	9
A.Q1_14 Child support for equal (50%-50%) physical custody is calculated consistently across the state.	5	4	3	2	1	9
A.Q1_15 In equal (50%-50%) physical custody cases, there is always one parent that spends more on child-rearing expenses than the other.	5	4	3	2	1	9
A.Q1_16 The child support order should be \$0 when parents have about equal incomes and about equal (50%-50%) physical custody.	5	4	3	2	1	9
A.Q1_17 The fact that it costs more to raise a child in two households than one household should be considered when adjusting for when the child spends a lot of time with each parent.	5	4	3	2	1	9

A.Q1_18 Child support guidelines help ensure orders are set consistently across the state.	5	4	3	2	1	9
A.Q1_19 When setting a child support order, it should be automatically adjusted for the parenting time schedule.	5	4	3	2	1	9
A.Q1_20 If a parent has additional children besides the children for whom child support is being determined, that parent's income should be adjusted to help cover the expenses of those additional children when determining the child support order.	5	4	3	2	1	9
A.Q1_21 Grandparents of a child born to a minor unwed parent who is receiving public assistance should have to pay child support for their grandchild.	5	4	3	2	1	9
A.Q1_22 The child support guidelines deviation provisions [?] are applied consistently across the State. (See deviation provisions Section 458-C:5)	5	4	3	2	1	9
A.Q1_23 .The child support guidelines are not used when they are inappropriate for the situation.	5	4	3	2	1	9
A.Q1_24 The New Hampshire child support guidelines produce fair and appropriate order amounts.	5	4	3	2	1	9
A.Q1_25 The New Hampshire child support guidelines produce order amounts that are too low.	5	4	3	2	1	9
A.Q1_26 The New Hampshire child support guidelines produce order amounts that are too high	5	4	3	2	1	9

A.Q2 If the parent who pays the support has the child about every other weekend and every other holiday, in your opinion, what child-rearing expenses does the parent paying support typically pick up and how often?						
	Never	Rarely	Sometimes	Usually	Always	Don't Know
A.Q2_1 Food for the child	1	2	3	4	5	9
A.Q2_2 Transportation to school	1	2	3	4	5	9
A.Q2_3 Transportation to child events (e.g., sports, birthday parties, music lessons, etc.)	1	2	3	4	5	9
A.Q2_4 Bedroom for the child	1	2	3	4	5	9
A.Q2_5 Clothing for the child	1	2	3	4	5	9
A.Q2_6 Medical expenses	1	2	3	4	5	9
A.Q2_7 Extracurricular expenses	1	2	3	4	5	9
A.Q2_8 Toys and books	1	2	3	4	5	9
A.Q2_9 Bike for the child	1	2	3	4	5	9
A.Q2_10 Car for the child	1	2	3	4	5	9
A.Q2_11 Cost of transportation between parent's houses	1	2	3	4	5	9
A.Q2_12 Cell phone plan	1	2	3	4	5	9
A.Q2_13 Other _____	1	2	3	4	5	9

A.Q3 If the parent who pays the support has the child every other weekend and every other holiday, in your opinion, what costs to the parent receiving support are reduced and by how much for each overnight with the other parent?						
	\$0 reduction	Small Reduction	Equally split between parents	Large reduction but not \$1 for \$1	\$1 for \$1 Reduction	Don't Know/Not applicable
A.Q3_1 Food for the child	1	2	3	4	5	9
A.Q3_2 Transportation to school	1	2	3	4	5	9
A.Q3_3 Transportation to child events (e.g., sports, birthday parties, music lessons, etc.)	1	2	3	4	5	9
A.Q3_4 Bedroom for the child	1	2	3	4	5	9
A.Q3_5 Clothing for the child	1	2	3	4	5	9
A.Q3_6 Toys and books	1	2	3	4	5	9
A.Q3_7 School supplies	1	2	3	4	5	9
A.Q3_8 Entertainment fees	1	2	3	4	5	9
A.Q3_9 Extracurricular fees	1	2	3	4	5	9
A.Q3_10 Other _____	1	2	3	4	5	9

A.Q4 In your opinion, how many days per month should the parent paying support have with the child before that parent's child support order is reduced?

0. None
1. 1 - 2 days per month
2. 3- 5 days per month
3. 6 – 10 days per month (about every other weekend and one night per week)
4. 11-13 days per month
5. 14-15 days per month (about equal physical custody)
6. Other _____
9. Don't know/don't have an opinion

A.Q5 How many days per month does a child spend with the other parent for the primary parent to see a reduction in child-rearing costs?

0. None
1. 1 - 2 days per month
2. 3- 5 days per month
3. 6 – 10 days per month (about every other weekend and one night per week)
4. 11-13 days per month
5. 14-15 days per month (about equal physical custody)
6. Other _____
9. Don't know/don't have an opinion

A.Q6 Thinking about how to apply an adjustment for shared physical custody, which adjustment makes the most sense, is appropriate, fair, and practical to apply?

1. A simple percentage reduction that does not vary with the amount of time.
2. Sliding scale percentages that vary with the amount of time.
3. Calculate a theoretical order for each parent, adjust it for the child's time with the other parent, then offset it. The parent with the larger amount owes the other parent a difference.
4. There should be no standard formula.
5. Other _____
9. Don't know.

Respondent Question (Begin Branch)

A.Q7 Thinking about how you gained your knowledge and experience with child support, what best describes you?

1. An individual who is supposed to receive child support [[Skip to parents with order branch](#)]
2. An individual who pays child support [[Skip to parents with order branch](#)]
3. An individual who both pays child support and is supposed to receive child support [[Skip to parents with order branch](#)]
4. An individual who is not required to pay or receive child support, but has minor children. [[Skip to parent without order branch](#)]
5. An individual without minor children or a grandparent who doesn't owe or receive child support [[Skip to final question](#)]
6. A judge or hearing officer who hears child support cases [[Skip to Judge branch](#)]
7. Court staff or administrator [[Skip to final question](#)]
8. A private attorney who is involved with child support cases [[Skip to attorney branch](#)]
9. Bureau of Child Support Services staff or administrator [[Skip to BCSS branch](#)]
10. A representative of an organization that advocates for children [[Skip to final question](#)]
11. Legislator or government official [[Skip to final question](#)]
12. Other _____ [[Skip to final question](#)]

Branch: Parents With Orders [Skip from A.Q7]

P.Q9 How many children do you have? ____ [Both parent branches]

P.O.Q10 Research indicates that a child is better adjusted when both parents are involved in the child's life. Please tell us about how much contact the parent who is supposed to pay support spends with your youngest child.

1. None
2. 1 - 2 days per month
3. 3- 5 days per month
4. 6 – 10 days per month (every other weekend and one night per week)
5. 11-13 days per month
6. 14-15 days per month (about equal physical custody)
7. Other_____
9. Don't know

P.O.Q11 Thinking about the last six months, is the number of days the child is with the parent paying support the same as what is in your parenting plan?

1. Not applicable, don't have a parenting plan. [Skip to 10]
2. Pretty much [Skip to 10]
3. No, it's less [Skip to subquestion]
4. No, it's more [Skip to subquestion]
5. Don't know [Skip to 10]

P.O.Q11a. Why isn't the number of days the same?

1. A disruption due to COVID-19 illness or quarantine.
2. The child doesn't want to spend time with the parent who is supposed to pay support
3. The parent who is supposed to *pay* support is not cooperating
4. The parent who is supposed to *receive* support is not cooperating
5. Other_____
9. Don't know

P.O.Q15 My child support payments are:

1. Directly paid from one parent to the other parent;
2. Withheld from the paycheck of the parent owing support; then, sent to the parent receiving support.
3. Collected by the State; then, sent to the parent who is supposed to receive support;
4. Other_____
9. Don't know/not applicable

P.Q13 In your opinion, how much income does a single adult with no children need in New Hampshire to pay for basic needs such as food, shelter, and other basic living expenses. [Both parent branches]

1. Less than \$1,000 per month
2. \$1,001 – \$1,300 per month
3. \$1,301 - \$1,600 per month
4. \$1,601- \$2,000 per month
5. More than \$2,000 per month
6. Other____
9. Don't know

P.Q14 Thinking about the last year, did you typically have enough money to meet your basic needs each month? [Both]

1. Definitely
2. Usually
3. Not always
4. Rarely
5. Never
9. Don't know

[Skip to final question; A.Q8]

Branch: Parents Without Orders [Skip from A.Q7]

P.Q9 How many children do you have? ____ [Both parent branches]

P.No.Q10 How much contact does the other parent typically have with your youngest child?

1. None
2. 1 - 2 days per month
3. 3- 5 days per month
4. 6 – 10 days per month (every other weekend and one night per week)
5. 11-13 days per month
6. 14-15 days per month (about equal physical custody)
7. Other_____
9. Don't know

P.No.Q11 Thinking about the last six months, is the number of days the child is with the other parent the same as what is in your parenting plan?

1. Not applicable, don't have a parenting plan. [Skip to 10]
2. Pretty much [Skip to 10]
3. No, it's less [Skip to subquestion]
4. No, it's more [Skip to subquestion]
5. Don't know [Skip to 10]

P.No.Q11a Why isn't the number of days the same

1. A COVID-19 illness or quarantine disrupted it.
2. The child doesn't want to spend time with the other parent
3. The other parent is not cooperating
4. Other_____
9. Don't know

P.No.Q12 Why don't you have a child support order? (check all that apply)

1. The other parent and I agreed to no order.
2. The court decided.
3. We have equal custody and share child-rearing expenses
4. The other parent has little income or ability to pay.
5. I don't want any contact with the other parent.
6. I don't want parenting time to be an issue because I don't feel the other parent is responsible.
7. We didn't want the court or child support agency involved.
8. Other_____
9. Don't know

P.Q13 In your opinion, how much income does a single adult with no children need in New Hampshire to pay for basic necessities such as food, shelter, and other basic living expenses? [Both parent branches]

1. Less than \$1,000 per month
2. \$1,001 – \$1,300 per month
3. \$1,301 - \$1,600 per month
4. \$1,601- \$2,000 per month
5. More than \$2,000 per month
6. Other____
9. Don't know

P.Q14 Thinking about the last year, did you typically have sufficient financial resources to meet your basic necessities each month? **[Both parent branches]**

1. Definitely
2. Usually
3. Not always
4. Rarely
5. Never
9. Don't know

[Skip to final question; A.Q8]

Branch: Attorneys **[Skip from A.Q7]**

J.Q10 About how often do individuals request the application of an adjustment to the child support guidelines for their parenting schedule? **[Ask for Attorney/BCSS/Judges]**

1. Less than 10%
2. About 11-25 percent
3. 26-50 percent
4. More than half
5. Other_____
9. Don't know

J.Q11 In the last year, how many cases have you encountered where there was a request or consideration of an adjustment for split custody; that is where there were at least two children and one child lived with one parent and another child with the other parent? **[Ask for Attorney/BCSS/Judges]**

1. None
2. 1-5 cases
3. 6-10 cases
4. 11-20 cases
5. More than 20 cases
6. Other_____
9. Don't know

J.Q12 In the last five years, how many cases have you encountered where there was a request or consideration of support from the grandparents of a child born to a minor unwed parent who is receiving public assistance? **[Ask for Attorney/BCSS/Judges]**

7. None
8. 1-5 cases
9. 6-10 cases
10. 11-20 cases
11. More than 20 cases
12. Other_____
10. Don't know

J.Q15 If a liability for support from the grandparents of a child born to a minor unwed parent was imposed, what was typically used as the basis of the support order amount? **[Ask for Attorney/BCSS/Judges]**

1. The amount of the public assistance grant
2. Application of the guidelines to the income of the grandparent(s)
3. Other_____
4. Not applicable, have never imposed liability
9. Don't know

J.Q16 If a liability for support from the grandparents of a child born to a minor unwed parent was imposed, was it a secondary liability; that is, after an effort to seek support from the biological parent (who also may be a minor) failed? **[Ask for Attorney/BCSS/Judges]**

1. Yes
2. No
3. Not applicable, have never imposed liability
9. Don't know

J.Q13 Do you have any recommendations for improving the appropriateness and fairness of New Hampshire guidelines and their consistent application across the State? **[Ask for Attorney/BCSS/Judges]**

[Skip to final question; A.Q8]

Branch: Judges **[Skip from A.Q7]**

J.Q10 About how often do individuals request the application of an adjustment to the child support guidelines for their parenting schedule? **[Ask for Attorney/BCSS/Judges]**

1. Less than 10%
2. About 11-25 percent
3. 26-50 percent
4. More than half
5. Other _____
9. Don't know

J.Q11 In the last year, how many cases have you encountered where there was a request or consideration of an adjustment for split custody, where there were at least two children and one child lives with one parent and another child with the other parent? **[Ask for Attorney/BCSS/Judges]**

1. None
2. 1-5 cases
3. 6-10 cases
4. 11-20 cases
5. More than 20 cases
6. Other _____
9. Don't know

J.J.Q13 In what percentage of cases where child support is an issue do you typically apply a deviation for shared residential responsibility?

1. Less than 10%
2. About 11-25 percent
3. 26-50 percent
4. More than half
5. Other _____
9. Don't know

J.J.Q14 In what percentage of cases where child support is an issue do you typically apply a deviation for split custody, where there were at least two children and one child lived with one parent and another child with the other parent?

1. Less than 1%
2. About 1-5 percent
3. 6-10 percent
4. More than 10%
5. Other _____
9. Don't know

J.J.Q15 The existing guidelines provides several provisions for deviating. (See Section 458-C:5 Adjustments to the Application of Guidelines Under Special Circumstances) Using a scale of 1 to 5, how useful are each of these provisions? (5 is very useful, 1 is not at all useful)						
	Very Useful	Somewhat useful	Neutral	Not very useful	Not at all useful	Don't know
J.J.Q15_1 Whether, in cases of equal or approximately equal residential responsibility, the parents have agreed to the specific apportionment of variable expenses for the children (e.g., school supplies and childcare expenses)	5	4	3	2	1	9
J.J.Q15_2 Whether the obligor parent has established that the equal or approximately equal residential responsibility will result in reduction of any of the fixed costs of child rearing by the obligee parent.	5	4	3	2	1	9
J.J.Q15_3 Whether the income of the lower earning parent enables that parent to meet the costs of child-rearing in a similar or in a style to which they have become accustomed.	5	4	3	2	1	9

J.J.Q16 How do you calculate support in shared residential responsibility cases?

1. A simple percentage reduction that does not vary with the amount of time.
2. Sliding scale percentages that vary with the amount of time.
3. Calculate a theoretical order for each parent, adjust it for the child's time with the other parent, then offset it. The parent with the larger amount owes the other parent a difference.
4. Other _____
5. Not applicable, don't calculate support in shared residential responsibility cases.

J.J.Q17 How do you calculate support in split custody cases?

1. Calculate a theoretical order for Parent A for the children living with Parent B and a theoretical order for Parent B for the children living with Parent A and offset them.
2. Calculate a theoretical order for all of the children for the higher earner regardless where the children live and subtract a theoretical order for the children living with the higher earner.
3. Other _____
4. Not applicable, don't calculate support in split-custody cases.

J.Q12 In the last five years, how many cases have you encountered where there was a request or consideration of support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance? [Ask for Attorney/BCSS/Judges]

1. None
2. 1-5 cases
3. 6-10 cases
4. 11-20 cases
5. More than 20 cases
6. Other _____
9. Don't know

J.J.Q18 In the past 5 years, approximately how often have you imposed liability for support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance?

1. None
2. 1-5 cases
3. 6-10 cases
4. 11-20 cases
5. More than 20 cases
6. Other _____
9. Don't know

J.J.Q21 Have you ever refused to establish an obligation for a grandparent to provide support when the child support agency has sought such an obligation?

1. Yes, please explain basis _____
2. No
3. Not applicable, have never imposed liability
9. Don't know

J.Q15 If a liability for support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance was imposed, what was typically used as the basis of the support order amount? **[Ask for Attorney/BCSS/Judges]**

1. The amount of the public assistance grant
2. Application of the guidelines to the income of the grandparent(s)
3. Other _____
4. Not applicable, never imposed liability
9. Don't know

J.Q16 If a liability for support from the grandparents of a child born to a minor unwed parent who is receiving public assistance was imposed, was it a secondary liability; that is, after an effort to seek support from the biological parent (who also may be a minor) failed? **[Ask for Attorney/BCSS/Judges]**

1. Yes
2. No
3. Not applicable, have never imposed liability
9. Don't know

J.JC.Q18 What is your opinion about the need for [N.H. Rev. Stat. § 167:3-a](#), which addresses grandparent liability for public assistance when such assistance is provided to a child born to an unwed minor? **[Ask for BCSS and Judges only]**

J.Q13 Do you have any recommendations for improving the appropriateness and fairness of New Hampshire guidelines and their consistent application across the State? **[Ask for Attorney/BCSS/Judges]**

[Skip to final question; A.Q8]

Branch: BCSS [Skip from A.Q7]

J.Q10 About how often do individuals request the application of an adjustment to the child support guidelines for their parenting schedule? [Ask for Attorney/BCSS/Judges]

1. Less than 10%
2. About 11-25 percent
3. 26-50 percent
4. More than half
5. Other_____
9. Don't know

J.Q11 In the last year, how many cases have you encountered where there was a request or consideration of an adjustment for split custody, that is where there were at least two children and one child lived with one parent and another child with the other parent? [Ask for Attorney/BCSS/Judges]

1. None
2. 1-5 cases
3. 6-10 cases
4. 11-20 cases
5. More than 20 cases
6. Other_____
9. Don't know

J.Q12 In the last five years, how many cases have you encountered where there was a request or consideration of support from the grandparents of a child born to a minor unwed parent who is receiving public assistance? [Ask for Attorney/BCSS/Judges]

1. None
2. 1-5 cases
3. 6-10 cases
4. 11-20 cases
5. More than 20 cases
6. Other_____
9. Don't know

J.C.Q13 In the past 5 years, approximately how often has the IV-A agency referred a public assistance case to you where they are seeking support from the grandparent of a child born to a minor parent?

1. None
2. 1-5 cases
3. 6-10 cases
4. 11-20 cases
5. More than 20 cases
6. Other_____
9. Don't know

J.C.Q17 Does the child support agency have written procedures for how to handle such referrals from IV-A?

1. Yes
2. No
3. Not applicable, have never imposed liability
9. Don't know

J.Q15 If a liability for support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance was imposed, what was typically used as the basis of the support order amount? **[Ask for Attorney/BCSS/Judges]**

1. The amount of the public assistance grant
2. Application of the guidelines to the income of the grandparent(s)
3. Other _____
4. Not applicable, have never imposed liability
9. Don't know

J.Q16 If a liability for support payable from the grandparents of a child born to a minor unwed parent who is receiving public assistance was imposed, was it a secondary liability; that is, after an effort to seek support from the biological parent (who also may be a minor) failed? **[Ask for Attorney/BCSS/Judges]**

1. Yes
2. No
3. Not applicable, have never imposed liability
9. Don't know

J.JC.Q18 What is your opinion about the need for [N.H. Rev. Stat. § 167:3-a](#), which addresses grandparent liability for public assistance when such assistance is provided to a child born to an unwed minor? **[Ask for BCSS and Judges only]**

J.Q13 Do you have any recommendations for improving the appropriateness and fairness of New Hampshire guidelines and their consistent application across the State? **[Ask for Attorney/BCSS/Judges]**

[Skip to final question; A.Q8]

Final Question (All Participants)

A.Q8 Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?

A.Q8a Do you agree to have your final written response (above) to be published anonymously in the final report?

1. Yes
0. No

End of Survey

Thank you for your time spent taking this survey.

Your response has been recorded.

For more information about New Hampshire Child Support Services, please visit our website at:

<https://www.dhhs.nh.gov/programs-services/childcare-parenting-childbirth/child-support-services>



Child Support Guidelines Survey

We want to hear from you!

Child Support is an important source of financial and medical support for New Hampshire children.

The DHHS Bureau of Child Support Services is conducting a required review of the guidelines that are used to calculate how much parents pay for child support in New Hampshire.

Complete the survey by November 4, 2022, to provide your input on New Hampshire child support guidelines.



Scan the QR code
or visit
<https://bit.ly/3s26mSV>
to complete the
survey.



APPENDIX C: RECOMMENDATIONS OF SURVEY RESPONDENTS

This appendix contains written recommendations to improve the guidelines among the respondents agreeing to have their response published anonymously. All the responses are for verbatim (including typographical errors). Only one was edited to exclude a personal name.

Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?
Guidelines should take into consideration amount of time spent with child(ren). An every other weekend visitation schedule should not constitute a reduction in obligor's support. When an obligor spends 30% + time with child(ren) the obligation should be based on percentage of time spent. Sliding scale. I believe that Vermont has a superior support obligation calculator.
Some areas cost more to live such as rent and mortgage. I live in Nashua and my rent is \$2100 for a 2 bedroom and I cannot find anywhere in the town that is cheaper and reasonable to raise a child. The area in which the residential parent lives should be incorporated into the guidelines as it varies greatly in the state. Furthermore, electric rates doubled and inflation is rampant. It is difficult to provide on a single income in Nashua.
Coparents with 50/50 custody should have no child support between them.
The state should determine how much it really costs to support a child and that is what the order should be, payments should not be made based on percentage of income with an unlimited payment! This truly becomes child support plus parent support because it only costs so much to provide the necessities for kids, so anything above and beyond that merely goes to the parent's savings for themselves... It is flat out wrong that someone can pay \$500 a month for a child and someone else because they work hard and make a good living might pay \$4,000 or more for 1 child. It does not cost \$4,000 in this example to take care of 1 child, so all the extra money goes directly to the receiving parent which is not child support!
Each able parent should work and 50/50 custody should not require support.
I think that the New Hampshire guidelines should pay more attention in cases where the child lives in another country.
There should be stronger guidelines for parents that have their own businesses and need to pay support. It is very easy for self employee to hide the income that they actually make.
Look at the situation at scale and judge fairly
Yes. 1. Improved tracking of self employed parents who are ordered to pay child support and who hide income. 2. Greater enforcement to parents who lack paying child support. My children's father, who is approximately \$25,000 in arrears, has had his license revoked three times. He could care less. He continues to drive and eventually will make a minimal payment to re-establish driving privileges. Then a few months later, for lack of payment, will start process again. Incarceration would be perfect. 3. There is no reason, more than one job cannot be obtained by the payor if one job is not sufficient. I have to work 2-3 AND care for children 100% of time. To pay my responsibilities, why can't he? A poor work ethic by the payor does not, and should not constitute leniency. There is no excuse for the amount of employment opportunities available why child support cannot be paid. 4. There should be a public database on social media announcing deadbeat dads. Shame may help fuel accountability. 5. Life insurance should be mandatory for any payor in arrears and monitored by state or other parent to ensure active status.
The calculation for child support should be based on the agreed custody - if 50/50 then the total amount of child support awarded to the lower earning parent should be reduced by 50%. This accounts for the dollars the higher earning parent will spend while the child is within their custody. Examples: 2000 per month is determined child support. per the guidelines - 50/50 custody means the paying parent, pays 1000 (50%) to the other parent. Now the paying parent has 1000 to spend on the child and the receiving parent has a 1000 to spend on the child.
If NH feels that it is in the best interest of the child to have equal time with both parents, when acceptable, then supports must be adjusted accordingly. If not then parents may not be willing to take the child 50%. Unfortunately it is just not a good financial decision.
No recommendations to the guidelines but I do think that people who are not paying in towards court ordered support should be held responsible for their lack of accountability.
They should not go by how much the layee makes it should go all about what the child needs in life .
Every circumstance is unique. There are many reasons behind one parent becoming the primary with limited visitation. Inflation should be factored into calculations.

Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?
Update often
Proof from parent receiving funds of where and how support funds are spent on the child
For those parents disabled or unemployed and have children and are currently receiving Social Security, they should still be responsible for their children whether or not they receive state assistance or government assistance and whether or not they can afford it.
I have done extensive research and work on the child support issue over the past several years. This included quantitative analyses of many different scenarios related to parenting schedules, income disparities and their roles in determining appropriate child support obligations. I would be happy to discuss them with your office. It is my belief that with some simple modifications, the existing system can be made more consistent, objective, and easier to both explain and understand. This could drastically reduce the confusion and inconsistencies fueling much of the current conflict between Obligor and Obligees. Please let me know if I can help. Thank you. {Respondent contact information removed]
I believe time spent with the child and money spent on the child should both be reasons to deviate from the Guidelines, but that relative income is more important. The goal is equity or balance not equality, and sometimes, due to circumstances, equity must be earned. The goal of the obligation is to enhance engagement between family members, support the children's needs, and not marginalize family members; create orders where all individuals are involved to the best of their ability and feel treated with bureaucratic fairness, at least. I support building in input and feedback mechanisms that enhance family member data collection throughout the life of a support order, not just every four (4) years.
have a 50/50 custody separate guidelines calculator
One way to improve the guidelines could be to estimate the cost of raising a child (per week/month). For parents with equal custody (i.e. ~15days/month), there are several options: (1) each parent is responsible for contributing the requisite amount into a bank account in the child's name (and parents). This account would be used to pay for items included in the overall monthly amount, with any "extra" money dispersed by agreement or rolled into a savings account for the child. (2) the parents could agree to split the "bills" equally; each parent paying the bill directly instead of the other parent (e.g. phone bill, school pictures, extra curricular activity) (3) By agreement, one parent (preferably whichever is better at managing money) receives support amount from other parent and holds the funds to expend as needed. While the current setup is logical, child costs may be easier to calculate and configure than each parents income (especially when the other parent has no data and/or any percentage of income is unreported). The obligor /obligee relationship can be divisive, and the obligor has relatively little input on how support money is expended (i.e. actual amount used for child-related expenses); in contrast, the child perceives the obligee as the providing parent and final authority. is rarely acknowledged for items impacts that parent-child relationship A byproduct of the current guidelines is the (financial) disincentive for [either] parent — to actively seek increased-wage opportunities and/or to report ALL sources of income — where the parent will have to pay more, or receive less, support. Regardless, the child is (adversely) impacted when parents argue about "child costs" for the subject child. There is usually a lot of resulting resentment. If parents don't have equal custody, the support amount could still be similarly calculated based on actual costs, and pro-rated, based on actual time spent with each parent. The obligor, having "lesser" custodial obligations, would pay the pro-rated difference based on the parenting schedule. Parents would still report their income via financial affidavits; child "costs" do vary based on a number of factors including geographical location and socioeconomic status. However, like traditional alimony, the guidelines could account for keeping the child living in the manner s/he is accustomed to. Adjustments could be made, and areas of agreement reached, depending on whether parents agree to be responsible for furnishing specific items (e.g. school supplies every August), or making scheduled payments (e.g. reoccurring child-related bills (e.g. private school tuition).
The sliding scale of percentage of gross income expected for the paying parent should continue to decrease further. For example someone who makes 500k per year should not expected to pay the same percentage of income in child support as someone who makes 200k per year. This becomes an absurdly high amount for the hard working person to pay and incentivizes the other parent not to work and also creates a situation where the money is no longer spent on the children.
The penalty for not paying is weak. My ex owes me \$15,000 in arrears and literally there is nothing that will penalize him for this. It's unlikely I'll ever see a penny of this money.
Make it easier
The current formula is too complicated and hard to follow.

Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?
<p>Once a support order is in place, the state should stay on top of the case to make sure the parent should be paying child support. I gave up MANY years ago because the state never did anything for me. My son is now 18 and his father still owes US over \$30K. because he has worked under the table, so the state has never been able to withhold earnings from his checks. The other thing I never understood, being a single parent trying to raise a child, work, pay bills - when having to take the other parent to court because the support wasn't being paid - I always had to pay court fees to file to bring the parent to court to fight and try and get the support money. In the end I lost time and money from my job, for the other parent to lie to the judge about paying support and it never happening. So it was a waste of my time and money. That is why I gave up and worked my butt off to support myself and my son.</p>
<p>My former spouse is trying to get extended support for my now, 19 year old who is soon attending college, claiming an IEP "disability". (I had an IEP into my HS years myself) She has forced him to not get his driver's license and also is having him wait to attend college until a support hearing takes place. She asked me to hand over the one other (younger) child's tax credit in exchange for not testifying. How and why do these courts allow this to go on? I am represented, however the costs to do so taking their own financial toll on me. This case will be in Goffstown late November. I suggest the state have a look at things like this. The laws are tilted to the mother, and are unequitable and sexist in my opinion.</p>
<p>Create a guideline that includes parenting time in calculation of child support</p>
<p>It is critically important to recognize that each family is different, their circumstances are different, so there must be room for adjustments. Judges must have the ability to vary from guidelines, up or down, when addressing atypical circumstances. Each order must be unique and appropriate for that family.</p>
<p>Take into account the savings portion of the parents' budgets. The guidelines assume if you make a lot you spend a lot which isn't true.</p>
<p>I often hear from both the receiving parent and the paying parent that the guidelines are too high. Both parents do not understand how one parent can support themselves and their children with paying the guidelines amount and these are parties who both work.</p>
<p>It needs to be based upon the parents actual obligations and what they actually do for the children, not what the court assumes they are doing because that is what the parenting plan calls for. My ex is abusive to both my children and a GAL proved the same after a two year battle in family court. He was then ordered to pay me back the GAL fees (he objected to the appointment) and he has to this date refused to do so. I now have full custody and he has minimal visitation and yet he refuses to provide any form of financial assistance for our children. I pay over \$12,000 a year just for medical coverage on my kids, \$300 a week for food/groceries, \$700 a week for a rental home and on and on. My children's father lives at home with his parents and makes over \$55k a year. Yet he pays nothing at all in child support and when asked threatens myself and my children.</p>
<p>Include provision for 50/50 custody</p>
<p>Have a hard cap maximum amount. When a spouse is paying their ex more than it costs to raise the children that's not right. Especially when the spouse paying support has the children equal time and covers all the costs while they are with them too. In addition the ex has the ability to increase her income but has no incentive due to the child support they receive.</p>
<p>Yes, and thank you for putting together this survey. I know that everyone's case is unique, but I've had 2 hurdles that come to mind with improvements that could be made: 1. When a coparent has a known mental condition that's not taken into consideration with the court (even when medical records are provided), it causes great strain trying to have them handle the financial support for the children. In my case it's 50/50 custody and we make within \$5k annual salary, yet support is automatically awarded to the person who makes less. It causes great stress and increased communication, but I've been through the legal system and we were assigned a parenting coordinator, but the answer is always the same. 2. Also the financial affidavit breakdown of expenses page has proven to be useless in my case because there's no verification process of those expenses. I.e. the coparent consistently includes grossly exaggerated numbers, yet even though I request copies of statements, notes, etc, it has yet to be provided because they aren't legally required documents. In my opinion this supports inaccurate and / or unethical behaviors. Thanks again for providing this opportunity to share my concerns.</p>
<p>I believe that when there is 50/50 custody, neither parents should receive child support. It is the responsibility of both parents to provide for their children. If you choose to have kids then you should be held responsible for their expenses without having to receive money from the other parent. If you can not provide for the kids 50% of the time that you have them, then the parent who can support them should get more custody. I have many friends who pay a large amount of child support that exceeds the child's needs, just because the other parent makes substantially less. This leaves the higher earning parent with minimal money at the end of the month and unable to support themselves or the kids when they have them. In a case where child support is still present in 50/50 custody cases, the parent receiving child support should pay for all clothing, extracurriculars and child expenses not including medical insurance. There should also be more attention on the spending of each parent. Is the support going to the kids or is it being spent on other things not related to the kids.</p>

Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?
In regards to 50/50 custody, the order seems extremely unfair in regards to child support. Using gross income instead of net is not really valid when you look at actual take home pay. I have my kids every single weekend and split all holidays and take vacation time with them. I also work 2 jobs. Yet I give 1/3 of my net income every paycheck, directly to my kids mother. But I still have to provide everything, a home with their own bedrooms, clothes, food, bedding, toys, etc. For MY home. More consideration should also be applied when reviewing the parent receiving child supports' expenses. It makes being successful seem wrong. In my opinion, The guidelines need a change in this regard.
If the Obligor has higher income than the Obligee, the application of the guidelines should never result in the Obligee having more income (including child support) than the Obligor.
I understand children being provided for, and I also understand that some orders put the paying parent in a situation that causes hardships such as lack of suitable housing, transportation, etc. Often, paying parents need to work hours to support their regular expenses too which causes them to be unavailable to spend more time with their child too.
I had two children too young to attend school, and I was the caregiver Monday through Saturday. I stayed home with my children when I was married. So I stayed home with them after the divorce. I worked only weekends. My ex husband paid a small amount of child support compared to his income and I did not know there was Alimony when I divorced. He stopped paying for two years and when the court took it from his wages to pay child support he brought documents to court that the mediator believed and lowered his income to a ridiculous amount. The mediator was yelling at me the whole time that I should work, I did not have the money to obtain a lawyer so for over a decade my husband has paid little to no child support. I have since remarried and attorneys have told me that since my husband has income my ex husband will not be financially responsible by the NH courts. It seems unfair that when a woman remarries the children's biological father is not longer financially responsible for his children.
When one parent can put a lot into their retirement (choose a higher than standard amount) and not have that as part of their income used to calculate child support seems unfair. It's a triple benefit for the one parent (not taxable, not considered income and they also have money towards retirement)but they are choosing to put that money away and should still be calculated as income at least a percentage since they are CHOOSING put more in and not have as spendable household income.
I appreciate that there is a formula in place to determine the child support amount in each case, which makes it fair and equal, at least prior to any deviations. I also appreciate that discretion is allowed, so that each family's circumstances can be taken into account. I feel it would be helpful to have more guidance in those cases where the parents share a substantial amount of time and expenses for the child.
I spoke with a man in Michigan who told me in their state, when a couple, married or unmarried, with children, separates, child support is automatic. I don't know how they determine if a couple has separated. The custodial parent/guardian must report it. Per this man I spoke with, in Michigan, there is a mandatory and automatic duty for noncustodial parents to provide for their children.
increase the obligor's self-support reserve and provide a deduction for the percentage of time the child is with the parties.
I strongly feel that all able-bodied parents should be employed, including the custodial parent. If they choose not to work, income should be imputed to them for guideline purposes.
Utilizing the current guidelines, 50-50 parenting for a child creates problems, is time consuming and often the parties are not equipped with the information to adequately address the adjustment issue. Either a sliding scale or netting out the two guideline amounts would be preferable and yield fairer and more consistent results.
If the parent paying child support does not pay and DHHS must collect payment, stop making the parent receiving the support pay the yearly fee. It is not fair that because the parent who is paying support doesn't follow through, the parent receiving support has to incur the yearly fee. Make the parent paying support cover the cost!
Looking out across the different Family Divisions in the State it's noted that each Judge could give a different support figure for the exact same case. Some Judges are okay with deviating from the Guidelines, others are strictly against deviation outside of the Statute and what it allows. I think consistency is missing; why would someone be okay with paying full guideline support knowing that if they had gone to a different Judge/Court they would be paying a lower amount?
deviations should be only in extraordinary circumstances. There are too many deviations granted.
Honestly, I think NCP needs to be held more accountable. There are too many NCP's getting away with not paying a dime but the Involved parent has to step up and do everything/ pay for everything. Even when going through BCSS, they are not held accountable and takes MONTHS for even a response from someone. If NCP does not show up to court or gets arrested - it should be calculated at min. wage and still held responsible for their actions of being apart of creating a child.
I believe it would be of benefit to take into consideration the amount of taxes the parent paying child support is paying on the money that is received by the other parent. It would also be beneficial to see how the parents are financially recovering from a divorce or life event while reviewing support. If assets are not considered to be part of the value available to support the children, the calculation results are not equitable.

Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?
<p>Child support should include inheritance funds in calculating the monthly total child support. Non-custodial parents who intended to help with college expenses before the divorce should still be required to help. Inheritance funds should be calculated to determine the amount of money required to be paid toward college by the noncustodial parent. As a parent who formerly had primary custody of now adult children, my costs were much higher to raise the children than the non-custodial parent. A very large percentage of my earnings were used for my children with little left over for much else, while my ex-spouse had extra money for vacations and expensive purchases because the child support expected to be paid by the state was much, much less than what it would have actually cost him if we had never divorced.</p>
<p>There really needs to be a standard formula for different parenting time allocations - full support if one parent has 70% or more parenting time, a slightly reduced/modified order for 60/40 and a significantly reduced/modified order for 50/50 schedules. The very high cost of medical insurance and child care should also be a significant factor and possibly the subject of a separate allocation order (i.e. parents to share in those costs given that they are so high for the person paying them in comparison to child support).</p>
<p>Having more than one child with different parents, and living in different locations, cause a higher cost for visiting and spending time with children. Also if one parent does all the commuting, drop off/pick-up, it also adds to the cost of living. As is it's calculated only as a percentage of income, and no adjustment for other children, that are not obligated child support payments. Example, I pay child support for one child but I have 4 I support. In turn makes my income less and can't provide equally for all children. The other children have to go without things for the child support to be paid. Which in turn causes more distress for everyone involved.</p>
<p>Making the child support process truly collaborative and focused on the child would make it much less of a difficult situation. As currently set up the guidelines are inherently unfair as the court sets an amount required to support the child and asks one parent to pay that amount. When in an equal custody arrangement, that parent is essentially responsible for paying the balance to bring the other parent up to that level and then having to pay above and beyond to support the child on their own.</p>
<p>When the cost of living is going up everyday the child support should be adjusted for the parent paying.</p>
<p>See my above answer with respect to establishing a system of quality control with respect to child support orders. A system similar to the one accountants use would be reasonable. Another way to do it would be to establish an intermediate appellate opportunity.</p>
<p>From looking over the guidelines, they, for the most part, seem to be reasonably written. Noting that, however, they are guidelines. The issue that needs to be looked into (albeit challenging) is the fair and consistent application by judges, especially with regards to gender considerations. Times have changed, and it's vital that the guidelines and the application of judgement reflect current realities.</p>
<p>Equal parenting no support. Each parent pays for the child while with each parent</p>
<p>We should be given the flexibility to consider using the "netting" approach when the parenting schedule is truly a shared parenting schedule.</p>
<p>a. In request for deviations, fairness to child should be primary factor. b. Remove reference to "fixed costs" in test for guidelines deviation. They do not decrease. b. In any possible deviation, focus on ability to meet the costs of child rearing in a similar or approximately equal style to that of the other parent.</p>
<p>Currently there is no accounting for shared parenting and a reduction in support. Even when shared parenting is 50/50. Both parents have to have all necessities for the children. Room/clothes, food, entertainment ability to see their friends and extra curricular activities. The self support reserve will differ depending on where the child resides, and living in the Seacoast area there very few affordable places. Average rent is over \$2,000/mo then with all the other expenses at a min you need over \$3,000 per month just to scrape by. After tax</p>
<p>50-50 custody=no support payments</p>
<p>I see with 50/50 custody or "parenting time" in NH there is always one parent paying and no consideration for income. Say both parents make about the same income. Both parents making \$5,000.00 per month and the obligor paying \$100.00 per month for health insurance. The obligor pays \$782/month with 50% parenting time. How is this fair? Remember the \$782 is after tax. Using a 15% tax on \$5,000.00=\$4,250.00 for each parent. The obligor \$4250-782=\$3468 minus \$100 for health=\$3368, where the Obligee has \$4250 plus child support of \$782= \$5032. The difference to support the child is \$5032 minus obligor \$3368=\$1664. Which gives the Obligee a lot more to care for the child. And in turn the child wanting to be with that parent. It isn't what is best for the child.</p>

Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?

When there is about equal custody, it should be fairly straight forward. There is already two columns in the calculator. The difference between obligor and obligee should be the child support. It would be fairly easy to use % of time with the child to recalculate this. A parent that has every other weekend which is about 4/30 of the month should be compensated for the 4 days per month that she does have. That parent after all needs to feed/bed and clothe the child for the 4 days. And as the time gets to 50/50% if parents make the same amount per month the health insurance and extra curricular should be split with no actual child support per month should be paid.

Per current guidelines and *Silva v. Silva*, precedent enacted in 2018, the parent making \$1 less than the other, will receive the full guidelines and the entire amount of child support intended to be spread across two households, regardless of equal parenting time. This is the reality of current guidelines with the higher earning parent often being left with insufficient funds to care the children while they are in their care. Per this case law set by the NH Supreme Court in 2018 with *Silva v. Silva*, no deviations, even in the case of equal parenting time, are being awarded due to the specific language of RSA 458-C:5 (l)(h)(1) "Equal or approximately equal parenting residential responsibilities in and of itself shall not eliminate the need for child support and shall not by itself constitute ground for an adjustment.", and RSA 458-C:5 (l)(h)(2)(B) "Whether the obligor parent has established that the equal or approximately equal residential responsibility will result in a reduction of any of the fixed costs of child rearing incurred by the obligee parent." Per the Child Support Calculator, the lower earning parent will receive roughly the same amount of funds whether they make just a \$1 less than the higher earner or have no income at all. This can be shown easily by anyone entering the different amounts in the calculator. This promotes the lower earning parent to often not have to work at all. The damage being caused by *Silva v. Silva*, due to the current RSA 458-C:5 language, is endemic across most NH split families where one parent has all the funds and thus all the discretion in raising the children and the other, often higher earning parent, is often left in an indigent state unable to sufficiently care for their children, even if they have them 50% or more of the time. Regarding the idea that deviations are being given, In *Anderson v. Anderson*, regarding child support in a case of equal parenting time, from November 26, 2019, the NH Judge stated "We conclude that the petitioner's arguments are presented to the wrong branch of government... It is not our role to create legislation... Accordingly, we leave this issue to the legislature". Even with all of the conclusive studies, including the previous Carsey school 4 year study, and evidence, that NH has the 3rd highest child support amounts in the country, every attempt to pass effective legislation has failed. There was a "Working Group" created to come up with effective language for legislation, to reform the RSA's, but the group itself was made up of only special interest groups and did not include any actual parents. Further evidence of the devastating nature of current guidelines under *Silva*, the highly respected National Parents Org gives NH Child Guidelines an F for 2020: "New Hampshire is one of only 9 states lacking a presumptive parenting time adjustment formula; instead it relies on unnecessarily costly and lengthy court deviation procedures generally inaccessible to lower income parents. The lack of a presumptive PTA as an integral component of mandated presumptive child support guidelines arguably violates federal regulatory requirements." With this current 4 year study upon us, and all of the previous failed attempts at effective legislation, it appears unlikely that anything can or will be done to stop the devastating affect *Silva v. Silva* and current guidelines continue to have on NH families and children. Thank you.

Child support if collected by state, should be paid to primary parent by state regardless if non custodial parent pays. Child will not suffer from loss of support and state would be apt to be more enforcing to go after the non custodial for repayment to them. Primary should not have to go to welfare to survive because non custodial does not pay.

Keep it simple, child centered, expectations for both parents to have income. It's the parents responsibility not the state. If parents cannot co-parents without court involvement, both should be held to a very high standard, split costs, work two jobs and support the child equally. There should be more severe sanctions for parents that don't pay for their child including neglect petitions.

There needs to be more guidance in shared parenting arrangements. Extracurricular costs should not be included in child support. Older children with activities and a car cost way more usually than support amounts.

As a person who has to pay support but is 100% financially responsible for both children and has them 90% of the time - I shouldn't have to pay my ex support. It should be adjusted based on time spent. The money I give him does not go to our girls at all. Please add in time spent as a factor when calculating child support. .

Generally, they don't cover the actual cost to raise a child, often are not enough to properly feed and house a child when it is not a high income case. Go back to ore 2013 (I think) percentages would help. Also, the courts need to quickly issue orders on failure to pay child support contempt motions. They linger in the court for unreasonable period of time and often are not enforced, to the detriment of the children and primary parent. By the time there is an order the arrearage is enormous and no way for the primary parent and children to be made whole.

In my case I showed the court I had the children 60% of the time yet I had to pay max child support even though the other parent had higher income. Each parent that has the children has to provide the same basic necessities, when the physical time is split evenly, that should be factored into the amount ordered to pay.

Child support needs to be reduced when shared custody is in place. Both parents have the same costs to raise children. When both parents make about the same amount of money, it is not fair that one parent has to pay full child support to the other parent, when the same cost of raising children is the same. Rules need to be updated to reflect the true cost of raising children.

Do you have any recommendations to improve the guidelines used to calculate child support orders in New Hampshire?
More public forums available to parties of varying cultures explaining the guidelines. It would be beneficial to have training or education sessions in video format (like youtube) in varying languages (Spanish, French, Portuguese, etc) for the general public to review. Private attorneys and judges also need to be uniform in their application and usage.
They have to make sure everything that the parent states is true and when they do not pay they should have more serious consequences than just taking there license cause its not fair that they blow there money on someone elses children and there own struggling with no repercussions
The courts need to be strict with obligors. I have been involved with cases where I filed numerous contempt and show cause motions and the obligor would walk out of court with a smile. One time, however, the obligor testified that he was broke and could not pay anything towards the arrears, let alone the entire balance of approximately \$2,000. The judge asked if he packed his toothbrush because he was going to jail for the weekend. The obligor asked for a 5 minute recess and came back and told the court that someone was delivering the 2k to the court. The court absolutely needs to get tougher on deadbeat parents.
equal custody should not require child support if both parents have adequate income to support themselves and children. Paying child support has motivated the recipient of child support in my case to work less than a full-time job and be voluntarily underemployed based on prior positions held.
Take into account total situations. If the ex is being an asshole, he shouldn't get any money. Mine has done SO many illegal things and I can't wait for him to have to justify his actions to the judge. If they're living with another person, but I'm not, so I have higher bills with no second income, but they do have a second income, that should matter. If the kids are fine (because he makes a decent income, too) then why do we have to pay child support at all? My food bill has gone down since my teen is staying with my ex: it makes sense to me to pay a small amount towards food, but not the full amount that is calculated (which is high because I am a high income earner), keeping in mind that I have the kids 50% of the time, too
We need to take into consideration the present parent's decision to get child support if they decided not to because of the nature of the absent parent and trauma, upset and tension it will cause for the child because of that absent parent's treatment of present parent. We need to support that parent who has custody and decides it's too much stress and conflict to enforce an order for their family (the family with the child)
There should be guidance as to additional circumstances such as children with medical diagnosis, sole custody etc. If one parent is bearing all the cost 24 hours a day 7 days a week all year the guidelines don't account for that.
As an administrator I have seen awards of \$10 on \$>600 earnings, and a man give up parental rights to avoid paying \$30, &6% of his wages.
Need some variance for different situations. If one person has to work and pay so should the other parent have to gain employment not just collect support or IV-A.
Time/money/child I think most of it has been calculated and thought through with each case that comes through. If adjustments are needed, they get reviewed as requested
We need to stop giving credit for additional children as the Obligor is making the choice to have more children.
1) Include custody within the guidelines, not as a deviation to guidelines. 2) Currently, the first of an obligor's children to obtain a child support order receive the full guideline amount. When the obligor's children from another relationship go to court and get their order, the obligor gets a credit (if he is paying on his order) so that the second group of children get far less -- and often only \$50 per month. And if the obligor is not paying on the first order, the obligor doesn't get the credit so the two orders combined might take 70%+ of his/her income which strongly incentivizes the obligor to work under the table and never pay support. If the guideline amount was a set percentage per child (e.g., 10%) -- at least in cases where the obligor has multiple families seeking court ordered support -- it would help stop this from happening. Sometimes courts will bring in multiple families at the same time and try to split the obligor's money equally between the obligees, but that is not the guideline approach.
Increase the self support guidelines...as the self support is of poverty level itself

APPENDIX D: TECHNICAL DOCUMENTATION OF THE UPDATED PERCENTAGES

There are several technical considerations and steps taken to update a child support guidelines percentages that are contained in state statute. Exhibit D-1 shows the national data that Betson provided CPR to convert the BR5 measurements to child support percentages appropriate for New Hampshire.

Overview of Income Ranges

For Exhibit D-1, which considers national data, Betson provided CPR with information for 25 income ranges that were generally income intervals of \$5,000 to \$20,000 per year. CPR collapsed a few of them to average out some anomalies (e.g., a spike in the percentage of total expenditures devoted to childrearing expenditures once childcare and extraordinary medical expenses were excluded from a particular income range). The collapsing resulted in the 20 income ranges shown in Exhibit D-1.

Annual After-Tax Income Range (2020 dollars)	Number of Observations	Total Expenditures as a % of After-Tax Income	Expenditures on Children as a % of Total Consumption Expenditures (Rothbarth 2013–2019 data)			Child Care \$ as a % of Consumption (per child)	Total Excess Medical \$ as a % of Consumption	
			1 Child	2 Children	3 Children		(per capita)	(total)
\$ 0 – \$19,999	283	>200%	22.433%	34.670%	42.514%	0.473%	0.870%	3.005%
\$20,000 – \$29,999	306	134.235%	23.739%	36.642%	44.893%	0.437%	0.894%	3.208%
\$30,000 – \$34,999	306	107.769%	24.057%	37.118%	45.462%	0.407%	1.047%	3.722%
\$35,000 – \$39,999	409	103.780%	24.222%	37.364%	45.755%	0.647%	1.390%	4.878%
\$40,000 – \$44,999	428	100.064%	24.362%	37.571%	46.002%	0.721%	1.468%	5.301%
\$45,000 – \$49,999	416	97.195%	24.452%	37.705%	46.161%	0.747%	1.539%	5.485%
\$50,000 – \$54,999	399	92.716%	24.509%	37.789%	46.261%	0.855%	1.609%	5.887%
\$55,000 – \$59,999	367	90.548%	24.580%	37.894%	46.386%	1.210%	2.166%	7.389%
\$60,000 – \$64,999	335	86.130%	24.615%	37.945%	46.447%	0.776%	2.071%	7.474%
\$65,000 – \$69,999	374	84.016%	24.668%	38.025%	46.541%	1.255%	2.114%	7.525%
\$70,000 – \$74,999	333	82.671%	24.725%	38.108%	46.640%	1.586%	2.121%	7.375%
\$74,999 – \$84,999	615	82.690%	24.820%	38.249%	46.807%	1.743%	2.343%	7.894%
\$85,000 – \$89,999	318	78.663%	24.863%	38.311%	46.880%	1.392%	2.155%	8.331%
\$90,000 – \$99,999	565	76.240%	24.912%	38.384%	46.966%	1.658%	2.000%	7.888%
\$100,000 – \$109,999	493	75.488%	24.996%	38.508%	47.113%	2.159%	1.946%	7.121%
\$110,000 – \$119,999	374	73.058%	25.054%	38.593%	47.213%	2.523%	1.942%	7.583%
\$120,000 – \$139,999	468	71.731%	25.142%	38.722%	47.365%	2.477%	1.893%	6.494%
\$140,000 – \$159,999	240	70.658%	25.266%	38.904%	47.579%	3.073%	1.855%	7.516%
\$160,000 – \$199,999	512	62.753%	25.322%	38.986%	47.676%	1.790%	1.806%	7.037%
\$200,000 or more	498	58.427%	25.571%	39.350%	48.103%	2.459%	1.554%	6.501%

DETAILED STEPS USED TO ARRIVE AT GUIDELINES PERCENTAGES

The steps used to convert the information from Exhibit D-1 to the updated guidelines percentages are generally the same steps used to develop the existing guidelines percentages.

The steps are presented in the order they occur, not in the order of the factors discussed in Chapter 2.

The steps consist of:

Step 1: Exclude childcare expenses;

Step 2: Exclude child's healthcare expenses except up to the first \$250 per year per child that is used to cover ordinary, out-of-pocket medical expenses for the child;

Step 3: Adjust for ratio of expenditures to after-tax income;

Step 4: Extend measurements to four and more children.

Step 5: Develop marginal percentages; and

Step 6: Update for current price levels;

Step 7: Increase for New Hampshire price parity;

Step 8: Collapse percentages to New Hampshire income bands.

Step 1: Exclude Childcare Expenses

Childcare expenses are excluded because the actual amount of work-related childcare expenses is considered in the guidelines calculation on a case-by-case basis. The actual amount is considered because of the large variation in childcare expenses: the childcare expense is none for some children (e.g., older children) and substantial for others (e.g., infants in center-based care). Not to exclude them from the guidelines percentages and to include the actual amount in the guidelines calculation (typically as a line item in the worksheet) would be double-accounting.

Starting with the expenditures on children, which is shown in fourth column of Exhibit D-1, average childcare expenses are subtracted from the percentage of total income devoted to childrearing. For example, at combined incomes of \$60,000–\$64,999 per year, 37.945% of total expenditures is devoted to childrearing expenditures for two children. Childcare comprises 0.776% of total expenditures per child. The percentage may appear small compared to the cost of childcare, but it reflects the average across all children regardless of whether they incur childcare expenses. Childcare expenses may not incur because the children are older, a relative provides childcare at no expense, or another situation.

The percentage of total expenditures devoted to childcare is multiplied by the number of children (e.g., 0.776 multiplied by children is 1.552%). Continuing with the example of a combined income of \$60,000–\$64,999 net per year, 1.552% is subtracted from 37.945%. The remainder, 36.393% ($37.945 - 1.552 = 36.393$) is the adjusted percentage devoted to childrearing expenditures for two children that excludes childcare expenses.

One limitation is that the CE does not discern between work-related childcare expenses and childcare expenses the parents incurred due to entertainment (e.g., they incurred childcare expenses when they went out to dinner). This means that work-related childcare expenses may be slightly overstated. In turn, this would understate the guidelines percentages amounts. Similarly, if there are economies to scale for childcare, multiplying the number of children by the percentage per child would overstate actual childcare expenses. When subtracted from the guidelines percentages, this would reduce the guidelines percentages too much. However, due to the small percentage devoted to childcare expenses, any understatement is likely to be small.

Step 2: Exclude Medical Expenses

A similar adjustment is made for the child's medical expenses except an additional step is taken. Exhibit D-1 shows the excess medical percentage, which is defined as the cost of health insurance and out-of-pocket medical expenses exceeding \$250 per person per year. It is shown two ways: the per-capita amount and the average amount for the entire household. Either way considers expenditures on the two adults in the household. It is adjusted to a per-child amount since medical expenses of children are less. The underlying data do not track whether the insurance premium or medical expense was made for an adult's or a child's healthcare needs.

Based on the 2017 National Medical Expenditure survey, the annual out-of-pocket medical expense per child is \$270, while it is \$615 for an adult between ages 18–64.²¹⁰ In other words, an adult's out-of-medical expenses is 2.28 more than a child's. This information is used to recalibrate the per-person excessive medical amount shown in Exhibit D-1 to a per-child amount. For example, at combined incomes of \$60,000–\$64,999 per year, the total excess medical expense is 7.474%. The adjusted child amount is 7.474 divided by the weighted amounts for family members (6.1684 based on 2.28 times two adults plus the average number of children for this income range, 1.6084). The quotient, 1.212%, is the per-child amount for excess medical. It is less than the per-capita amount of 2.071%.

Continuing from the example in Step 1, where 36.393 is the percentage that excludes childcare for two children at a combined income of \$60,000–\$64,999 per year, 1.212 multiplied by two children is subtracted to exclude the children's excessive medical expenses. This leaves 33.969 as the percentage of total expenditures devoted to raising two children, less childcare expenses and excess medical expenses.

Step 3: Convert to After-Tax Income

The next step is to convert the percentage from above to an after-tax income by multiplying it by expenditures to after-tax income ratios. Continuing using the example of combined income of \$60,000–\$64,999 per year, the ratio is 86.130. When multiplied by 33.969, this yields 29.257% of after-tax income being the percentage of after-tax income devoted to raising two children, excluding their childcare and excess medical expenses.

²¹⁰ Agency for Healthcare Research and Quality. (Jun. 2020). *Mean expenditure per person by source of payment and age groups, United States, 2017. Medical Expenditure Panel Survey*. Generated interactively: June 12, 2020, from https://www.meps.ahrq.gov/mepstrends/hc_use/.

Exhibit D-2: Schedule of Proportions for One, Two, and Three Children (unadjusted for New Hampshire Price Parity)							
Annual After-Tax Income Range (May 2020 dollars)	Annual Midpoint of Income Range (Jan. 2022 Dollars)	One Child		Two Children		Three Children	
		Midpoint	Marginal percentage	Midpoint	Marginal percentage	Midpoint	Marginal percentage
< \$30,000	\$0	23.041%	23.041%	35.086%	35.086%	42.414%	42.414%
\$30,000 – \$34,999	\$35,638	23.041%	23.041%	35.086%	30.397%	42.414%	34.813%
\$35,000 – \$39,999	\$41,121	23.041%	20.834%	34.461%	34.031%	41.401%	40.211%
\$40,000 – \$44,999	\$46,603	22.782%	16.965%	34.410%	25.320%	41.261%	30.000%
\$45,000 – \$49,999	\$52,086	22.169%	10.445%	33.453%	14.985%	40.075%	17.008%
\$50,000 – \$54,999	\$57,569	21.053%	9.406%	31.694%	10.817%	37.879%	8.818%
\$55,000 – \$59,999	\$63,051	20.040%	13.143%	29.879%	22.110%	35.351%	29.299%
\$60,000 – \$64,999	\$68,534	19.488%	7.992%	29.257%	9.168%	34.867%	7.438%
\$65,000 – \$69,999	\$74,017	18.637%	11.118%	27.769%	14.584%	32.835%	14.789%
\$70,000 – \$74,999	\$79,500	18.118%	16.525%	26.860%	23.208%	31.591%	25.699%
\$74,999 – \$84,999	\$87,724	17.969%	12.081%	26.518%	19.891%	31.038%	25.883%
\$85,000 – \$89,999	\$95,948	17.464%	9.419%	25.950%	13.114%	30.597%	14.370%
\$90,000 – \$99,999	\$104,172	16.829%	12.140%	24.936%	16.107%	29.315%	16.595%
\$100,000 – \$109,999	\$115,137	16.382%	7.712%	24.095%	9.708%	28.104%	9.272%
\$110,000 – \$119,999	\$126,103	15.628%	14.265%	22.844%	21.151%	26.466%	24.896%
\$120,000 – \$139,999	\$142,551	15.471%	11.375%	22.649%	15.036%	26.285%	15.418%
\$140,000 – \$159,999	\$164,482	14.925%	9.996%	21.634%	17.177%	24.836%	23.161%
\$160,000 – \$199,999	\$197,378	14.103%	10.376%	20.891%	14.835%	24.557%	16.780%
\$200,000 or more	\$283,881	12.968%		19.046%		22.187%	

Step 4: Extend to More Children

Most of the measurements only cover one, two, and three children. The number of families in the CE with four or more children is insufficient to produce reliable estimates. For many child support guidelines, the National Research Council's (NRC) equivalence scale, as shown below, is used to extend the three-child estimate to four and more children:²¹¹

$$= (\text{number of adults} + 0.7 \times \text{number of children})^{0.7}$$

Application of the equivalence scale implies that expenditures on four children are 11.7% more than the expenditures for three children, expenditures on five children are 10.0% more than the expenditures for four children, and expenditures on six children are 8.7% more than the expenditures for five children.

Step 5: Develop Marginal Percentages

In this step, the information from the previous steps is used to compute a tax schedule-like schedule of proportions for one, two, and three children that is shown in Exhibit D-3. The percentages from above (e.g., 29.257% for two children for the combined income of \$60,000–\$64,999 per year in 2020 dollars) are assigned to the midpoint of that income range adjusted for inflation (\$68,534 in 2022 dollars). Marginal percentages are created by interpolating between income ranges. For the highest income range, the midpoint was supplied by Betson: \$258,887 per year in May 2020 dollars.

²¹¹ Citro, Constance F., & Robert T. Michael (eds.). (1995). *Measuring Poverty: A New Approach*. National Academy Press. Washington, D.C.

Another adjustment was made at low incomes. The percentages for incomes below \$30,000 net per year were less than the amounts for the net income range \$30,000–\$34,999 per year. This is an artificial result caused by the cap on expenditures in Step 3 because families of this income range spend more than their after-tax income, on average. Decreasing percentages result in a smooth decrease when the parent receiving support has more income. This is the general result of the steps so far. The exception is at low incomes because of the cap. Without the cap, it will also produce decreasing percentages. For the purposes of the child support guidelines percentages, the percentage from the \$30,000–\$34,999 are applied to all incomes less than \$30,000 per year. For one child, the percentages are actually from the \$35,000–\$39,999 income range. To be clear, this is still less than what families of this income range actually spend on children.

Step 6: Adjust to Current Price Levels

The amounts in Exhibit D-1 are based on May 2020 price levels. They are converted to October 2022 price levels using changes to the Consumer Price Index (CPI-U), which is the most used price index.²¹² The adjustment is applied to the midpoint of each after-tax income range. Exhibit D-2 shows the midpoint in January 2022 dollars.

Step 7: Adjust for Rhode Island Price Parity

The percentages in Exhibit D-2 are increased to account for New Hampshire's 2020 price parity, which is 103.7%.²¹³ In other words, the calculations so far are multiplied by 103.7, which is a 3.7% increase

Step 8: Collapse Percentages to Income Bands Used in Statute

In turn, the percentages shown in Exhibit D-2 were used to develop percentages that aligned with the guidelines percentages set in statute.

CONSUMER EXPENDITURE DATA

Most studies of childrearing expenditures, including the BR measurements, draw on expenditures data collected from families participating in the Consumers Expenditures Survey (CE) that is administered by the Bureau of Labor Statistics (BLS). Economists use the CE because it is the most comprehensive and detailed survey conducted on household expenditures and consists of a large sample. The CE surveys about 7,000 households per quarter on expenditures, income, and household characteristics (e.g., family size). Households remain in the survey for four consecutive quarters, with households rotating in and out each quarter. Most economists, including Betson, use three or four quarters of expenditures data for a surveyed family. This means that family expenditures are averaged for about a year rather than over a quarter, which may not be as reflective of typical family expenditures.

In all, the BR5 study relies on expenditures/outlays data from almost 14,000 households, in which over half had a minor child present in the household. The subset of CE households considered for the BR5 measurements used to develop the existing updated guidelines percentages consisted of married couples of childrearing age with no other adults living in the household (e.g., grandparents), households

²¹² U.S. Bureau of Labor Statistics. (n.d.). *Consumer Price Index*. Retrieved from https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_us_schedule.htm.

²¹³ U.S. Bureau of Economic Analysis. (2021). *2020 Regional Price Parities by State (US = 100)*. Retrieved from <https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>.

with no change in family size or composition during the survey period, and households with at least three completed interviews. Other family types were considered, which also changed the sample size, but the percentage of childrearing expenditures in these alternative assumptions did not significantly change the percentage of expenditures devoted to childrearing expenditures. The other family types included in these expanded samples were households with adult children living with them and domestic partners with children.

The CES asks households about expenditures on over 100 detailed items. Exhibit D-3 shows the major categories of expenditures captured by the CE. It includes the purchase price and sales tax on all goods purchased within the survey period. In recent years, the CE has added another measure of expenditures called “outlays.” The key difference is that outlays essentially include installment plans on purchases, mortgage principal payments, and payments on home equity loans, while expenditures do not. To illustrate the difference, consider a family who purchases a home theater system during the survey period, puts nothing down, and pays for the home theater system through 36 months of installment payments. The expenditures measure would capture the total purchase price of the home theater system. The outlays measure would only capture the installment payments made in the survey period.

Exhibit D-3: Partial List of Expenditure Items Considered in the Consumer Expenditure Survey	
Housing	Rent paid for dwellings, rent received as pay, parking fees, maintenance, and other expenses for rented dwellings; interest and principal payments on mortgages, interest and principal payments on home equity loans and lines of credit, property taxes and insurance, refinancing and prepayment charges, ground rent, expenses for property management and security, homeowners’ insurance, fire insurance and extended coverage, expenses for repairs and maintenance contracted out, and expenses of materials for owner-performed repairs and maintenance for dwellings used or maintained by the consumer unit. Also includes utilities, cleaning supplies, household textiles, furniture, major and small appliances, and other miscellaneous household equipment (tools, plants, decorative items).
Food	Food at home purchased at grocery or other food stores, as well as meals, including tips, purchased away from home (e.g., full-service and fast-food restaurant, vending machines).
Transportation	Vehicle finance charges, gasoline and motor oil, maintenance and repairs, vehicle insurance, public transportation, leases, parking fees, and other transportation expenditures.
Entertainment	Admission to sporting events, movies, concerts, health clubs, recreational lessons, television/radio/sound equipment, pets, toys, hobbies, and other entertainment equipment and services.
Apparel	Apparel, footwear, uniforms, diapers, alterations and repairs, dry cleaning, sent-out laundry, watches, and jewelry.
Other	Personal care products, reading materials, education fees, banking fees, interest paid on lines of credit, and other expenses.

The BLS designed the CE to produce a nationally representative sample and samples representative of the four regions (Midwest, Northeast, South, and West). The sample sizes for each state, however, are not large enough to estimate childrearing costs for families within a state. We know of no state that has seriously contemplated conducting a survey similar to the CE at a state level. The costs and time requirements would be prohibitive.

Outlays include mortgage principal payments, payments on second mortgages, and home equity payments, which is what the 2020 Betson-Rothbarth (BR) measurement considers. As explained in

Chapter 3, this is a change from BR measurements underlying the existing guidelines percentages. The CE traditional measure of expenditures does not consider these outlays. The merit of using expenditures, which does not include mortgage principal payments, is that any equity in the home should be considered part of the property settlement and not part of the child support payments. The limitations are that not all families have substantial equity in their homes and some families have second mortgages or home equity loans that further reduce home equity. The merit of using outlays is that it is more in line with family budgeting on a monthly basis in that it considers the entire mortgage payment including the amounts paid toward both interest and principal, and the amount paid toward a second mortgage or home equity loan if there is such a payment. Both measures include payment of the mortgage interest, rent among households dwelling in apartments, utilities, property taxes, and other housing expenses as indicated in the above guidelines percentages. Housing-related items, which are identified in Exhibit D-3, comprise the largest share of total family expenditures. Housing expenses compose about 40% of total family expenditures.

Transportation expenses account for about one-sixth of total family expenditures. In the category of “transportation,” the CES includes net vehicle outlays; vehicle finance charges; gasoline and motor oil; maintenance and repairs; vehicle insurance; public transportation expenses; and vehicle rentals, leases, licenses, and other charges. The net vehicle outlay is the purchase price of a vehicle less the trade-in value. Net vehicle outlays account for just over one-third of all transportation expenses. Net vehicle outlays are an important consideration when measuring childrearing expenditures because the family’s use of the vehicle is often longer than the survey period. In Betson’s first three studies, he excluded them because in his earlier estimates that consider expenditures, the vehicle can later be sold again, after the survey period. In contrast, Betson’s 2020 estimates that consider outlays capture vehicle payments made over the survey period. The USDA, which relies on expenditures, includes all transportation expenses including net vehicle outlays. There are some advantages and disadvantages to each approach. Excluding it makes sense when the vehicle may be part of the property settlement in a divorce. An alternative to that would be to include a value that reflects depreciation of the vehicle over time, but that information is not available. Including the entire net vehicle outlay when expenditures are used as the basis of the estimate likely overstates depreciation. When the basis of the estimates is outlays, it includes only vehicle installment payments rather than net vehicle outlays. This effectively avoids the issues of vehicle equity and depreciation.

Betson excludes some expenditure items captured by the CE because they are obviously not childrearing expenses. Specifically, he excludes contributions by family members to Social Security and private pension plans, and cash contributions made to members outside the surveyed household. The USDA also excludes these expenses from its estimates of childrearing expenditures.

Gross and net incomes are reported by families participating in the CE. The difference between gross and net income is taxes. In fact, the CE uses the terms “income before taxes” and “income after taxes” instead of gross and net income. Income before taxes is the total money earnings and selected money receipts. It includes wages and salary, self-employment income, Social Security benefits, pension income, rental income, unemployment compensation, workers’ compensation, veterans’ benefits, public assistance, and other sources of income. Income and taxes are based on self-reports and not checked against actual records.

The BLS has concerns that income may be underreported in the CE. Although underreporting of income is a problem inherent to surveys, the BLS is particularly concerned because expenditures exceed income among low-income households participating in the CE. The BLS does not know whether the cause is underreporting of income or that low-income households are actually spending more than their incomes because of an unemployment spell, the primary earner is a student, or the household is otherwise withdrawing from its savings. To improve income information, the BLS added and revised income questions in 2001. The new questions impute income based on a relationship to its expenditures when households do not report income. The 2010 and 2020 Betson-Rothbarth measurements rely on these new questions. Previous Betson measurements do not.

The BLS also had concerns with taxes being underreported. Beginning in 2013, the BLS began calculating taxes for families using a tax calculator, rather than relying on self-reported amounts. This also affected differences between the BR5 measurements and earlier measurements.

The BLS also does not include changes in net assets or liabilities as income or expenditures. In all, the BLS makes it clear that reconciling differences between income and expenditures and precisely measuring income are not parts of the core mission of the CES. Rather, the core mission is to measure and track expenditures. The BLS recognizes that at some low-income levels the CES shows that total expenditures exceed after-tax incomes, and that at very high incomes the CES shows total expenditures are considerably less than after-tax incomes. However, the changes to the income measure, the use of outlays rather than expenditures, and use of the tax calculator have lessened some of these issues.

GLOSSARY

Basic subsistence needs	Per federal regulation (45 C.F.R. § 302.56(c)(1)(ii)), required to be considered for the noncustodial parent, with a definition left to the discretion of the state, but commonly defined as the minimum necessary to support life, such as food and shelter.
BR5	The fifth (and most current) study of childrearing expenditures prepared by Professor David Betson using the Rothbarth methodology. It is used to update the New Hampshire guidelines percentages that appear in this report.
BR3	The third study of childrearing expenditures prepared by Professor David Betson using the Rothbarth methodology. The study was conducted for Oregon. New Hampshire used the findings of the Oregon study to develop its existing percentages.
Bureau of Child Support Services (BCSS)	The state-level bureau created to administer New Hampshire's IV-D child support program, including all services necessary to locate parents; establish paternity; establish, enforce, and modify support orders; and collect and distribute support in New Hampshire.
Child Support Guideline Calculation Table	This is the schedule that is updated by the New Hampshire Department of Health and Human Services Bureau of Child Support Services annually pursuant to state statutory requirements. It can be retrieved from https://www.dhhs.nh.gov/sites/g/files/ehbemt476/files/documents2/css-guidelines-book.pdf .
Code of Federal Regulations (C.F.R.)	A codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the federal government.
Confiscatory order	A confiscatory order is an order that is high enough under the circumstances in which it is ordered to be seen by one of the parties as punitive.
Consumer Expenditure Survey (CE)	Ongoing survey of expenditures conducted by the U.S. Bureau of Labor Statistics. It is the data source of most estimates of childrearing expenditures. More information about the CE can be found at https://www.bls.gov/cex/ .
Default order	Order was entered by default because the obligor-parent did not appear for the scheduled hearing and did not agree to the Uniform Support Order prior to the hearing.
Divorce and parenting petitions	This is the abbreviated term used for petitions for divorce, legal separation or union separation with minor children or petitions for parenting (which are petitions to establish parenting and child support but are not typically Bureau of Child Support Services cases).
Equal (50-50) physical custody	Each parent has 50-50% (equal) residential responsibility for the child(ren).
FEM	The 2016 Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEM) rule. See Federal Office of Child Support Enforcement. (Dec. 20, 2016). Actional Transmittal (AT-16-06) <i>Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs</i> . Retrieved from https://www.acf.hhs.gov/css/policy-guidance/final-rule-flexibility-efficiency-and-modernization-child-support-enforcement
Guidelines deviation	The guideline formula was not applied. Each state is federally required to provide guidelines deviation criteria that consider the best interest of the child.
Guidelines Percentages	This is the New Hampshire child support formula contained in statute (N.H. Rev. Stat. § 458-C:3). It is shown in Exhibit 41. It also directs DHHS to prepare a child support schedule using these percentages.
Imputed income	Income attributed to the party that the party does not receive that the court has determined that the party could earn. This can be based on potential income for an unemployed and underemployed party. Although income may be imputed to either party, the focus is on income imputation to the obligor-parent in the FEM.

IV-D case	A child support case where at least one of the parties, either the obligee-parent or the obligor-parent, has requested or is receiving child support services from the state’s Title IV-D agency.
Low-income adjustment	An adjustment in the guidelines for a low-income, obligor-parent that results in an order amount that is lower than what it would be using the Guideline Calculation Table. A low-income adjustment can consist of a self-support reserve or another type of an adjustment and may include a minimum order.
Medical support only order	This is an order that addresses how the healthcare needs of the child(ren) will be provided by a party or parties; and, no financial child support is ordered.
non-IV-D case	A child support case in which neither parent is currently receiving Title IV-D services from BCSS. A non-IV-D case can become a Title IV-D case when the appropriate application for Title IV- D services is made or if the children begin to receive public assistance. A Title IV-D case can become a non-IV-D case when BCSS is no longer providing services.
Obligee-parent	The person having primary care, custody, and control over the child(ren). This may include a parent or caretaker.
Obligor-parent	The parent who does not have primary care, custody, or control of the child(ren) and who may have an obligation to pay child support.
Parenting Plan	The Parenting Plan is a court form to be filed in any case to establish or modify an order for parental rights and responsibilities, such as a divorce, legal separation, or parenting (formerly “custody”). The parenting plan can be found at https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-04/nhjb-2064-f.pdf .
Paying-parent	Paying-parent is the same as the obligor-parent. It is used in the summary of findings from the web-based survey to be consistent with survey questions. The term, paying, is more common than “obligor.” However, the guidelines uses the term, obligor, so obligor-parent is more consistent with the guidelines.
Price Parity	A U.S. Bureau of Economic Analysis index that indicates how much a state’s or region’s prices differ from the national average. More information about price parity can be found at https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area .
Office of Child Support Enforcement (OCSE)	The federal agency responsible for the administration of the child support program nationally. Created by Title IV-D of the Social Security Act in 1975, OCSE is responsible for the development and oversight of child support policy and for evaluation and audits of state child support enforcement programs, and provides technical assistance and training to the state programs.
Receiving-parent	Receiving-parent is the same as the obligee-parent. It is used in summary of findings from the web-based survey to be consistent with survey questions. The term, receiving, is more common than “obligee.”
Residential responsibility	A term used in the Parenting Plan to note the parenting time schedule
Self-support reserve	An amount a state has set as the minimum amount that a parent paying support needs to support themselves, intended to ensure that low-income parents can meet their own basic needs.
Shared-parenting time adjustment	A child support guidelines formula that considers the amount of time that the child(ren) is in the care of each parent in the calculation of support.
Shared physical custody	For the purposes of a shared-parenting time adjustment, this is the residential responsibility and parenting schedule specified in a Parenting Plan in which each parent has residential responsibility or non-residential parenting time. In actuality, however, parents can share physical custody without a Parenting Plan
Split custody	Split custody is a special type of shared custody. Split custody can occur if there are at least two children, the primary residential responsibility differs for at least two children,

	and each parent has primary residential responsibility for at least one child. one child lives with one parent and another child lives with the other parent.
State petition	This is a petition for child support filed by the BCSS on behalf of an applicant for Title IV-D child support services. These petitions may involve TANF, Medicaid, Foster Care, or non-public assistance recipients.
TANF	Temporary Assistance for Needy Families, the program funded under Title IV-A of the Social Security Act that provides temporary public assistance to a needy family. TANF was formerly known as the Aid to Families with Dependent Children program, which terminated October 1, 1996.
Timesharing situation or arrangement	This refers to the nature of residential responsibility of each party in the parenting time. It would include equal timesharing (50-50) and other timesharing schedules.
Uniform Support Order (USO)	A Uniform Support Order is a New Hampshire court form that is issued by the court when establishing child support orders. It can be retrieved from https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-04/nhjb-2066-fp.pdf .