



Minnesota Department of **Human Services**

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# **Child Support Work Group Final Report**

Updated January 29, 2016

**Prepared by the Child Support Work Group and  
Minnesota Department of Human Services  
Child Support Division**

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## Minnesota Department of **Human Services**

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January 21, 2016

**To:** The Honorable Senator Tony Lourey, The Honorable Senator Julie Rosen, The Honorable Senator Ron Latz, The Honorable Senator Warren Limmer, The Honorable Senator Kathy Sheran, The Honorable Senator Michelle Benson, The Honorable Representative Peggy Scott, The Honorable Representative John Lesch, The Honorable Representative Tara Mack, The Honorable Representative Joe Mullery, The Honorable Representative Matt Dean, and The Honorable Representative Tina Liebling

**From:** Julie Erickson, Child Support Work Group Chair

**RE:** Report from Child Support Work Group on parenting expense adjustment and composition of permanent child support task force

Dear Legislators:

Enclosed you will find the recommendations of the Child Support Work Group, authorized and governed by Minnesota Session Laws 2015, Chapter 71, Article I, Section 121.

The group met six times between August and December 2015 to develop the enclosed recommendations. As per the authorizing session law, the work group engaged an economist to provide technical assistance on the parenting expense adjustment. Dr. Jane Venohr from the Center for Policy Research provided research and analysis. Her work is cited throughout the report.

In addition to the recommendations on changing the parenting expense adjustment and the composition of a permanent child support task force, the report also includes a list of topics the group believes should be addressed by the permanent task force.

The work group fulfills its mission, as defined by the legislature in the session law, by submitting this report to the chairs and ranking minority members of the committees with jurisdiction over civil law, judiciary, and health and human services.

Sincerely,

Julie A. Erickson  
Child Support Work Group Chair  
CC: Legislative Reference Library

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# Executive Summary

## Introduction

The 2015 Minnesota Legislature created, under the responsibility of the Minnesota Department of Human Services (department), the Child Support Work Group (work group). The enacted legislation, [[Laws of Minnesota 2015, chapter 71, section 121](#)] states that the work group was established to “review the parenting expense adjustment in [Minnesota Statutes, section 518A.36](#), and to identify and recommend changes to the parenting expense adjustment and...include recommendations on the composition of a permanent child support task force.”(See legislation in Appendix A.)

## Definition of Problem

The work group was created to review and recommend changes to the parenting expense adjustment currently used in the formula for calculating child support payments in Minnesota. Minnesota’s current child support guidelines provide for an adjustment in the basic support portion of a child support order based on the amount of parenting time spent with the child. The primary issue with the current parenting expense adjustment is that it creates two large “cliffs” where the change in the child support obligation hinges on one overnight equivalent—especially when a parent changes from 45 to 45.1 percent parenting time. The cliff also occurs when going from 10 to 9.9 percent parenting time. For example, if a parent has:

- Less than 10 percent of parenting time, no adjustment is given;
- 10 to 45 percent parenting time, a flat adjustment of 12 percent is given;
- 45.1 percent parenting time or more, an alternative formula is used when parenting time is presumed equal.

These cliffs often cause conflict among parents during custody hearings because one or two overnight equivalents per year will initiate a significant change in the child support obligation amount. Parental conflict over child support amounts tied to these cliffs diminishes the best interests of the child from the center of custody and parenting time discussions, and shifts to conflict over child support payments.

Another issue with the current parenting expense adjustment is that it assumes that parenting expenses are the same for parents with 10 percent parenting time (or 36.5 overnight equivalents per year) and 45 percent parenting time (or 164.25 overnight equivalents per year).

To fulfill the legislative requirement, the Child Support Work Group was convened six times between Aug. 31, 2015 and Dec. 1, 2015, and reviewed five alternative parenting expense adjustment formulas presented to them by Dr. Jane Venohr, Ph.D., an economist from the Center for Policy Studies in Colorado.

## Parenting Expense Adjustment Formulas Reviewed

The five parenting expense adjustment formulas the work group reviewed and analyzed were:

- Cross-credit
- Oregon (applied to current Minnesota guidelines)
- Oregon alternative A
- Michigan
- Michigan alternative A

The models are briefly summarized on pages 13 to 16 in this report; they are described in more detail in the attached reports written by Dr. Jane Venohr (see Appendix E). Overall, the work group acknowledged that none of the formulas are perfect. However, after considering the strengths and weaknesses of each model in conjunction with the outcomes at various income and parenting time levels, work group members agreed on a parenting expense adjustment that will alleviate the cliff effects and minimize associated parental conflict. The custodial parent representative to the work group raised concerns in a Minority Report (see Appendix G).

## Analysis

The Michigan formula offers a theoretical framework that recognizes incremental increases in expenses with increases in parenting time, eliminates the cliffs, and will theoretically reduce conflicts. The Michigan formula provides a more grounded theoretical framework than Oregon or Oregon A, and was viewed by the group as more realistic than Michigan A.

Michigan's weaknesses—complexity, reliance on a calculator, and lower adjustments under 30 percent parenting time—can all be addressed, or were considered to be more manageable than the other formulas reviewed.

## Recommendation: Parenting Expense Adjustment Formula

The work group recommends the Michigan model:

$$\frac{(A_0)^3(B_s) - (B_0)^3(A_s)}{(A_0)^3 + (B_0)^3}$$

Where:

A<sub>0</sub> – Approximate annual number of overnight equivalents the children will spend with parent A

B<sub>0</sub> – Approximate annual number of overnight equivalents the children will spend with parent B

A<sub>s</sub> –Parent A's base support obligation

B<sub>s</sub> –Parent B's base support obligation

The Michigan model was selected because it:

- Alleviates cliff effects
- Reflects both parents' expenses fairly
- Produces gradual changes to the order amount as time with the child increases
- Recognizes increasingly duplicated costs that occur with increased parenting time
- Accommodates both parenting time and parents' incomes as part of the formula
- Reduces conflict over parenting time

While the Michigan model does have noted weaknesses, the work group determined that those could be mitigated with a statutory adjustment or by applying a deviation factor.

## **Recommendation: Composition of Permanent Child Support Task Force**

The work group recommends that the permanent Child Support Task Force be composed of the following appointed members:

- Representatives from organizations currently on the Child Support Work Group (12 organizations listed in Appendix B)
- Two additional parents (one representing custodial parents and one representing noncustodial parents<sup>1</sup>)
- Representative from the court
- Representative from a tribe with an approved IV-D program
- Child advocate representing the economic security of children
- Representative from the Office of Ombudsperson for Families

Work group members recommend that task force members be appointed to serve in an individual advisory capacity, as opposed to representing their respective organizations.

The work group also identified activities members thought were within scope for the permanent task force to study (see page 22), with the primary function identified as assisting the department in creating the quadrennial child support report. Additional topics for the task force to address include:

- Self-support reserve for custodial and noncustodial parents
- Simultaneous orders (two orders that do not recognize each other)
- Children born prior to child support order
- Multiple counties that have the same child support obligor
- Parents with multiple families
- Non-nuclear families (e.g., caretakers such as grandparents and extended relatives, foster care children)
- Standards to apply for modifications

## **Next steps**

If legislation moves forward from this report, the department will evaluate the fiscal impact to the agency and provide other technical assistance.

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<sup>1</sup> Equal representation of custodial and noncustodial parents must be achieved to ensure that each perspective is equally voiced.

# Introduction

## Child Support Work Group

### Purpose and scope

The 2015 Minnesota Legislature created, under the responsibility of the Minnesota Department of Human Services (department), the Child Support Work Group (work group). The enacted legislation, [\[Laws of Minnesota 2015, chapter 71, section 121\]](#) states that the work group was established to “review the parenting expense adjustment in [Minnesota Statutes, section 518A.36](#), and to identify and recommend changes to the parenting expense adjustment and...include recommendations on the composition of a permanent child support task force.”(See legislation in Appendix A.)

The work group used the guiding legislation as the scope for their work. However, members expanded beyond the legislative charge and made additional recommendations on a few longstanding issues that were closely linked to the parenting expense adjustment. (See work group charter in Appendix D.)

### Members and process

The legislation creating the work group also identified its membership as:

- Two members from the House of Representatives
- Two members from the Senate
- Minnesota Department of Human Services Commissioner (or designee)
- Staff member from the department’s Child Support Division
- Representative from the Minnesota State Bar Association, Family Law section
- Representative from the Minnesota County Attorney’s Association
- Representative from the Minnesota Legal Services Coalition
- Representative from the Minnesota Family Support and Recovery Council
- Two representatives from parent advocacy groups (one representing custodial parents and one representing noncustodial parents)

See Appendix B for a list of the work group members.

The Minnesota Department of Human Services Commissioner’s designee, Julie Erickson, the department’s Child Support Division supervisor, served as the work group chair. Neutral third-party consultants from Minnesota Management & Budget’s Management Analysis & Development (MAD) facilitated and documented work group meetings and assisted in writing sections of this report. The legislation authorized the department to contract with an economist to develop the parenting expense adjustment. The department contracted with Jane Venohr, Ph.D., Center for Policy Research, Denver, Colo. Six work group meetings were held between Aug. 31, 2015, and Dec. 1, 2015. (See Appendix C for meeting schedule.) The work group members approved the proposed charter and created ground rules as a newly formed group. Members agreed they would use a consensus decision-making process, and a super-majority vote would only be used if consensus were not feasible. The meetings were open to the



public, and at each meeting, time was dedicated for the public to provide comments. Each person was allowed five minutes to speak. Examples of recommendations from public comments include:

- Focus on children versus the parents' needs
- Make a change that would encourage co-parenting
- Make a change that would take the price tag off children
- Reduce litigation by eliminating the tie between parenting time and money
- Make a change so that child support better reflects the true costs of raising children

## Context and history<sup>2</sup>

Minnesota's child support laws and guidelines have evolved and changed over time in an effort to create an equitable system that best meets the needs of children. In 2005, the Minnesota Legislature passed a bill that made significant changes to the child support guidelines. Notably, this legislation changed the way child support payments were calculated by including the gross income of both parents and the parenting time of each (i.e., an "income shares" approach), rather than using the net income of only one parent. Another key component of the 2005 law was that it allowed a percentage reduction in the child support payment based on the amount of time the parent (without custody of the child) spent with the child in a month. This is called the "parenting expense adjustment." The parenting expense adjustment allowed the child support payment to be reduced by 12 percent if the parent spent 10 to 45 percent of the parenting time with the child. Minnesota law defines the parenting expense adjustment to reflect the presumption that during parenting time, a parent is responsible for and incurs costs for the child.<sup>3</sup> Other changes made in 2005 included modifying family court fees, allowing deductions to gross income for non-joint children in the household, and requiring the department to develop a web-based child support calculator.

In 2012, Governor Mark Dayton pocket vetoed [HF 322, a bill increasing Minnesota's parenting time presumption](#), and called stakeholders to convene to agree on legislation to address parenting time. In response, the Minnesota Custody Dialogue Group was created by a small group of interested stakeholders and legislators.<sup>4</sup> This group drafted legislation as several separate bills. Several of these bills passed as a family law omnibus bill.<sup>5</sup> Part of the original 2015 family law legislative package included [HF 512](#), which revised the statutory parenting expense adjustment. Under existing law, the flat 12 percent parenting expense adjustment that applies to parenting time from 10 to 45 percent results in drastic reductions in child support orders from 45 to 45.1 percent parenting time. This cliff, occurring on one overnight equivalent, was recognized as a significant source of conflict that negatively emphasizes the link between parenting time and child support. There is also a cliff that occurs between 10 and 9.9 percent parenting time, which results in no parenting expense adjustment and higher child support obligations. However, the provisions of HF 512 as introduced created unintended

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<sup>2</sup> Minnesota Legislative Reference Library, <http://www.leg.state.mn.us/lrl/issues/issues?issue=childsupport>, accessed on Dec. 10, 2015.

<sup>3</sup> Minnesota Statutes 2015, section 518A.36, subdivision 1.

<sup>4</sup> The Custody Dialogue Group did not include representation from the department, the county programs, or custodial parent groups. It was not a state created group. The current group is completely independent of the Custody Dialogue Group, although there is an overlapping membership.

<sup>5</sup> Laws of Minnesota 2015, Chapter 30.

consequences when applied across existing law—thus, the legislation was not enacted as introduced. Instead, the 2015 Legislature created this Child Support Work Group to review, identify, and recommend changes to the parenting expense adjustment. This work group is independent of the work of the Custody Dialogue Group.

In the next section, an overview of Minnesota’s current child support parenting expense adjustment model is provided with a detailed description of how child support obligations are calculated, and why the cliff effects are the source of so much parental conflict.

# Current Minnesota Parenting Expense Adjustment Model

## Overview

Minnesota's child support guidelines are a comprehensive system containing formulas to approximate the cost of raising a child in Minnesota based on a combination of economic theories and data from the United States Department of Agriculture on the costs of providing for a family. The system provides for calculating basic support, medical support, and childcare support.<sup>6</sup> Included in the calculation for basic support is the parenting expense adjustment. This adjustment only applies to the basic support provision, and is the only part of the system examined in this report.<sup>7</sup>

Minnesota's current child support guidelines provide for an adjustment in the basic support portion of a child support order in Minnesota Statutes 518A.36. The law provides a flat parenting expense adjustment of 12 percent of the basic support order when a parent has 10 to 45 percent parenting time. If a parent has less than 10 percent parenting time, no adjustment is given. If a parent has 45.1 percent or more parenting time, a different formula is used that assumes the parents have equal parenting time.

In cases where the parent has less than 10 percent parenting time, the basic obligation is calculated according to Minnesota Statute 518A.34: no adjustment is given, so the basic support amount stays the same.

When a parent has 10 to 45 percent parenting time, the basic obligation is calculated. Then the basic obligation amount is multiplied by 0.12 and subtracted from the basic support obligation. The resulting number is the new basic support amount.

When parenting time is considered equal, the combined basic support amount from the guidelines grid in Minnesota Statute 518A.35 is first multiplied by 0.75. Next, the new combined basic support is prorated based on each parent's share of the combined income. Finally, the lower amount is subtracted

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<sup>6</sup> Basic child support is set by combining both parents' incomes, applying the total to the guidelines, and then applying a parenting time adjustment or self-support reserve adjustment, if applicable. Separate calculations are used to set medical and childcare support. To prevent low-income obligors from falling further into poverty, the self-support reserve acts as a guaranteed amount of income to meet the obligor's needs. The self-support reserve is subtracted from the obligor's income to determine the amount of income available for support. If this amount is less than the combined order amount (basic, medical, and childcare), then the obligations are reduced to match the amount. The medical is reduced first, followed by the childcare, and finally the basic support. Every two years orders are administratively adjusted based on the Consumer Price Index.

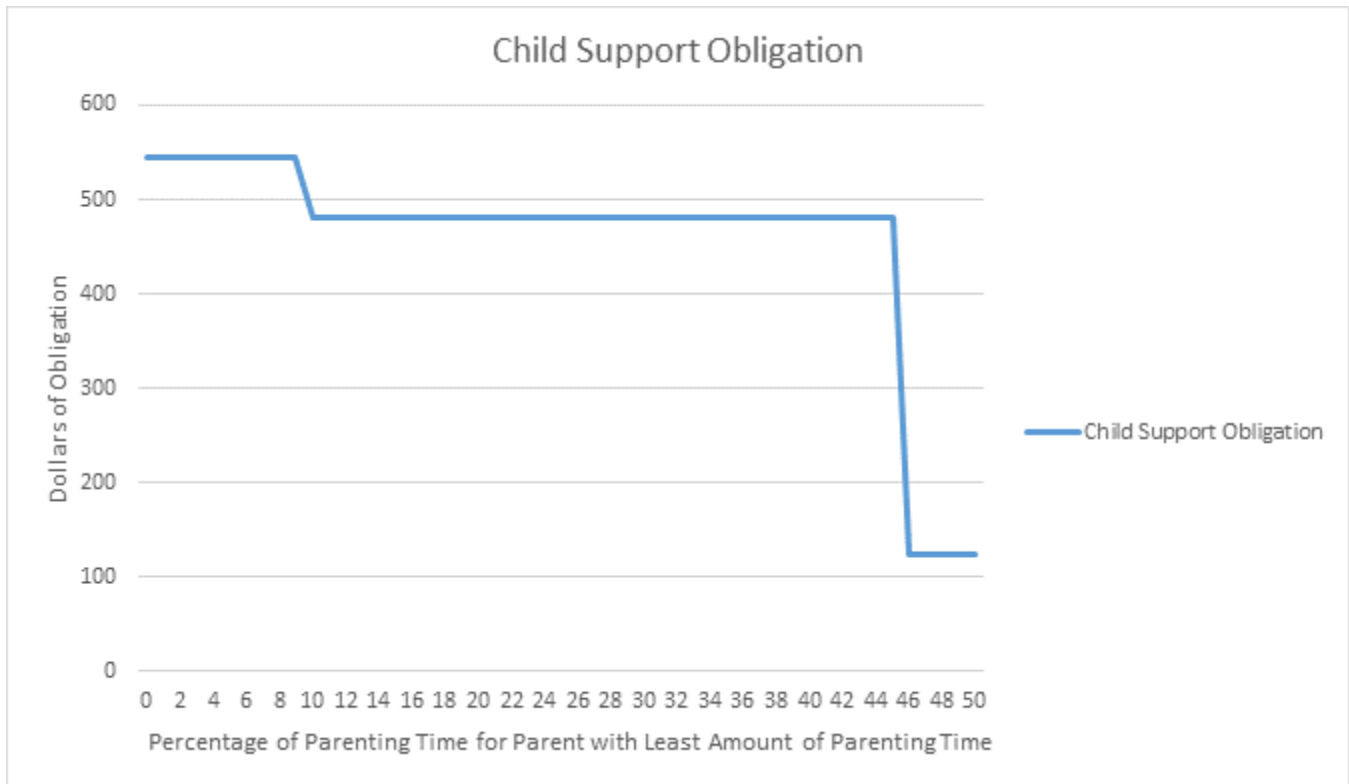
<sup>7</sup> For more information on the overall guidelines, see *2014 Child Support Guidelines Review*, available at the Legislative Reference Library. The review includes information on the economic underpinnings of the entire guidelines system in Minnesota. It should be noted that the scope of this work group and report are limited specifically to the parenting expense adjustment and was not meant to discuss any of the possible problems with the underlying guidelines. The overall guidelines, however, would be part of the scope of a permanent task force mentioned later on in this report.

from the higher amount to reach the new basic support amount for the parent who has a higher income.

<b>Court Ordered Parenting Time</b>	<b>Deduction: Parenting Expense Adjust or Alternative Formula</b>	<b>Basic Support under 518A.34 (Parent A: \$3281/mo and Parent B: \$2669/mo)</b>	<b>Deduction/ Adjustment</b>	<b>New Basic Support Order with Parenting Expense Adjustment</b>
Less than 10%	Nothing	\$545	None	\$545
10% to 45%	12%	\$545	$545 \times .12 = 65$ $545 - 65 = 480$	\$480
45.1% or more	Use alternative formula	(Combined \$923; Parent A is 59% and Parent B is 41%)	$923 \times .75 = 692$ $692 \times .59 = 408$ $692 \times .41 = 284$ $408 - 284 = 124$	\$124

## Definition of problem: Parenting time adjustment cliff

The primary problem with the current parenting expense adjustment model stems from establishing only three categories: no adjustment, 12 percent adjustment, and the alternative formula. The change among the three categories is as little as one overnight equivalent—meaning a child support obligation could change hundreds of dollars per month based on the difference of one overnight equivalent over an entire year. As demonstrated in the chart below, the three-tiered adjustment creates two large “cliffs” where the change in obligation hinges on one overnight equivalent.



These cliffs become points of high conflict—particularly between 45 and 45.1 percent. Parents and practitioners testified that conflict occurs during custody hearings over one or two overnight equivalents per year that push the obligation over the cliffs. Parental conflict over child support amounts tied to these cliffs diminishes the best interests of the child from the center of custody and parenting time discussions, and shifts to conflict over child support payments. While there is statutory guidance that the best interests of the child should dictate the custody arrangements, there is also a preference for agreements between the parents. The high level of conflict caused by these parenting expense adjustment cliffs undermines both parties’ focus on the child’s best interest standard and the likelihood for agreement between the parents.

In addition to the conflicts, the current formula assumes that the parenting expense costs for all parents between 10 and 45 percent are the same. The parenting expense adjustment, according to statute, is supposed to recognize the presumption that “while exercising parenting time, a parent is responsible for and incurs costs of caring for the child...”<sup>8</sup> The current formula, however, does not accurately represent the additional costs incurred with additional parenting time. A parent with a child 45 percent of the time spends more on the child than a parent with a child only 10 percent of the time, but both are given the same parenting expense adjustment under the current law.

## Desired future parenting expense adjustment model

The work group developed a list of policy goals that should be reflected in a recommended parenting expense adjustment model. The specific direction of the legislature was to recommend changes for an

<sup>8</sup> Minnesota Statutes 2015, section 518A.36, subdivision 1.

equitable parenting expense adjustment. The work group adopted this goal by eliminating the cliff effect by creating a model with more than three tiers. The other desired outcomes identified by the work group were:

- A schedule (parenting time adjustment) that allows/maintains the economic dignity of people who are living at the poverty level and below
- A level of support that allows both parents to have resources to parent their children
- A law that changes the guidelines
- The best long-term outcomes for the children so they grow up and become good members of society
- A solution that will help minimize conflict for families in midst of divorce and works for unmarried parents and parents who have never cohabitated
- A solution that doesn't push parents deeper into poverty—i.e., breaks cycles of generational poverty

# Parenting Expense Adjustment Formulas Reviewed

## Overview

Dr. Jane Venohr, an economist with more than 20 years of experience assessing and researching child support and other health and human services programs across the country, was contracted by the department to create an alternative parenting expense adjustment formula that would address the concerns identified by the work group—particularly, the cliff issue described earlier in the report. Dr. Venohr attended three work group meetings, at which she presented five different parenting expense adjustment formulas for the work group to review and discuss. In preparation for the work group discussions, Dr. Venohr also prepared three briefing papers that included background information, information about where Minnesota’s current statute aligns with current data on expenditures for children, and research and comparisons of other states’ child support formulas to illustrate the monthly child support payment amounts at various levels of parenting time. (See Appendix E for reports.) The primary goal of the new parenting expense adjustment is to eliminate the cliffs that occur at 9.9 and 45.1 percent parenting time.

The five parenting expense adjustment formulas analyzed were selected because either the formula was considered mathematically intuitive and successfully used in many others states (cross-credit), or because the formula addressed the cliff effect by creating gradual changes in the order amount as one parent has more time with the child (Oregon and Michigan models). The alternative Oregon and Michigan formulas were created by Dr. Venohr in an attempt to address specific issues by slightly adjusting the mathematical calculations or percentages from the original formula. A summary of the five parenting expense adjustment formulas is listed below (the descriptions are based on information in the attached reports written by Dr. Venohr):<sup>9</sup>

- Cross-credit
- Oregon (applied to current Minnesota guidelines)
- Oregon alternative A
- Michigan
- Michigan alternative A

A weakness among all of the models is that they can create a “flip”—meaning that the formula can result in the parent with more parenting time obligated to pay if that parent makes substantially more income than the other parent. While this usually only happens in situations with great income disparities, a rule or deviation factor can be applied where the flipping would conflict with policy goals—such as at low levels of timesharing or low-income levels.

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<sup>9</sup> Venohr, Jane, Ph.D., Economic Basis of Minnesota Basic Schedule and Parenting-Time Expense Adjustment, Sept. 16, 2015; Alternative Adjustments for Parenting Expenses, Oct.2, 2015; Alternative Adjustments for Parenting-Time Expenses and Low-Income Adjustments, Nov. 10, 2015.

## Cross-credit

**Description:** The cross-credit is the most commonly used adjustment among states. Minnesota's current model uses a cross-credit formula for situations in which the child's time with each parent exceeds 45 percent. (Note: Minnesota uses two different formulas when applying adjustments depending on the amount of timesharing. A *simple percentage adjustment* is used when the flat 12 percent adjustment is applied at the threshold of 10 percent parenting time. However, the *cross-credit formula* is applied at the threshold of 45 percent parenting time.) Typically, cross-credit formulas weigh the parent's payment orders by each parent's timeshare, but the Minnesota adjustment uses 50 percent for all timesharing arrangements exceeding 45 percent. When the cross-credit formula is used in Minnesota, the basic support obligation is multiplied by 150 percent to account for approximately 50 percent of all child-rearing expenditures that are being duplicated by parents when the child lives in two households (i.e., when the child's housing and transportation costs are duplicated).

**Strengths:** The formula is intuitive and generally makes mathematical sense to guidelines users. It has a long history of successful use in several states.

**Weaknesses:** The formula requires the use of a timesharing threshold, which can create some undesired outcomes. For example, the higher the threshold is set, the more likely it will produce a cliff effect. If it set too low, the formula may not work for certain income situations. The adjustment cannot be expressed in a table form (in contrast to Oregon's).

**Which states use this adjustment formula?** Twenty-one states: AK, CO, DC, FL, ID, KS, LA, ME, MD, MN, NE, NC, NM, OK, SC, SD, VT, VA, WV, WY\*, WI. \*Wyoming uses a cross-credit formula with no multiplier, while all other states use a 1.5 multiplier.

## Oregon (applied to current Minnesota guidelines)

**Description:** Oregon's adjustment is an advanced math formula that uses exponential powers (squaring or cubing a value) in the formula to allow a gradual adjustment (parenting time credit) for each additional day that is added to the parenting time. The intent of this type of gradual change is to reduce parental conflicts about the timesharing arrangements and cliff effects. The Oregon parenting expense adjustment does not factor the parent's prorated share of the basic obligation into the calculation, whereas the current Minnesota adjustment, the cross-credit, and Michigan do.

**Strengths:** The formula reflects both parents' expenses fairly, produces gradual changes to the order amount as time with the child increases, reduces conflict over parenting time, has an adjustment amount transparent to the user, and uses a lookup table of percentage adjustments. Note: this formula has been used for two years in Oregon and anecdotal evidence suggests that it reduces parental conflict over the number of overnight equivalents because the adjustment is very gradual.

**Weaknesses:** The formula is complicated, not intuitive, and difficult to explain. The formula also does not have a strong underlying connection to how parenting time changes expenses. It was not developed from a theory of parenting time expenses, but on observed adjustments. There is a very low adjustment for low levels of parenting time.



**Which states use this adjustment formula?** Oregon. (Indiana also uses an advanced math formula.)

## Oregon alternative A

**Description:** This adjustment works exactly like the Oregon model above, but uses different percentages. This model generally produces lower payment amounts than both Michigan formulas and the current Minnesota model. The Oregon A adjustments are higher than Minnesota's current model, starting at 20 percent parenting time and higher.

**Strengths:** Same as the Oregon model above.

**Weaknesses:** Same as the Oregon model above, but with more of an adjustment at lower parenting time levels.

**Which states use this adjustment formula?** Oregon.

## Michigan

**Description:** The Michigan adjustment is an advanced math formula that uses exponential powers (squaring or cubing a value) in the formula to allow a gradual adjustment (parenting time credit) for each additional day that is added to the parenting time. The intent of this gradual change is to reduce parental conflicts about the timesharing arrangements and cliff effects. Michigan's formula is similar to the cross-credit, but it takes the function to the third power (cubed) to make the adjustment gradual. This formula results in adjustments that are similar to Minnesota's existing adjustments. This adjustment model generally produces higher payment amounts than Minnesota's current adjustment model in lower parenting time cases, produces generally similar payments between 25 and 30 percent parenting time, then the payments drop lower than the current adjustment. In short, the Michigan adjustment is a curve that begins at a higher point than existing Minnesota law, meets existing law at about 25 to 30 percent parenting time, then gradually decreases toward 50 percent parenting time, rather than a cliff at 45.1 percent.

**Strengths:** The formula alleviates cliff effects, reflects both parents' expenses fairly, produces gradual changes to the order amount as time with the child increases, recognizes increasingly duplicated costs that occur with increased parenting time, accommodates both parenting time and parents' incomes as part of the formula, and reduces parental disputes about the timesharing arrangement and cliff effects. It takes into account the parents' incomes as well as the parenting time. (A detailed analysis of this model is in the "Analysis of Models" section below.)

**Weaknesses:** The formula is complicated, not intuitive, and hard to explain. The adjustment amount is less transparent to the user because the formula is difficult. It gives a parenting expense adjustment lower than the current Minnesota adjustment in the 10 to 30 percent parenting time range. The parenting expense adjustment cannot be expressed in a table form (like Oregon and Oregon A). It requires a calculator.

**Which states use this adjustment formula?** Michigan. (Indiana also uses an advanced math formula.)

## Michigan alternative A

**Description:** This adjustment works exactly like Michigan's adjustment above, but instead of cubing the formula, it takes it to the 2.54<sup>th</sup> power.

**Strengths:** Same as Michigan formula above.

**Weaknesses:** Same as Michigan formula above, but additionally not based on the underlying theory of the Michigan model.

**Which states use this?** None. Michigan is currently reviewing its guidelines and may adopt this model to adjust to a daily food budget. However, the exact modification, and whether any change will occur, is unclear at this point.

# Analysis of Models

The original proposed legislation in the 2015 session was the Oregon model. The group started with a focus on the Oregon model, but moved to an analysis of the Michigan formula.

The Michigan formula offers a theoretical framework that accounts for parenting expenses in two ways: the daily costs of raising a child that increase day by day and the duplicated costs of raising a child in two households when a child is no longer a visitor in the second parent's home. The first type of cost includes, for example, food and transportation costs. These costs are represented in the model by the gradual increase at the beginning of the adjustment. The second type of costs are incurred only after a child is in the second household long enough to require duplication of household living essentials, like a second bedroom in an apartment, furniture, sheets, etc. These costs do not occur at first, but add up quickly once the child is in the household more than 20 to 30 percent of the time. The Michigan model accounts for both types of costs.

Another benefit to the Michigan formula is the recognition that a flat percentage will affect those with lower incomes more than those with higher incomes. The Michigan formula takes this into account and changes the percentage of the parenting expense adjustment not only on the time spent with the parent but also on the combined incomes of the parents.

## Weaknesses and ways to address them

The greatest weakness in the Michigan model is “flipping”—i.e., when the parent who has more parenting time is obligated to pay the parent with less parenting time. Currently, Minnesota law only allows this to happen when the parents use the equal parenting time formula (the parent with less parenting time must have at least 45.1 percent).

The work group decided that in most situations the flip should only be allowed where the parents have at least 45.1 percent parenting time, mirroring the current cut off for “equal” parenting time calculations. However, the group also believed that in cases where there is a significant income disparity between the parents that a flip at a lower level of parenting time could be considered in order to increase the likelihood of the child actually spending time with the second parent. The group believed that a rebuttable presumption that a parent with more than 55 percent parenting time would not have a basic support obligation, with a list of factors to consider in overcoming that presumption, addressed this weakness.

Another weakness of the Michigan model is that it is more difficult to understand how the adjustment is calculated. The model is based on an advanced math formula using variables for both parenting time and the parents' incomes, which prevents creation of a lookup table to easily see the applicable percentage adjustment. As a result, a calculator is necessary to determine the applicable parenting time adjustment. By contrast, states such as Oregon only consider the link between parenting time amounts and the adjustment, so once the amount of parenting time is known, the corresponding adjustment can be easily determined by a lookup table.

While some of the other models—such as Oregon and Oregon A—can be reduced to a lookup table, in reality, Oregon and Minnesota already rely heavily on online calculators to determine the adjustment and final obligation. While the lookup tables might offer a more easily understood flat percentage, the entire process of determining a final obligation already has many steps involved. Given the reality that most people already rely on a calculator even if there is a lookup table, the group believed that the more realistic outcomes under the advanced math formula were worth the continued reliance on a calculator.

# Recommendations: Child Support Parenting Expense Adjustment and Model

## Model

The group recommends the Michigan model:

$$\frac{(A_o)^3(B_s) - (B_o)^3(A_s)}{(A_o)^3 + (B_o)^3}$$

Where

**A<sub>o</sub>** – Approximate annual number of overnight equivalents the children will spend with parent A

**B<sub>o</sub>** – Approximate annual number of overnight equivalents the children will spend with parent B

**A<sub>s</sub>** –Parent A’s base support obligation

**B<sub>s</sub>** –Parent B’s base support obligation

In addition, the group recommends the following to limit the amount of “flipping” that occurs in low parenting time situations:

If a parent has more than 55 percent court-ordered parenting time, there is a rebuttable presumption that the parent shall have a zero dollar basic child support obligation. The court must consider the following to rebut the presumption: (1) significant income disparity, (2) the benefit and detriment to the child and the ability of each parent to meet the needs of the child, (3) voluntary under-employment or unemployment (look to existing statute 518A.32), (4) when the parent with more than 55 percent parenting time owes significant arrears to the other parent, and (5) when it would be unjust or inappropriate to follow the presumption.

If the presumption is rebutted, the presumed basic support would revert to the results of the guidelines and calculator. Rebutting the presumption does not preclude a deviation under existing law.

## Implementation considerations

The group also made a series of recommendations, some legislative and some for department and county policy, to ease implementation and clarify how to handle certain types of existing orders.

### Modifications

If provisions of the modification statute are met, existing orders may be modified when the new formula is effective. The group relied on the case law in *Rose v. Rose*. This stated that a change to the method under which child support was calculated was enough of a substantial change in circumstances as long as the moving party could prove that the change to the method left the court order unreasonable and unfair. (In all likelihood, no change is needed. However, legislative intent

should be clear that a person must meet the modification of child support factors to bring a motion for modification—a change in the law without meeting that standard is not sufficient.)

### **Split-custody cases**

Use HF 512 bill language on determining basic support for split custody cases (i.e., cases where multiple children have different parenting time arrangements in the same order). Add language that states this is for purposes of calculating **basic support** only. (Legislative change)

### **New parenting time order modification standard**

Amend 518.175 to include a new parenting time order modification standard: “If a parenting plan or an order granting parenting time cannot be used to determine percentages of parenting time for each parent, the court shall modify the parenting plan or order granting parenting time so that the percentages of parenting time for each parent can be determined.” The current modification standard is found at Minnesota Statute 518.175, subdivision 5. (Legislative change)

### **No parenting time order, new order**

If there is no parenting order containing specific percentage of time or ability to determine percentages of time, the parenting expense adjustment shall not be awarded. (No change; current law and policy)

### **Existing order—existing parenting expense adjustment, but no parenting time order**

If a current child support order contains a parenting expense adjustment or uses the equal parenting time calculation found at 518A.36, subdivision 2 or 3 but does not have a corresponding parenting time order, there is a rebuttable presumption that the existing adjustment percentage or calculation method shall continue after modification, if the modification is not based on a change in parenting time. (Legislative change)

### **Existing order—“Reasonable and liberal” parenting time order w/o existing credit**

If a parenting time order does not allow the ability to determine percentages of parenting time for each parent, it is grounds for modification of the parenting time order under the new parenting time order modification standard. (County attorney/department policy clarification)

### **Hardship upon First Modification**

On the first modification after the 2016 legislative changes to the parenting expense adjustment under section 518A.36, the modification of basic support may be limited if the full variance solely due to the legislative changes to the parenting expense adjustment would create a hardship for either the obligor or obligee.

### **Effective date**

The latest estimates from the department suggest that it would take 12 to 18 months to implement the new adjustment in the child support computer system, online calculators, county policies/procedures, and state policy/procedures. This would suggest an implementation date between July 2017 and January 2018.

### **Fiscal impact**

The work group wanted to make it clear that there will be a fiscal impact to the state computer programs and online calculator. There will be additional costs to the state, counties, and courts to

implement the change. These costs might be higher if there is an increase in requests for modifications and modification hearings.

# Recommendations: Permanent Child Support Task Force

## Overview

The second part of the enacted legislation [[Laws of Minnesota 2015, chapter 71, section 121](#)] requires that the Child Support Work Group include recommendations in the report on the composition of a permanent child support task force. The work group developed a list of potential members and discussed desired characteristics of the task force. The work group recommended adding six additional members to the composition of the current work group, for a total of 18 members (listed below). The work group recommended the addition of six members because they believe the task force would benefit from the perspectives and voices of people that were not represented in the current membership. In addition, the work group discussed and provided recommendations for the role and scope of the permanent task force.

## Member Composition

The work group recommends that the permanent Child Support Task Force be comprised of the following appointed members:

- Representatives from organizations currently represented on the Child Support Work Group (12 member groups listed in Appendix B)
- Two additional parents (one representing custodial parents and one representing noncustodial parents)<sup>10</sup>
- Representative from the court
- Representative from a tribe with an approved IV-D program
- Child advocate representing the economic security of children
- Representative from the Office of Ombudsperson for Families

The work group recommends that the task force have no more than 18 members, and that members be appointed, rather than serving as a representative of their organization. This means that the task force will not be required to gain approval from the members' respective organizations on any work or recommendations resulting from the task force. The work group also wants to ensure the task force is diverse in terms of race/ethnicity, economic status, geography, gender, and gender orientation.

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<sup>10</sup> Equal representation of custodial and noncustodial parents must be achieved to ensure that each perspective is equally voiced.

Additionally, the work group would like to make sure that members commit to fully participating in the task force before they are appointed.

## Role and Scope

The work group reviewed a handout that Child Support staff compiled listing the composition and role of other states' child support task forces. (See Appendix F.) After members discussed what they liked and disliked about the other states' task forces, members agreed on the role they would like a permanent child support task force to play in Minnesota, and identified activities they considered within scope for the task force.

The work group recommends a permanent child support task force should:

- Serve in an advisory capacity (versus decision-making) to the Department of Human Services.
- Review the effect of implementing the work group's recommendations regarding the parenting expense adjustment.
- Involve ad hoc members with specific content expertise to serve on subcommittees to address topics and issues and make recommendations to the task force.
- Meet as a group a minimum of three times per year and hold at least one of the three meetings for the sole purpose of collecting public input.<sup>11</sup>
- At least every four years, advise the department on the development of the quadrennial review report.
- Collect and study information and data relating to child support awards, conducting a comprehensive review of child support guidelines, economic conditions, and all matters relevant to maintaining effective and efficient child support guidelines that will best serve children of Minnesota and take into account the changing dynamics of family life.
- As Phase I activities, prioritize and address the identified "parking lot" issues the current work group identified but did not discuss at length or provide recommendations for in this report:
  - Self-support reserve for custodial and noncustodial parents
  - Simultaneous orders (two orders that do not recognize each other)
  - Children born prior to child support order
  - Multiple counties that have the same child support obligor
  - Parents with multiple families
  - Non-nuclear families (e.g., caretakers such as grandparents and extended relatives, foster care children)
  - Standards to apply for modifications
- As Phase II activities, prepare for the quadrennial report (e.g., create timeline, set agenda items and meeting schedule).

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<sup>11</sup> This recommendation does not suggest that the task force should not collect public input by other means and at different opportunities. This recommendation is a minimum requirement.



- Not be considered a clearinghouse for all problems or issues related to child support. This would create unnecessary barriers for external advocacy and policy organizations. The intent of the permanent task force is to complement rather than supplant the work of other groups.

## **Additional Notes**

- The work group recommends that a fiscal note be requested for the proposed legislation to itemize the required resources necessary to support a permanent child support task force activities. For example, staff resources for overseeing the task force, conducting research, and collecting data for creating the quadrennial review report, and overseeing any vendor contracts. Moreover, the work group recognized that there will be costs borne by county agencies, court system, and other relevant parties involved.
- The work group discussed a number of logistical items that permanent task force members will need to decide when the task force is convened (e.g., member term limits, decision-making protocol, roles for administering, and facilitating the task force).

# Appendices

Please note: Not all content in the appendices may be accessible for people who use screen readers. If you need to request any of the content in an alternative format, please contact the Child Support Division directly.

# A. Authorizing Legislation

Laws of Minnesota 2015, chapter 71, section 121 CHILD SUPPORT WORK GROUP.

- A. **Laws of Minnesota 2015, chapter 71, section 121 CHILD SUPPORT WORK GROUP.**
- B. – (a) A child support work group is established to review the parenting expense adjustment in Minnesota Statutes, section 518A.36, and to identify and recommend changes to the parenting expense adjustment.
- C. – (b) Members of the work group shall include:
- D. – (1) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;
- E. – (2) two members of the senate, one appointed by the majority leader and one appointed by the minority leader;
- F. – (3) the commissioner of human services or a designee;
- G. – (4) one staff member from the Child Support Division of the Department of Human Services, appointed by the commissioner;
- H. – (5) one representative of the Minnesota State Bar Association, Family Law section, appointed by the section;
- I. – (6) one representative of the Minnesota County Attorneys Association, appointed by the association;
- J. – (7) one representative of the Minnesota Legal Services Coalition, appointed by the coalition;
- K. – (8) one representative of the Minnesota Family Support and Recovery Council, appointed by the council; and
- L. – (9) two representatives from parent advocacy groups, one representing custodial parents and one representing noncustodial parents, appointed by the commissioner of human services.
- M. – The commissioner, or the commissioner's designee, shall appoint the work group chair.
- N. – (c) The work group shall be authorized to retain the services of an economist to help create an equitable parenting expense adjustment formula. The work group may hire an economist by use of a sole-source contract.
- O. – (d) The work group shall issue a report to the chairs and ranking minority members of the legislative committees with jurisdiction over civil law, judiciary, and health and human services by January 15, 2016. The report must include recommendations for changes to the computation of child support and recommendations on the composition of a permanent child support task force.
- P. – (e) Terms, compensation, and removal of members and the filling of vacancies are governed by Minnesota Statutes, section 15.059.
- Q. – (f) The work group expires January 16, 2016.

## B. Work Group Members

Required Membership	Work Group Member
Member of the House of Representatives	Kim Norton
Member of the House of Representatives	Peggy Scott
Member of the Senate	Chris Eaton
Member of the Senate	Scott Newman
Department of Human Services Commissioner (or designee)	Julie Erickson
Child Support Division staff member	Alissa Harrington
MN State Bar Association, Family Law section	Pamela Waggoner
MN County Attorney's Association	Kathleen Heaney Melissa Rossow (alternate)
MN Legal Services Association	Melinda Hugdahl
MN Family Support and Recovery Council	Lisa Kontz
Parent advocacy organization – noncustodial parent	Brian Ulrich
Parent advocacy organization – custodial parent	Marie Garza
Economist, Center for Policy Research	Jane Venohr, Ph.D.

## C. Work Group Meeting Schedule

Meeting	Date/Time	Location
#1	August 31, 2015 9:00 am – 11:30 am	Department of Human Services, St. Paul
#2	September 12, 2015 8:30 am – 11:30 am	Department of Administration, St. Paul
#3	October 13, 2015 8:30 am – 12:30 pm	Department of Human Services, St. Paul
#4	October 28, 2015 9:00 am – 4:30 pm	Minnesota Counties Intergovernmental Trust Building, St. Paul
#5	November 13, 2015 8:00 am – 12:00 pm	Minnesota Counties Intergovernmental Trust Building, St. Paul
#6	December 1, 2015 8:30 am – 4:30 pm	Minnesota Counties Intergovernmental Trust Building, St. Paul

## D. Work Group Charter

### Child Support Work Group 2015 – 2016

#### Purpose

The 2015 Minnesota Legislature established, under the responsibility of the Minnesota Department of Human Services, the Child Support Work Group. The Work Group is charged with reviewing and recommending changes to the parenting expense adjustment in Minnesota Statutes (M.S. 518A.36).

#### Scope

The scope of the work group is described in the legislation establishing the work group:

(d) The work group shall issue a report to the chairs and ranking minority members of the legislative committees with jurisdiction over civil law, judiciary, and health and human services by January 15, 2016. The report must include recommendations for changes to the computation of child support and recommendations on the composition of a permanent child support task force.

#### Report

The work group's report is due to the Legislature on January 15, 2016.

#### Roles and Responsibilities

**DHS:** Convene work group; coordinate meetings; chair the work group; provide technical assistance; compile research; deliver the report to the Legislature on behalf of the work group

**Other work group members:** Provide expertise, opinions, and feedback to the work group.

**Management Analysis & Development (MAD):** Facilitate meetings; assist in developing meeting process and agendas; document meetings; provide research support; write report.

#### Duration

August 2015 – January 2016, approximately five work group meetings.

## **E. Economic Reports**

# Economic Basis of Minnesota Basic Schedule and Parenting-Time Expense Adjustment



*Prepared for:*  
**The Child Support Work Group**  
Minnesota Department of Human Services  
Child Support Division

*Prepared by:*  
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September 16, 2015

Points of view expressed in this document are those of the author and do not necessarily represent the official position of the Court or State. The author is responsible for any errors and omissions.



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## PURPOSE OF BRIEFING

This briefing has multiple purposes.

- Information about the poverty level and alternatives to the poverty measure as promised in the August 31 workgroup meeting.
- A summary of the economic basis of the Minnesota schedule and a comparison to more current data on child-rearing expenditures. This is important for two reasons.
  - The work group is also charged with making recommendations for a permanent child support task force that may also be charged with the quadrennial review of the guidelines, which is federally required to consider the cost of raising of children.
  - In addition, an alternative parenting-time adjustment may work better for some areas of the schedule (based on income and number of children) than others. If this is the finding, solving it may require changes to the schedule, which is beyond the scope of developing a parenting-time adjustment.
- Background information about Minnesota's parenting-time adjustment as well as those of other states, particularly states that have a formula extending to lower levels of parenting time.
- It provides comparisons of preliminary alternative parenting-time expense formula. The comparisons consider Minnesota's existing formula, Michigan's formula, the Oregon's formula, and a variation of the Oregon formula.
- Parenting-time formulas are part economics, part math, and part policy. This briefing concludes with some policy questions for the work group that will help direct the next round of draft parenting-time formulas.

Examples of Parenting-Time Arrangements		
	# of Days	% of 365 days
Every other weekend, every other holiday*	55.5 days	15%
Every other weekend, every other holiday, 2 weeks in summer, 1 week in winter	76.5 days	21%
Every weekend Friday through Sunday, 2 weeks in summer, 1 week in winter, every other holiday	129 days	35%
Every other weekend, one night per week, one month in summer	134.5 days	37%

One weekend is counted as two days.

\*Holidays: New Year's Day, Easter, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving & Christmas

## POVERTY MEASURES

The federal poverty threshold was developed in 1963. It is based on three times the cost of a minimum food diet<sup>1</sup> and it is updated annually based on changes in price levels. The

<sup>1</sup> Short, Kathleen (Oct. 2014). *The Supplemental Poverty Measure 2013*. Current Population Reports P60-251, U.S. Department of Commerce, Census Bureau.

Retrieved from: <https://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-251.pdf>.



concept of three times the cost of minimum food diet dates back to English poor laws when poverty related to three times the cost of a loaf of bread. Exhibit 1 shows the federal poverty levels for 2015. In contrast, monthly earnings from 40-hour per week employment at Minnesota minimum wage (\$8.00 per hour) is \$1,387 gross per month and monthly earnings from 29 hours per week is \$1,005 gross per month

Exhibit 1: 2015 Federal Poverty Level (Source: <a href="http://aspe.hhs.gov/poverty-guidelines">http://aspe.hhs.gov/poverty-guidelines</a> )		
Family Size	Annual	Monthly
1 person	\$11,770	\$ 981
2 persons	\$15,930	\$1,328
3 persons	\$20,090	\$1,674
4 persons	\$24,250	\$2,021
Each Additional Person	\$ 4,160	\$ 347

Many academicians and poverty experts have issues with the federal poverty measure. Some have developed alternatives that they believe better measure poverty. A 1996 study by the National Academy of Science<sup>2</sup> laid the foundation for the supplemental poverty measure (SPM) that was developed in 2010 by a federal inter-agency workgroup.<sup>3</sup> The SPM is complex. It considers basic necessities (i.e., food, shelter, clothing, and utilities), regional differences in the cost of shelter, work expenses, taxes and transfer payments, and other factors. The SPM does not identify incomes threshold, rather poverty rates are determined by examining large data sets of individual and family data that contain information about their childcare cost, work expense, and other data.

According to research conducted by the Census Bureau, Minnesota's official poverty rate did not differ from the SPM in 2011-2013. The three-year weighted average poverty rate in 2011-2013 for Minnesota was 10.8 percent using the official poverty level and 10.5 percent using the SPM.<sup>4</sup> Another national study (not just for Minnesota) found that for an average family with two adults and two children, the SPM was 13 percent more than the official poverty level.<sup>5</sup>

Another popular indicator of poverty is the self-sufficiency standard which was developed through Ford Foundation funding to an organization called "Wider Opportunities for Women (WOW)" in the 1990s. Subsequently, the Center for Women's Welfare (CWW) calculates the self-sufficiency standard for cities, counties and urban areas within a state.<sup>6</sup> It

<sup>2</sup> Citro, Constance F. and Robert T. Michael, Editors (1995). *Measuring Poverty: A New Approach*. National Academy Press. Washington, D.C.

<sup>3</sup> For more information see the U.S. Department of Commerce Census Bureau at: <http://www.census.gov/hhes/povmeas/methodology/supplemental/overview.html>.

<sup>4</sup> Short (2014), *supra* note 1. Table 4.

<sup>5</sup> Renwick, Trudi & Short, Kathleen. (2013). *Comparing Supplemental Poverty Level and Family Budgets*, U.S. Census Bureau Working Paper 2013-28. Retrieved from: <http://www.census.gov/hhes/povmeas/publications/SEHSD2013-28.pdf>.

<sup>6</sup> More information is available from: <http://www.selfsufficiencystandard.org/pubs.html>.



does not develop statewide levels and has not developed a self-sufficiency standard for any jurisdiction in Minnesota. For jurisdictions in other states, an annual income of about \$17,000 to \$30,000 is needed for a single person to be self-sufficient and an annual income of about \$26,000 to \$60,000 is needed for a household consisting of one adult and a child to be self-sufficient.

More information about how poverty is measured and alternatives, specifically for Minnesota, is contained in a 2009 report by a Minnesota Legislative Commission to End Poverty by 2020.<sup>7</sup>

## **ECONOMIC BASIS OF MINNESOTA SCHEDULE OF BASIC OBLIGATIONS**

The Minnesota schedule is spliced together from five differences. The sources consist of three studies of child-rearing expenditures with the bulk of the schedule being based on the 2001 United States Department of Agriculture (USDA) measurements of child-rearing expenditures,<sup>8</sup> an adjustment at very low incomes that appears not to be based on a measurement of child-rearing expenditures, and an adjustment at very high incomes that is an extrapolation from measurements of child-rearing expenditures. The adjustments for low- and high-incomes were part of the draft schedule proposed in 2005. Subsequently, the 2005 proposed schedule was reviewed by Policy Studies Inc. (PSI)<sup>9</sup> to determine whether it provided adequate amounts for children that were appropriate for the parents' combined incomes. Because PSI concluded that there was a small pocket of incomes for which the one-child amounts inadequately provided for one child and another larger pocket at higher incomes that was inappropriate for all number of children, adjustments to these pockets were made. The adjustment used one measurement of child-rearing expenditures when the proposed Minnesota schedule was deemed to be too low and another measurement when the proposed schedule was deemed to be too high. Nonetheless, both measurements were developed by Professor David Betson, University of Notre Dame from expenditures data collected from families in 1996-99.<sup>10</sup> Both were also updated to 2005 price levels.

Exhibit 2 summarizes the five sources of the schedule and the areas of the schedule that they are applied. A separate document is being provided to the state that shows exactly which areas of the schedule are based on which source.

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<sup>7</sup> The Commission report is available: [http://www.commissions.leg.state.mn.us/lcep/LCEP\\_Final\\_Report\\_SinglePgs.pdf](http://www.commissions.leg.state.mn.us/lcep/LCEP_Final_Report_SinglePgs.pdf)

<sup>8</sup> Lino, Mark (2002) *Expenditures on Children by Families: 2001 Annual Report*. U.S. Department of Agriculture, Center for Nutrition and Policy Promotion. Miscellaneous Publication No. 1528-2001, Washington, D.C.

<sup>9</sup> Venohr, Jane. (Dec. 2005). *Evaluation of the New (2007) Minnesota Child Support Guidelines Basic Support Schedule*. Report to the State of Minnesota Child Support Enforcement Division.

<sup>10</sup> Betson, David M. (2001). "Chapter 5: Parental Expenditures on Children." in Judicial Council of California, *Review of Statewide Uniform Child Support Guideline*. San Francisco, California. This study initially included data from 1996-98 but was expanded to include 1996-99 in Jane C. Venohr and Tracy E. Griffith, *Report on the Michigan Child Support Formula* (April 2002), Report to the Michigan Supreme Court, Policy Studies Inc., Denver, Colorado.



Exhibit 2: Studies of Child-Rearing Expenditures & Other Sources Underlying the Existing Minnesota Child Support Schedule			
Source	Part of 2005 Originally Proposed Schedule	Areas of Schedule that Source Is Applied	Rationale for Not Using USDA Measurements
USDA 2001 measurements of child-rearing expenditures for the Midwest Region with an adjustment to the USDA's measurement of the child's housing expense <sup>11</sup>	Yes	Originally applied to combined gross incomes between \$2,000 - \$8,500/mo.	Not Applicable
Unknown	Yes	Below \$2,000/mo.	Unstated, but likely to provide an adjustment to low-income nonresidential parents
Unknown: The percentages at \$8,500 gross per month are applied to incomes above \$8,500.	Yes	Above \$8,500/mo.	Unstated, but likely because the USDA had limited data on very high income families or it more closely followed Minnesota's percentages or both
Professor Betson's estimates using the <u>Rothbarth</u> methodology applied to 1996-99 expenditures data	No	1-child amounts in the gross income range of \$3,300 to \$7,299/mo.	PSI found the originally proposed amounts were below the Betson-Rothbarth measurements, which is/was generally considered the lower bound of credible measurements of child-rearing expenditures
Professor Betson's estimates using the <u>Engel</u> methodology applied to 1996-99 expenditures data	No	<ul style="list-style-type: none"> <li>• 1-child in the income range of \$14,700 to \$15,000/mo.</li> <li>• 2-, 3-, 4- &amp; 5-children in the income range of about \$10,000 to \$15,000/mo.</li> <li>• 6-children in the income range of \$6,900 to \$15,000/mo.</li> </ul>	PSI found the original amounts were above the Betson-Engel measurements, which is/was generally considered the lower bound of credible measurements of child-rearing expenditures

### Overview of Economic Studies Underlying State Guidelines

There are several studies measuring the cost of raising children. Most state guidelines rely on studies of child-rearing expenditures across a range of incomes rather than studies that examine the minimum and basic needs of children. This is because the premise of most state guidelines is that children should share in the lifestyle afforded by their parents. The studies typically develop measurements from examining expenditures data from thousands of families participating in the Consumer Expenditure Survey (CES),<sup>12</sup> the nation's largest and most comprehensive survey of household expenditures. The CES is ongoing survey that is used for many purposes including the calibration of the price index used to track inflation.

<sup>11</sup>The documentation of the adjustment is provided in the PSI report.

<sup>12</sup> More information about the CES can be found at the federal Bureau of Labor Statistics website: [www.bls.gov](http://www.bls.gov).



In all, there are eight studies of child-rearing expenditures that underlie state guidelines schedules and formula. The studies of child-rearing expenditures vary in the age of the data used, the methodology used to separate the child's share of expenditures from total household expenditures, and other data or methodological issues. Three of the most popular methodologies are the "USDA," "Rothbarth" and "Engel." The USDA studies are widely cited and updated annually but only one state (i.e., Minnesota) uses the USDA study as the basis of its child support guidelines. Most states use the "Rothbarth" methodology, but most economists believe it understates actual child-rearing expenditures. The second most commonly used methodology is the "Engel" methodology, but some economists believe it overstates actual child-rearing expenditures.

Economists do not agree on which methodology best measures actual child-rearing expenditures. An economic methodology is necessary to separate the child's share of expenditures from the adults' share of expenditures, particularly for jointly consumed items such as housing and utilities. Most economists believe that any guidelines amount in between a range of credible estimates of child-rearing expenditures (such as the Rothbarth and Engel methodologies that respectively, understate and overstate actual child-rearing expenditures) is an appropriate guidelines amount. This "bracketing" approach – that is, comparing a state guidelines amounts to a low estimate of child-rearing expenditures (e.g., estimates based on the Rothbarth methodology) to determine if the guidelines is sufficiently large enough and to a high estimate (e.g., estimates based on the Engel methodology) to determine if the guidelines is not too high– was initially developed by the Lewin Group. The U.S. Department of Health and Human Services commissioned the Lewin Group to provide technical assistance to states developing and updating their child support guidelines.<sup>13</sup> The same approach was used to assess the proposed Minnesota schedule when Minnesota was about to adopt its income shares guidelines.

*Overview of the USDA Measurements.* Minnesota is the only state to rely on the USDA measurements of child-rearing expenditures. The USDA updates its measurements annually for changes in price levels. It changed its methodology for measuring housing expenses in 2008. The USDA last updated its measurements in 2014.<sup>14</sup> The USDA estimates child-rearing expenditures individually for several expenditure categories (e.g., food and clothing), then adds them to develop a total. As discussed more in the USDA report, a different methodology is used to measure expenditures for each category. Some categories unique to children can be measured directly (e.g., children clothing, childcare expenses and education expenses). The child's food costs are measured using the food plans developed by the USDA. The child's transportation is measured by only considering family-related activities,

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<sup>13</sup> For example, see Lewin/ICF. (1990). *Estimates of Expenditures on Children and Child Support Guidelines*. Report to U.S. Dept. of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Fairfax, Virginia.

<sup>14</sup> Lino, Mark (2014) *Expenditures on Children by Families: 2013 Annual Report*. U.S. Department of Agriculture, Center for Nutrition and Policy Promotion. Miscellaneous Publication No. 1528-2013, Washington, D.C.



which are 59 percent of total transportation according to research findings. The child's housing expenses are measured from estimating the average additional costs of housing given the number of bedrooms in a home assuming more bedrooms are required when there is more than one child and controlling for income level. Food, transportation and housing comprise the vast majority of child-rearing expenditures. Economists generally believed that the USDA's previous approach to measuring child-rearing expenditures overstated actual child-rearing expenditures, but economists have not assessed the USDA methodology since it was changed in 2008.

*Overview of the Betson-Rothbarth & Betson-Engel Measurements.* In the past two decades, Professor Betson, University of Notre Dame, has conducted four studies estimating child-rearing expenditures. Each study uses expenditures data from the most current CES data available. For Betson's first study, he used CES data from 1980-86.<sup>15</sup> For his second study, he initially used from 1996-98 CES data, but later expanded it to encompass 1996-99.<sup>16</sup> For his third<sup>17</sup> and fourth study, respectively, he used data from the 1998-2004 and 2004-09 CES.

In all of his studies, he has produced Rothbarth estimates. Betson-Rothbarth (BR) measurements form the basis of 30 state guidelines. Both the Rothbarth and Engel methodology are considered "marginal cost" approaches to measuring child-rearing expenditures. The margin is how much more a couple spends when the couple has children. The marginal cost approach compares expenditures between two equally well-off families: (a) married couples with children, and (b) married couples of child-rearing age without children. The difference in expenditures between these two families is deemed to be child-rearing expenditures. The Engel and Rothbarth methodologies, which are named by the economists who developed them, use different indicators of equally well-off families. The Engel methodology uses expenditures on food, while the Rothbarth methodology relies on expenditures for adult goods (specifically, adult clothes in the Rothbarth estimates that form the basis of state guidelines) to determine equally well-off families.

#### Existing Minnesota Schedule Compared to Current Economic Studies

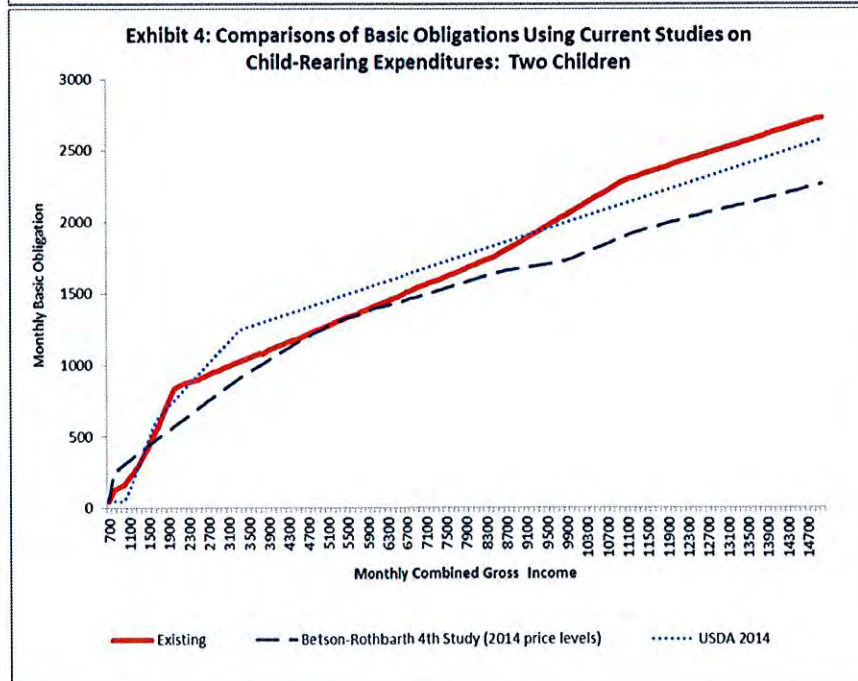
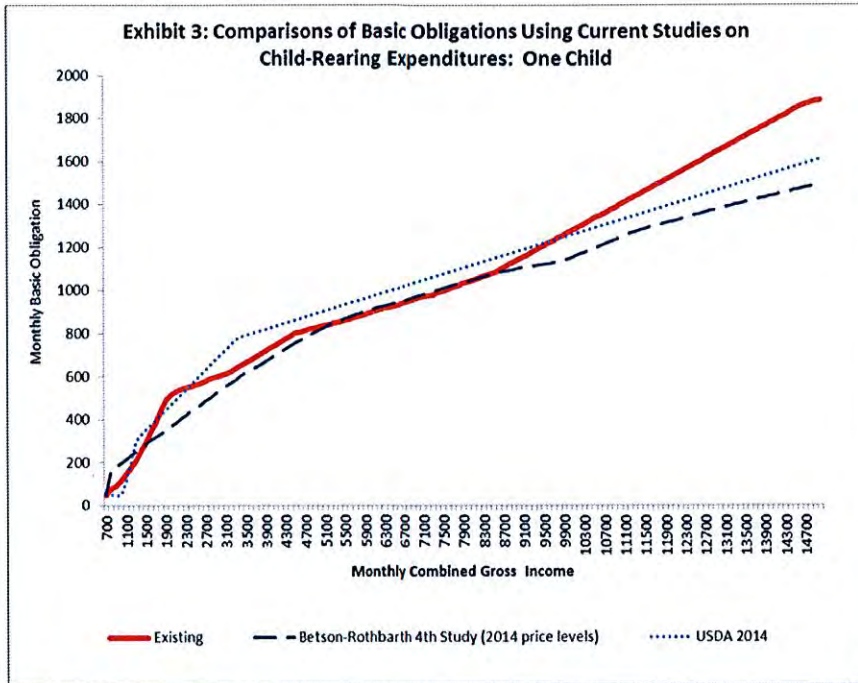
Exhibits 3 and 4 compare the existing Minnesota schedule to the most recent USDA and BR studies updated to 2014 price levels. Both the USDA and BR amounts in the exhibits include low-income adjustments. The amount of the low-income adjustment is a policy decision. In

<sup>15</sup> David M. Betson (1990). *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.

<sup>16</sup> David M. Betson (2001). "Chapter 5: Parental Expenditures on Children," in Judicial Council of California, *Review of Statewide Uniform Child Support Guidelines*, San Francisco, California.

<sup>17</sup> David M. Betson (2006). "Appendix I: New Estimates of Child-Rearing Costs" in PSI, *State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Considerations*, Report to the State of Oregon, Policy Studies Inc., Denver, Colorado.

general, the comparisons show that the Minnesota schedule may be too high at low incomes (i.e., about \$1,500 to \$3,000 per month), about right at middle incomes, and too high at very high incomes.





## ECONOMIC BASIS OF PARENTING-TIME ADJUSTMENT

Since most states base their child support schedule or formula on child-rearing expenditures in intact families, the schedule or basic formula tacitly reflects the cost of raising the child in one household. Nonetheless, most state guidelines (37 states) provide a presumptive formula for shared custody or the nonresidential parent's time with the child. The adjustment is typically made in the worksheet after using the schedule/formula to obtain a base amount.<sup>18</sup> Most of the remaining 14 state guidelines provide that a judge or decisionmaker can deviate for timesharing arrangements but do not provide a formula.

The parenting-time formulas vary widely. Four factors distinguish state formulas.

- Whether there is a **criterion requiring a parenting-time (custody/visitation) order or parenting plan or agreement between the parties** to apply the formula or whether the formula can be applied based on the “actual time” the child spends with each parent even if it differs from the custody/visitation order or parenting plan.
- **The timesharing criterion for applying the formula** (e.g., each parent has the child for at least 10 percent of the child's time)
- **Whether there are different formulas for different levels of timesharing** (e.g., Minnesota applies a 12-percent adjustment for 10% to 45% timesharing and the cross-credit formula above 45% timesharing).
- **The structure and parameters of the formula.** The most common adjustment is the cross-credit formula but there are also many other unique formulas.

### Criterion for Adjustment: Actual Parenting Time or Ordered Parenting-Time

Minnesota and most state guidelines provide that there must be a court order, parenting plan, and/or agreement between the parties for the parenting-time adjustment to be applied. In addition, some states require that the order be exercised for the parenting-time/custody adjustment to be applied. Nonetheless, a significant number of state guidelines (e.g., Colorado, District of Columbia, and Pennsylvania) apply the adjustment based on “actual custody or timesharing.” This provision is helpful in situations when the children change their primary residence from one parent's residence to another parent's residence while the custody order is not changed. Parents often perceive that there are barriers to custody changes (e.g., court filing fees and custody evaluations). In these situations, the courts may look at school records or similar information to verify that the children are indeed living with the other parent. Another unique criterion is imposed by New Jersey. It requires that the income of the primary residential parent be at least 200 percent of the federal poverty level before the parenting-time adjustment can be applied.

### Criterion for Adjustment: Timesharing Threshold

States vary widely in the amount/percentage of “days”/ “overnights” the child must spend

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<sup>18</sup> Notable exceptions are Kansas, Louisiana, and Pennsylvania. Each of these states incorporate an adjustment for the nonresidential parent's direct expenditures on the children for a standard amount of timesharing. For example, Pennsylvania assumes 30-percent timesharing and that the obligated parent will make direct expenditures on the child for the child's food and entertainment (e.g., movie tickets) during this time.



with the nonresidential parent before the formula applies as well as the formulas they use. As shown in Exhibit 5, Minnesota's threshold of 10-percent timesharing for the 12-percent flat adjustment is on the lower end among states while its threshold for applying the cross-credit (45.01-percent timesharing) is on the higher end among states. A few states guidelines don't specify a numeric threshold. Rather, they provide the adjustment for "essentially equal custody" or provide a formula without a threshold (e.g., Michigan). For the purposes of categorizing states, the former is considered a 46-50 percent timesharing threshold and the latter is considered a 0-5 percent-threshold. Over time, some states have lowered their threshold (i.e., Delaware, Massachusetts, Michigan, Nebraska, and Oregon). No state has increased their threshold.

<b>Exhibit 5: Time-Sharing Thresholds for Presumptive Formulas Adjusting for Parenting-Time/Shared Custody</b>	
<b>Threshold for Shared-Parenting Adjustment</b>	<b>States</b>
1-10% parenting time	6 states (AZ, CA, MI, MN*, MO, NJ, OR)
11-15% parenting time	1 state (IN)
16-20% parenting time	1 state (FL)
21-25% parenting time	7 states (CO, DE, ID, TN, VT, VA, WI)
26-30% parenting time	6 states (AK, MT, NE, NM, SC, UT)
31-35% parenting time	7 states (DC, IA, MA, MD, NC, OK, WV)
36-40% parenting time	3 states (HI, PA, WY)
41-45% parenting time	2 states (MN*, ND)
46-50% parenting time	4 states (KS, LA, ME, SD)
States <u>with</u> a Presumptive Formula	37 states
States <u>without</u> a Presumptive Formula	14 states (AL, AR, CT, GA, IL, KY, MS, NV, RI, NH, NY, TX, WA)

\*MN is shown as being counted twice to highlight its two-level formula.

### Different Formulas for Different Levels of Timesharing

Minnesota is not the only state that provides different formulas for adjusting for timesharing depending on the amount of timesharing. With the exception of states that provide a sliding scale (which are identified in Exhibit 6), New Jersey also provides a different formula for higher levels of timesharing. New Jersey's threshold for applying the other formula is 28 percent and the formula for low-levels for timesharing is presumptive, while the formula for 28-percent is applied at court discretion and requires evidence that each parent actually incurs direct child-rearing expenditures. In addition, a few states (e.g., Missouri) provide a small adjustment at low levels of timesharing but provide that an adjustment (or a larger adjustment) for substantial custody or near-equal custody is a deviation factor.

Pennsylvania and Louisiana effectively provide a different formula for lower levels of timesharing than higher levels of timesharing by adjusting for "standard parenting-time" in their respective schedules. Pennsylvania's adjustment assumes that the obligated parent cares for the child 30 percent of the time and that the obligated parent will be picking up the child's food expense and some of the child's recreational expense at this time. If the child spends 40 percent or more of the time with the obligated parent, Pennsylvania provides another formula.



## Overview of Types of Formulaic Adjustments

Minnesota's formula was designed to be simple, recognize the expenses for what was formerly called, "ordinary visitation," and provide the cross-credit formula, which is and was the most popular formula for adjusting for timesharing at nearly equal custody. Minnesota starts with a 12-percent adjustment for when each parent has the child at least 10 percent of the time. The 12-percent amount was a legislative compromise. It was originally slightly higher.

Exhibit 6 classifies the states' timesharing formula into six types. Massachusetts and California's formula are classified as "unique" but may be re-classified as cross-credit or per diem with further analysis. A discussion of each formula type and their strengths and weaknesses follow Exhibit 6.

Exhibit 6: Type of Formula Used for Presumptive Formulas Adjusting for Parenting-Time/Shared Custody	
Formula Type	States
Cross-Credit with 1.5 Multiplier	20 states (AK, CO, DC, FL, ID, KS, LA, ME, MD, MN*, NE, NC, NM, OK, SC, SD, VT, VA, WV, WI)
Cross-Credit with No Multiplier	1 state (WY)
Simple Percentage or Sliding Scale Adjustment	8 states (AZ, DE, IA, MN*, MO, NJ, ND, UT)
Advanced Math Formula	3 states (IN, MI, OR)
Per Diem Adjustment	4 states (HI, MT, PA, TN)
Unique Formula	2 states (CA, MA)
States <u>with</u> a Presumptive Formula	37 states
States <u>without</u> a Presumptive Formula	14 states (AL, AR, GA, IL, KY, MS, NV, RI, NH, ND, NY, TX, WA)

\*Minnesota is counted twice (as a state with a cross-credit with 1.5 multiplier and a simple percentage adjustment)

### Simple Percentage or Sliding Scale Adjustment

Although seven states use a simple percentage or sliding-scale percentage adjustment, no state uses the same percentage or the same sliding scale percentages. Some of these state percentages (e.g., Arizona, Indiana, and New Jersey) are actually rooted in "variable/fixed expense" approach. This approach is premised on a consideration of three types of child-rearing expenditures: variable expenses; duplicated, fixed expenses; and non-duplicated, fixed expenses. At low levels of time-sharing, the adjustment is for variable 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 child-rearing expense. If one parent buys the child food, there is no need for the other parent to purchase food also. New Jersey and Arizona, in forming their guidelines, have calculated that variable costs account for 37 and 38 percent, respectively, of total child-rearing expenditures. Duplicated, fixed costs are those child-rearing 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., the child's housing expense). New Jersey's



guidelines assume duplicated, fixed costs comprise 38 percent of total child-rearing costs. Arizona's assume that percentage is 30 percent. Non-duplicated, fixed costs are child-rearing 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. New Jersey's guidelines assume non-duplicated, fixed expenses comprise 25 percent of total child-rearing expenses, whereas Arizona's assume they are 33 percent of total child-rearing expenses.

The major difference between the cross-credit adjustment and the variable/fixed expense adjustment is the difference in their outcomes when the parents have equal income and equal custody. Under these circumstances, the cross-credit will produce a zero order amount while the variable/fixed expense approach will produce an order amount equivalent to non-duplicated, fixed expenses. The reason for this is the variable/fixed expense is premised on the belief that one parent always incurs more child-rearing expenses than the other parent. For example, New Jersey's guidelines are based on the belief that one parent is responsible for purchasing the child's clothes. The guidelines assume that the parent with more time with the child is the parent who incurs the non-duplicated, fixed expenses. The guidelines assume, however, that when the parents have equal custody, the parent living closest to the child's school incurs the non-duplicated, fixed expense.

There is no definitive research on which child-rearing expenditures are variable, duplicated and fixed, and non-duplicated and fix. Some policymakers deduce it from the

USDA or Betson measurements of child-rearing expenditures. For example, Exhibit 7 illustrates that 37% of total child-rearing expenditures, as measured by the USDA, are devoted to food and transportation.

Exhibit 7: Expenditures Shares On a Child from Birth through Age as a Percentage of Total Child-Rearing Expenditures: 2013 (Source: USDA 2014)		
	Percent of <u>Total</u> Child-Rearing Expenditures	Reweight to Exclude Healthcare and Childcare
Food	16%	20%
Transportation	14%	17%
Housing	30%	37%
Clothing	6%	7%
Miscellaneous	8%	10%
Healthcare	8%	Excluded
Childcare & Education	18%	Excluded
TOTAL	100%	100%

Exhibit 8 shows an anomaly with Minnesota's simple percentage adjustment. Minnesota applies the 12-percent adjustment to the *obligor's share* of the basic obligation from the schedule. Most states (e.g., Missouri and New Jersey) apply it to the *total basic obligation* from the schedule. This makes it relate to standard parenting-time expense more (e.g., if 37 percent of the total child-rearing expenditures are variable and standard-parenting time of nonresidential parents is 25 percent, the percentage adjustment to the basic obligation would be 9.25 percent).



Exhibit 8. Illustration of Minnesota's Anomalous Application of Its Simple Percentage					
		Minnesota			New Jersey
		Parent A	Parent B	Combined	Parent A
1	Income	\$3,000	\$2,000	\$5,000	\$3,000
2	Share of Combined Income	60%	40%	100%	60%
3	Basic Obligation for 1 Child			\$831	\$831
4	Parent's Share of Basic Obligation	\$499	\$332	100%	\$499
5	Number of Overnights	73	292	365	73
6	% of Parenting Time	20%	80%	100%	20%
7	Parenting-Time Adjustment	12% of Parent's A Line 4 = \$60			Line 6 times 37% times Combined Line 3 = 7.4% of \$831 = \$61
8	Monthly Support Order Owed by Parent A (Line 4 minus Line 7)	\$439			\$438

The theory behind the percentage adjustment is best illustrated by New Jersey that believes that 37% of child-rearing expenditures are devoted to variable expenses such as food and transportation. To this end, the New Jersey parenting-time adjustment credits Parent A for 37 percent of basic obligation amount from the schedule (which consists of all expenditures on the child) for 20 percent of the time.

*Strengths of Percentage Adjustment.* The strengths of the Percentage Adjustment are it is a very simple adjustment and easy to apply.

*Weaknesses of Percentage Adjustment.* Depending on how the state specifies it, it can result in cliff effects. Another weakness is it doesn't always clearly relate to child-rearing expenditures that are transferred between one parent to the other because of the percent of time the one parent cares for the child.

#### Cross-Credit Formula

With the exception of Wyoming's, all cross-credit formulas multiple the basic obligation by 150 percent to account for about 50 percent of all child-rearing expenditures being duplicated by parents when the child lives in two households (i.e., the child's housing and transportation are duplicated.)

*Strengths of Cross-Credit Formula.* The strengths of the cross-credit formula are the formula is intuitive and generally makes mathematical sense to guidelines users. It also has a long history of successful use in several states.

*Weaknesses of Cross-Credit Formula.* It requires the use of a timesharing threshold, which can create some undesirable outcomes. The higher the threshold is set, the more likely it is to produce a cliff effect. (See Exhibit 7 for an illustration of this.) On the other hand, if the



*Weaknesses of Cross-Credit Formula.* It requires the use of a timesharing threshold, which can create some undesirable outcomes. The higher the threshold is set, the more likely it is to produce a cliff effect. (See Exhibit 7 for an illustration of this.) On the other hand, if the threshold (e.g., 20 percent) is set too low, the formula may not work for certain income situations. (See Exhibit 9 for an illustration of this.) Some states solve this problem by providing that the time-sharing formula can never be more than the sole-custody formula. Vermont also provides a simple percentage adjustment for this by providing a simple transition formula from 20-25 percent timesharing and then, applying the cross-credit fully once the timesharing arrangement is 25 percent or more.

Exhibit 9. Example of Cross-Credit Approach Used to Adjust for Shared-Parenting Time				
Line		Mother	Father	Combined
1	Monthly Income	\$2,000	\$3,660	\$5,660
2	Percentage Share of Income	35%	65%	100%
3	Basic Obligation for 1 Child (Line 1 combined applied to Schedule)			\$866
4	Each Parent's Share (Line 3 x each parent's Line 2)	\$303	\$563	
5	Shared Custody Basic Obligation (Line 3 x 1.5)			\$1,299
6	Each Parent's Share (Line 5 x each parent's Line 2)	\$455	\$844	
7	Overnights with Each Parent (must total 365)	292	73	365
8	Percentage Time with Each Parent (Line 7 divided by 365)	80%	20%	100%
9	Amount Retained (Line 6 x Line 8 for each parent)	\$364	\$169	
10	Each Parent's Obligation (Line 6 – Line 9)	\$91	\$675	
11	Shared Custody Obligation (Subtract smaller from larger on Line 10)		\$584	
12	Final Order (lesser of lines 4 and 11)		\$563	

Another arguable weakness is it can result in the parent with more of the child's time being the obligated parent if that parent has substantially more income than the other parent. Some policymakers (e.g., the Pennsylvania committee responsible for reviewing its guidelines) argue that the parent with more of the child's time *should always* be the parent receiving support.

### Advanced Math Formulas

“Advanced math formulas” refer to formulas that use exponential powers, squaring (a value times itself) or cubing (a value times itself thrice) in the formula. These types of advanced math formulas allow for a gradual decrease in the formula-determined amount as an additional day is added. The intent is illustrated in a graph excerpted from a presentation about the Oregon adjustment at the 2014 National Child Support Enforcement Association Conference in Portland, Oregon, which is shown in Appendix A. Three states fall into this category: Indiana, Michigan, and Oregon. Only Michigan's formula is truly an exponential formula. It is shown below.

$$\frac{(A_0)^3(B_s) - (B_0)^3(A_s)}{(A_0)^3 + (B_0)^3}$$

Where

$A_0$  – Approximate annual number of overnights the children will spend with parent A

Michigan's formula is essentially similar to the cross-credit but takes the function to the third power (cubed) to make the adjustment more gradual.

Both Oregon and Indiana converted their formulas to tables. In fact, Oregon's table is only an approximation of its non-linear formula and the equation matches the table for some ranges of obligor's share of combined income, but not all shares. As stated in Oregon's guidelines review report<sup>19</sup>, the goals of the adjustment were to create graduated change and minimize the difference from its cross-credit formula, which started at 25-percent timesharing. Specifically, Oregon wanted to have a zero parenting-time credit at zero timesharing, 13 percent credit at 25-percent timesharing, and accelerate the timesharing credit to 50 percent beginning with 27-percent timesharing.

Indiana's formula is based on the concept of variable/fixed, duplicated/fixed, non-duplicated expenses. To that end, the Indiana formula **does not result in a \$0 order** when there is equal income and equal timesharing.

*Strength of Advanced Math Formulas.* The major strength is that they can produce gradual changes to the order amount as time with the child increases so reduces conflict over parenting time.

*Weaknesses of Advanced Math Formulas.* They are complicated and not intuitive.

### Per Diem Approach

A few states use *per diem* approaches, which means that they assume the obligated parent has a certain amount of parenting time or parenting expense (e.g., 30 percent in Pennsylvania) and then adjust at a per diem rate for time above that. The Pennsylvania formula, which is not applicable until 40-percent timesharing, is shown below.

$$\text{Shared custody order} = \text{obligor's prorated share} - (\text{timeshare} - 30\%) \times \text{basic obligation}$$

*Strengths of Per Diem Approach.* One strength of the per diem approach is it is simple. Another strength, at least as perceived by Pennsylvania, is the calculation cannot result in a flipping of which parent is obligated to pay support like the cross-credit formula does.

*Weakness of Per Diem Approach.* By design and a consequence of the math, it generally produces cliff effects.

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<sup>19</sup> Oregon Child Support Program Guidelines Advisory Committee. (March 27, 2012) *Report and Recommendation: 2011-12 Child Support Guidelines Review*. Pp 19-20. Available at: [http://www.oregonchildsupport.gov/laws/guidelines\\_review/docs/guidelines\\_advisory\\_committee\\_report\\_and\\_recommendations\\_2011-12.pdf](http://www.oregonchildsupport.gov/laws/guidelines_review/docs/guidelines_advisory_committee_report_and_recommendations_2011-12.pdf)



## COMPARISONS

There are three sets of comparisons (Exhibits 10, 11, and 12) to illustrate the differences between the existing Minnesota adjustment, the Oregon adjustment, the cross-credit with a multiplier applied to lower levels of timesharing, the Michigan formula, and a modification of the Oregon adjustment. The scenarios involve a case in which the parents have equal incomes, a case in which only one parent has income, and a case in which the higher earner has more time with the child initially.

The intent of the comparisons is to provide some examples to generate a discussion to guide the next round of draft timesharing formulas.

- The Oregon adjustment percentages, which are key to the Oregon formula, are highlighted in **red**.
- Comparable amounts are shown in the first cluster of the table. Oregon has comparable percentages for the other parent, which are shown in the second cluster.
- The last (bottom) cluster shows the order amounts.

CASE	A.1										
# of CHILDREN	1										
PARENT A's GROSS INCOME	\$ 1,387	(\$8 per hour at 40 hours per week)									
PARENT B'S GROSS INCOME	\$ 1,387	(\$8 per hour at 40 hours per week)									
COMBINED GROSS INCOME	\$ 2,773										
SCHEDULE AMOUNT	\$ 580										
OTHER ADJUSTMENTS	None. Self-support reserve = 120% Federal Poverty Level (120% X \$981 = \$1,177)										
Parent A's Parenting Time Credit Percentage of Basic Obligation											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%
Overnights	0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	182.5
Existing MN	0.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	44.00%	50.00%
Cross-Credit (starting at 20% timesharing )	0.00%	0.00%	0.00%	5.00%	12.50%	20.00%	27.50%	35.00%	42.50%	44.00%	50.00%
OR Formula (Applied to MN schedule)	0.00%	3.30%	5.71%	8.87%	12.94%	18.41%	24.80%	32.32%	40.77%	42.74%	50.00%
OR Alternative A	0.00%	4.65%	5.86%	7.44%	9.47%	12.21%	15.40%	19.16%	23.39%	43.37%	50.00%
MI formula (Applied to MN schedule)	0.00%	0.14%	0.55%	1.54%	3.57%	7.30%	13.50%	22.86%	35.39%	38.20%	50.00%
Parent B's Parenting Time Credit Percentage of Basic Obligation											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%
Overnights	365	328.5	310.25	292	273.75	255.5	237.25	219	200.75	197.1	182.5
Existing MN	100.00%	94.00%	94.00%	94.00%	94.00%	94.00%	94.00%	94.00%	94.00%	56.00%	50.00%
Cross-Credit (starting at 20% timesharing )	100.00%	100.00%	100.00%	95.00%	87.50%	80.00%	72.50%	65.00%	57.50%	56.00%	50.00%
OR Formula (Applied to MN schedule)	100.00%	96.70%	94.29%	91.13%	87.06%	81.59%	75.20%	67.68%	59.23%	57.26%	50.00%
OR Alternative A	100.00%	95.35%	94.15%	92.57%	90.53%	87.80%	84.60%	80.84%	76.62%	56.63%	50.00%
MI formula (Applied to MN schedule)	100.00%	99.86%	99.45%	98.46%	96.43%	92.70%	86.50%	77.14%	64.61%	61.80%	50.00%
Monthly Support Award											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%
Existing MN	\$ 290	\$ 261	\$ 261	\$ 261	\$ 261	\$ 261	\$ 261	\$ 261	\$ 261	\$ 0	\$ 0
Cross-Credit (starting at 20% timesharing )	\$ 290	\$ 290	\$ 290	\$ 261	\$ 218	\$ 174	\$ 131	\$ 87	\$ 44	\$ 35	\$ 0
OR Formula (Applied to MN schedule)	\$ 290	\$ 271	\$ 257	\$ 239	\$ 215	\$ 183	\$ 146	\$ 103	\$ 54	\$ 42	\$ 0
OR Alternative A	\$ 290	\$ 263	\$ 256	\$ 247	\$ 235	\$ 219	\$ 201	\$ 179	\$ 154	\$ 38	\$ 0
MI formula (Applied to MN schedule)	\$ 290	\$ 289	\$ 287	\$ 281	\$ 269	\$ 248	\$ 212	\$ 157	\$ 85	\$ 68	\$ 0





CASE	C.1
# of CHILDREN	1
PARENT A's GROSS INCOME	\$ 3,200 (between median earnings of MN male worker with a HS degree and a college degree)
PARENT B'S GROSS INCOME	\$ 4,800 (median earnings of MN female worker with graduate or professional degree)
COMBINED GROSS INCOME	\$ 8,000
SCHEDULE AMOUNT	\$ 1,040 (Parent A has 40 percent of combined income)
OTHER ADJUSTMENTS	None. Self-support reserve = 120% Federal Poverty Level (120% X \$981 = \$1,177)

Parent A's Parenting Time Credit Percentage of Basic Obligation											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%
Overnights	0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	182.5
Existing MN	0.00%	4.80%	4.80%	4.80%	4.80%	4.80%	4.80%	4.80%	4.80%	49.00%	55.00%
Cross-Credit (starting at 20% timesharing )	0.00%	0.00%	0.00%	10.00%	17.50%	25.00%	32.50%	40.00%	47.50%	49.00%	55.00%
OR Formula (Applied to MN schedule)	0.00%	3.30%	5.71%	8.87%	12.94%	18.41%	24.80%	32.32%	40.77%	42.74%	50.00%
OR Alternative A	0.00%	4.05%	5.26%	6.84%	8.87%	11.61%	14.80%	18.56%	22.79%	45.87%	52.50%
MI formula (Applied to MN schedule)	0.00%	0.14%	0.55%	1.54%	3.57%	7.30%	13.50%	22.86%	35.39%	38.20%	50.00%

Parent B's Parenting Time Credit Percentage of Basic Obligation											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%
Overnights	365	328.5	310.25	292	273.75	255.5	237.25	219	200.75	197.1	182.5
Existing MN		95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	95.20%	51.00%	45.00%
Cross-Credit (starting at 20% timesharing )		100.00%	100.00%	90.00%	82.50%	75.00%	67.50%	60.00%	52.50%	51.00%	45.00%
OR Formula (Applied to MN schedule)	0.00%	96.70%	94.29%	91.13%	87.06%	81.59%	75.20%	67.68%	59.23%	57.26%	50.00%
OR Alternative A	100.00%	95.35%	94.15%	92.57%	90.53%	87.80%	84.60%	80.84%	76.62%	56.63%	50.00%
MI formula (Applied to MN schedule)	100.00%	99.86%	99.45%	98.46%	96.43%	92.70%	86.50%	77.14%	64.61%	61.80%	50.00%

Monthly Support Award											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%
Existing MN	\$ 416	\$ 374	\$ 374	\$ 374	\$ 374	\$ 374	\$ 374	\$ 374	\$ 374	(\$156)	(\$156)
Cross-Credit (starting at 20% timesharing )	\$ 416	\$ 416	\$ 416	\$ 312	\$ 234	\$ 156	\$ 78	\$ -	\$ (78)	\$ (94)	(\$156)
OR Formula (Applied to MN schedule)	\$ 416	\$ 382	\$ 357	\$ 324	\$ 281	\$ 225	\$ 158	\$ 80	\$ (8)	\$ (28)	(\$104)
OR Alternative A	\$ 416	\$ 374	\$ 361	\$ 345	\$ 324	\$ 295	\$ 262	\$ 223	\$ 179	\$ (61)	(\$130)
MI formula (Applied to MN schedule)	\$ 416	\$ 415	\$ 410	\$ 400	\$ 379	\$ 340	\$ 276	\$ 178	\$ 48	\$ 19	(\$104)



## CONCLUSIONS AND NEXT STEPS

The conclusions are bulleted below.

- The existing Minnesota schedule is based on five different sources including three different studies of child-rearing expenditures.
- There are alternative measures of poverty but none are readily available for use at a practical level.
- There is a dearth of academic evidence on how parents actually share child-rearing expenditures in shared-parenting situations including whether expenses differ substantially between those occurred for “routine visitation” and “substantial shared physical custody.”
- Most state guidelines parenting-time adjustments are part policy and part assumption about how parents share expenses. Nonetheless, they often incorporate math/economics about child-rearing expenditures.
- Minnesota’s parenting-expense formula is unique.
  - The two-tier formula is unique.
  - Few other states have a timesharing threshold that start as low as 10 percent timesharing.
    - Minnesota is the only state to apply its percentage adjustment (12 percent) to the obligor’s share of the basic obligation. Instead, states with a percentage adjustment apply it to the total basic obligation. This is done to relate to “variable child-rearing expenditures” and the obligor’s percent of timesharing (e.g., if 37% of total child-rearing expenditures are variable and 33% timesharing is standard timesharing, the percentage adjustment would be 12%).
  - Few other states have a timesharing threshold that starts as high as 45 percent timesharing for the substantial adjustment, such as the cross-credit adjustment, to apply.
    - This causes a large cliff effect. Further, assuming 50 percent timesharing at 45.01 percent amplifies this cliff effect.
- There is no consistency in the timesharing formulas and criteria (including the timesharing threshold for applying the formula) for using the formula in other states.
  - The cross-credit formula with 150 percent multiplier is the most commonly used formula but it can have a cliff effect, particularly if the timesharing threshold is set high). States using the cross-credit formula vary substantially in their timesharing threshold.
  - A few states use a formula rooted in the concept that child-rearing expenditures can be divided into three categories: variable (e.g., food); fixed, duplicated (e.g., housing); and fixed, non-duplicated (e.g., child’s clothing). Pure application of this concept (see Indiana and New Jersey) does not produce a zero order when there is equal timesharing and equal income because one parent always incurs the fixed, non-duplicated expense.

- A few states (Indiana, Michigan, and Oregon) have developed non-linear formulas to create a gradual change in the order amount as one parent has more time with the child. The intent is to reduce parental disputes about the timesharing arrangement and cliff effects. Oregon used a non-linear formula to develop its timesharing adjustment, which is in table formula. The formula, which is recommended for use over the table, does not match the table amounts.

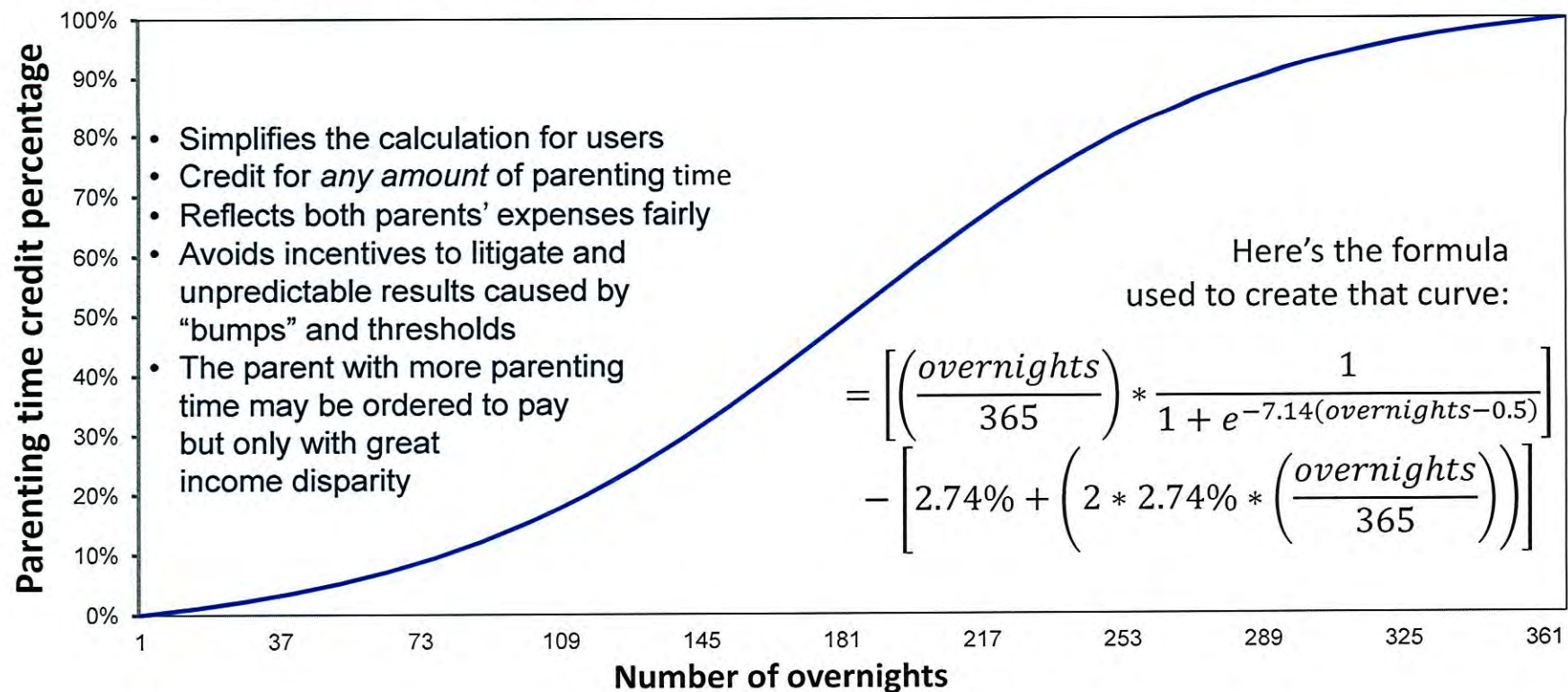
The next steps, which require direction from the work group, are bulleted below.

- *Policy decision on formula:* An Oregon-like parenting-time formula or even another formula from another state will be significantly different than the existing Minnesota adjustment. There is no formula type that will minimize the impact of what Minnesota currently provides. Is the work group okay with that?
- *Policy decision on formula.* What are some of the expectations of the formula?
  - Should there be a zero adjustment at zero or nine-percent timesharing or another amount?
  - Should there be a zero order when the parents have equal timesharing and equal income?
  - Should the formula allow for a “flip” between the parent obligated to pay support when there is almost equal timesharing and the higher-income parent has more time-sharing (as the cross-credit and Oregon formula provide for)?
  - At what percentage of timesharing should the adjustment recognize that each parent has substantial child-rearing expenditures, specifically, should it be lower than the 45.01 percent timesharing required in Minnesota’s current formula?
  - Are there other expectations of the formula at certain timesharing arrangements?
  - Should the criteria for applying the parenting-time adjustment be changed?
  - Are there other expectations of the formula in general?
- *Policy decision on case examples used for comparison.* What case examples are helpful? CPR intends to develop a simple calculator that work group members can use to examine a wide range of case examples, but it will not be able to adjust for factors beyond the schedule (e.g., the low-income adjustment, non-joint children, the child’s healthcare expenses, and childcare expenses). If these are important is there are another way to run comparisons?
- *Other?*

Median Incomes of Minnesota Workers 25 Years and over with Earnings (Source 2013 American Community Survey)		
Educational Attainment	Male	Female
ALL	\$45,860	\$32,037
Less than high school graduate	\$24,795	\$16,040
High school graduate (includes equivalency)	\$35,666	\$23,370
Some college or associate’s degree	\$42,106	\$29,703
Bachelor’s degree	\$61,918	\$41,442
Graduate or professional degree	\$78,301	\$57,883



## Oregon's Parenting Time Curve (Excerpt from 2014 Presentation by Michael Ritchey, Sr. Assist. Attorney General Counsel, Oregon Child Support Program)



# **Alternative Adjustments for Parenting Expenses *And Technical Overview of Excel Calculator of Alternative Adjustments***



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Points of view expressed in this document are those of the author and do not necessarily represent the official position of the State or Work Group. The author is responsible for any errors and omissions.

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## OVERVIEW

The major purposes of this briefing are to provide:

- An overview of the four parenting-time expense adjustments being compared to Minnesota's existing adjustment in the Excel calculator, and
- Technical considerations in using the Excel calculator.

More detailed information about parenting-time adjustments used in state guidelines is provided in the September brief. The four parenting-time adjustments being compared in the Excel calculator are:

- The Cross-credit formula,
- The Oregon table,
- A version of the Oregon table, called "Oregon Alternative A," that has percentages that results in support awards closer to those under the existing Minnesota parenting-expense adjustment, and
- The Michigan formula.

## CROSS-CREDIT ADJUSTMENT

As mentioned in the September briefing, the cross-credit adjustment is the most commonly used adjustment among states. All but one state's cross-credit formula increases the basic obligation by 150 percent to account for the additional expense of raising a child in two households, which is more the expense of raising a child in one household. Housing expenses for the child, for example, are often duplicated in both households.

Minnesota currently uses a cross-credit for situations in which the child's time with each parent exceeds 45 percent. Instead of weighing each parent's theoretical order by each parent's timeshare like the typical cross-credit formula does, the Minnesota adjustment uses 50 percent for all timesharing arrangements exceeding 45 percent.

Exhibit 1 provides an example of the cross-credit. The cross-credit formula in the Excel calculator starts at 20-percent timesharing. It is programmed such that it can never result in an award amount more than 0-percent timesharing. If Minnesota were to adopt a cross-credit formula, it is highly recommend that there be a provision stating that the parenting-expense calculation can never exceed guidelines-determined amount assuming zero timesharing.

Examples of Vermont's and Colorado's cross-credit formulas are appended to this briefing.



Exhibit 1. Example of Cross-Credit Approach Used to Adjust for Shared-Parenting Time				
Line		Parent A	Parent B	Combined
1	Monthly Income	\$3,000	\$2,000	\$5,000
2	Percentage Share of Income	60%	40%	100%
3	Basic Obligation for 1 Child (Line 1 combined applied to Schedule)			\$831
4	Each Parent's Share (Line 3 x each parent's Line 2)	\$499	\$332	
5	Shared Custody Basic Obligation (Line 3 x 1.5)			\$1,247
6	Each Parent's Share (Line 5 x each parent's Line 2)	\$748	\$499	
7	Overnights with Each Parent (must total 365)	164	201	365
8	Percentage Time with Each Parent (Line 7 divided by 365)	45%	55%	100%
9	Amount Retained (Line 6 x Line 8 for each parent)	\$337	\$274	
10	Each Parent's Obligation (Line 6 – Line 9)	\$411	\$225	
11	Shared Custody Obligation (Subtract smaller from larger on Line 10)	\$186		
12	Final Order ( <b>lesser of lines 4 and 11</b> ) for Parent with amount on Line 11	\$186		

## OREGON ADJUSTMENT

The Oregon adjustment can be calculated using a formula or a lookup table of percentage adjustments. The percentage adjustment is applied to the parent's combined basic obligation; then, that amount is subtracted from that parent's prorated share of the basic obligation. The subtraction is made to each parent's prorated share. The parent whose remainder is positive is the parent obligated to pay support. Exhibit 2 illustrates the Oregon adjustment.

Exhibit 2. Example of Oregon Adjustment Used to Adjust for Shared-Parenting Time				
Line		Parent A	Parent B	Combined
1	Monthly Income	\$3,000	\$2,000	\$5,000
2	Percentage Share of Income	60%	40%	100%
3	Basic Obligation for 1 Child (Line 1 combined applied to Schedule)			\$831
4	Each Parent's Share (Line 3 x each parent's Line 2)	\$499	\$332	
5	Overnights with Each Parent (must total 365)	164	201	365
6	Parenting Expense Percentage from Oregon Table ( <i>This is not the same as overnights/365</i> ).	0.4077	0.5923	100%
7	Each Parent's Adjustment (Line 3 X Line 6)	\$339	\$492	
8	Each Parent's Theoretical Order	\$160	-\$160	
9	Final Order (amount on Line 8 for parent with positive amount)	\$160		

A copy of the Oregon guidelines was provided to the workgroup earlier.

### Oregon Alternative A

The Oregon Alternative A formula works exactly like the Oregon adjustment but uses different percentage adjustments. A comparison of the Oregon table and Oregon Alternative A table is shown in Exhibit 3. Alternative A percentages are slightly more than Oregon's at low levels of timesharing to reflect that Minnesota's existing adjustment of 12

percent applied to 10 percent timesharing. Alternative A is more at mid-levels of timesharing than Minnesota's existing adjustment to gradually phase into amounts similar to what Minnesota's existing formula produces for timesharing arrangements above 45 percent.

## MICHIGAN FORMULA

Michigan's formula is explained in the September briefing. It requires a calculator. An excerpt of Michigan's guidelines detailing the formula is appended to this brief. In reading the Michigan guidelines, be careful to note that Michigan flips the concepts of Parent A and Parent B. Michigan uses Parent A to refer to the parent with more timesharing and Parent B to refer to the parent with less timesharing.

Exhibit 3: Comparison of Oregon Table to Alternative Table A											
Overnights	Oregon Credit %	Alternative A Credit %	Overnights	Oregon Credit %	Alternative A Credit %	Overnights	Oregon Credit %	Alternative A Credit %	Overnights	Oregon Credit %	Alternative A Credit %
0	0.00%	0.00%	36	3.19%	4.60%	72	8.67%	7.34%	108	17.77%	11.89%
1	0.07%	0.04%	37	3.30%	4.65%	73	8.87%	7.44%	109	18.09%	12.05%
2	0.14%	3.07%	38	3.42%	4.71%	74	9.07%	7.54%	110	18.41%	12.56%
3	0.21%	3.11%	39	3.54%	4.77%	75	9.27%	7.64%	111	18.73%	13.07%
4	0.28%	3.14%	40	3.66%	4.83%	76	9.48%	7.74%	112	19.06%	13.58%
5	0.35%	3.18%	41	3.78%	4.89%	77	9.68%	7.84%	113	19.39%	14.10%
6	0.42%	3.21%	42	3.91%	4.96%	78	9.90%	7.95%	114	19.72%	14.61%
7	0.49%	3.25%	43	4.04%	5.02%	79	10.11%	8.06%	115	20.06%	15.12%
8	0.57%	3.29%	44	4.16%	5.08%	80	10.33%	8.17%	116	20.40%	15.64%
9	0.65%	3.33%	45	4.30%	5.15%	81	10.55%	8.28%	117	20.75%	16.15%
10	0.72%	3.36%	46	4.43%	5.22%	82	10.77%	8.39%	118	21.10%	16.66%
11	0.80%	3.40%	47	4.56%	5.28%	83	11.00%	8.50%	119	21.45%	17.17%
12	0.88%	3.44%	48	4.70%	5.35%	84	11.23%	8.62%	120	21.81%	17.69%
13	0.96%	3.48%	49	4.84%	5.42%	85	11.47%	8.74%	121	22.17%	18.20%
14	1.04%	3.52%	50	4.98%	5.49%	86	11.70%	8.85%	122	22.54%	18.71%
15	1.13%	3.57%	51	5.12%	5.56%	87	11.94%	8.97%	123	22.90%	19.23%
16	1.21%	3.61%	52	5.27%	5.64%	88	12.19%	9.10%	124	23.27%	19.74%
17	1.29%	3.65%	53	5.41%	5.71%	89	12.43%	9.22%	125	23.65%	20.25%
18	1.38%	3.69%	54	5.56%	5.78%	90	12.68%	9.34%	126	24.03%	20.76%
19	1.47%	3.74%	55	5.71%	5.86%	91	12.94%	9.47%	127	24.41%	21.28%
20	1.56%	3.78%	56	5.87%	5.94%	92	13.19%	9.60%	128	24.80%	21.79%
21	1.65%	3.83%	57	6.02%	6.01%	93	13.45%	9.73%	129	25.19%	22.30%
22	1.74%	3.87%	58	6.18%	6.09%	94	13.72%	9.86%	130	25.58%	22.82%
23	1.84%	3.92%	59	6.34%	6.17%	95	13.98%	9.99%	131	25.98%	23.33%
24	1.93%	3.97%	60	6.51%	6.26%	96	14.25%	10.13%	132	26.38%	23.84%
25	2.03%	4.02%	61	6.67%	6.34%	97	14.53%	10.27%	133	26.78%	24.35%
26	2.12%	4.06%	62	6.84%	6.42%	98	14.80%	10.40%	134	27.19%	24.87%
27	2.22%	4.11%	63	7.01%	6.51%	99	15.08%	10.54%	135	27.60%	25.38%
28	2.32%	4.16%	64	7.19%	6.60%	100	15.37%	10.69%	136	28.01%	25.89%
29	2.43%	4.22%	65	7.36%	6.68%	101	15.66%	10.83%	137	28.43%	26.41%
30	2.53%	4.27%	66	7.54%	6.77%	102	15.95%	10.98%	138	28.85%	26.92%
31	2.64%	4.32%	67	7.72%	6.86%	103	16.24%	11.12%	139	29.27%	27.43%
32	2.74%	4.37%	68	7.91%	6.96%	104	16.54%	11.27%	140	29.70%	27.95%
33	2.85%	4.43%	69	8.09%	7.05%	105	16.84%	11.42%	141	30.13%	28.46%
34	2.96%	4.48%	70	8.28%	7.14%	106	17.15%	11.58%	142	30.56%	28.97%
35	3.08%	4.54%	71	8.47%	7.24%	107	17.46%	11.73%	143	31.00%	29.48%

144	31.44%	30.00%	181	49.24%	48.97%	218	67.23%	68.46%	255	81.59%	87.44%
145	31.88%	30.51%	182	49.75%	49.49%	219	67.68%	68.98%	256	81.91%	87.96%
146	32.32%	31.02%	183	50.25%	50.51%	220	68.12%	69.49%	257	82.23%	88.12%
147	32.77%	31.54%	184	50.76%	51.03%	221	68.56%	70.00%	258	82.54%	88.27%
148	33.22%	32.05%	185	51.26%	51.54%	222	69.00%	70.52%	259	82.85%	88.43%
149	33.68%	32.56%	186	51.76%	52.05%	223	69.44%	71.03%	260	83.16%	88.58%
150	34.13%	33.07%	187	52.27%	52.56%	224	69.87%	71.54%	261	83.46%	88.73%
151	34.59%	33.59%	188	52.77%	53.08%	225	70.30%	72.05%	262	83.76%	88.88%
152	35.05%	34.10%	189	53.27%	53.59%	226	70.73%	72.57%	263	84.05%	89.03%
153	35.52%	34.61%	190	53.77%	54.10%	227	71.15%	73.08%	264	84.34%	89.17%
154	35.99%	35.13%	191	54.27%	54.62%	228	71.57%	73.59%	265	84.63%	89.32%
155	36.45%	35.64%	192	54.77%	55.13%	229	71.99%	74.11%	266	84.92%	89.46%
156	36.93%	36.15%	193	55.27%	55.64%	230	72.40%	74.62%	267	85.20%	89.60%
157	37.40%	36.66%	194	55.77%	56.15%	231	72.81%	75.13%	268	85.47%	89.74%
158	37.88%	37.18%	195	56.27%	56.67%	232	73.22%	75.65%	269	85.75%	89.88%
159	38.35%	37.69%	196	56.77%	57.18%	233	73.62%	76.16%	270	86.02%	90.01%
160	38.83%	38.20%	197	57.26%	57.69%	234	74.02%	76.67%	271	86.28%	90.14%
161	39.32%	38.72%	198	57.75%	58.21%	235	74.42%	77.18%	272	86.55%	90.28%
162	39.80%	39.23%	199	58.25%	58.72%	236	74.81%	77.70%	273	86.81%	90.41%
163	40.29%	39.74%	200	58.74%	59.23%	237	75.20%	78.21%	274	87.06%	90.53%
164	40.77%	40.25%	201	59.23%	59.75%	238	75.59%	78.72%	275	87.32%	90.66%
165	41.26%	40.77%	202	59.71%	60.26%	239	75.97%	79.24%	276	87.57%	90.79%
166	41.75%	41.28%	203	60.20%	60.77%	240	76.35%	79.75%	277	87.81%	90.91%
167	42.25%	41.79%	204	60.68%	61.28%	241	76.73%	80.26%	278	88.06%	91.03%
168	42.74%	42.31%	205	61.17%	61.80%	242	77.10%	80.77%	279	88.30%	91.15%
169	43.23%	42.82%	206	61.65%	62.31%	243	77.46%	81.29%	280	88.53%	91.27%
170	43.73%	43.33%	207	62.12%	62.82%	244	77.83%	81.80%	281	88.77%	91.39%
171	44.23%	43.85%	208	62.60%	63.34%	245	78.19%	82.31%	282	89.00%	91.50%
172	44.73%	44.36%	209	63.07%	63.85%	246	78.55%	82.83%	283	89.23%	91.62%
173	45.23%	44.87%	210	63.55%	64.36%	247	78.90%	83.34%	284	89.45%	91.73%
174	45.73%	45.38%	211	64.01%	64.87%	248	79.25%	83.85%	285	89.67%	91.84%
175	46.23%	45.90%	212	64.48%	65.39%	249	79.60%	84.36%	286	89.89%	91.95%
176	46.73%	46.41%	213	64.95%	65.90%	250	79.94%	84.88%	287	90.10%	92.05%
177	47.23%	46.92%	214	65.41%	66.41%	251	80.28%	85.39%	288	90.32%	92.16%
178	47.73%	47.44%	215	65.87%	66.93%	252	80.61%	85.90%	289	90.52%	92.26%
179	48.24%	47.95%	216	66.32%	67.44%	253	80.94%	86.42%	290	90.73%	92.37%
180	48.74%	48.46%	217	66.78%	67.95%	254	81.27%	86.93%	291	90.93%	92.47%

292	91.13%	92.57%	329	96.81%	95.41%
293	91.33%	92.67%	330	96.92%	95.46%
294	91.53%	92.77%	331	97.04%	95.52%
295	91.72%	92.86%	332	97.15%	95.58%
296	91.91%	92.96%	333	97.26%	95.63%
297	92.09%	93.05%	334	97.36%	95.68%
298	92.28%	93.14%	335	97.47%	95.74%
299	92.46%	93.23%	336	97.57%	95.79%
300	92.64%	93.32%	337	97.68%	95.84%
301	92.81%	93.41%	338	97.78%	95.89%
302	92.99%	93.50%	339	97.88%	95.94%
303	93.16%	93.58%	340	97.97%	95.99%
304	93.33%	93.67%	341	98.07%	96.04%
305	93.49%	93.75%	342	98.16%	96.08%
306	93.66%	93.83%	343	98.26%	96.13%
307	93.82%	93.91%	344	98.35%	96.18%
308	93.98%	93.99%	345	98.44%	96.22%
309	94.13%	94.07%	346	98.53%	96.27%
310	94.29%	94.15%	347	98.62%	96.31%
311	94.44%	94.22%	348	98.71%	96.36%
312	94.59%	94.30%	349	98.79%	96.40%
313	94.73%	94.37%	350	98.87%	96.44%
314	94.88%	94.44%	351	98.96%	96.48%
315	95.02%	94.51%	352	99.04%	96.52%
316	95.16%	94.58%	353	99.12%	96.56%
317	95.30%	94.65%	354	99.20%	96.60%
318	95.44%	94.72%	355	99.28%	96.64%
319	95.57%	94.79%	356	99.35%	96.68%
320	95.70%	94.85%	357	99.43%	96.72%
321	95.84%	94.92%	358	99.51%	96.76%
322	95.96%	94.98%	359	99.58%	96.79%
323	96.09%	95.05%	360	99.65%	96.83%
324	96.22%	95.11%	361	99.72%	96.86%
325	96.34%	95.17%	362	99.79%	96.90%
326	96.46%	95.23%	363	99.86%	96.93%
327	96.58%	95.29%	364	99.93%	96.97%
328	96.70%	95.35%	365	100.00%	100.00%

## EXCEL CALCULATOR

The Excel Calculator is generally self-explanatory. Users must enter three fields:

- Gross income of Parent A (which is the parent with less “custody”)
- Gross income of Parent B (which is the parent with more “custody”)
- Number of children for whom support is being determined.

These fields are highlighted by **green** boxes.

Users may also enter two other fields.

- Case allows the user to “put whatever they want” there, and
- The far right cell in the row entitled “Percent of Child’s Time” allows a user to put another timesharing arrangement (e.g., 47 percent timesharing) besides the ones that are automatically considered.

The calculator is automatically set up to show the child support award using the existing Minnesota schedule for 0 percent timesharing, 5 percent timesharing, 10 percent timesharing and so forth up to 50 percent timesharing. The number of days per year and days per months associated with these percentages are also shown in the first cluster.

The first cluster considers the monthly support award. The second and third clusters show the percentage adjustment comparable to the Oregon Table for Parent A and Parent B, respectively. They are labeled “Parent A’s/B’s Parenting Time Credit Percentage of Basic Obligation.” These percentages are critical to developing an Oregon-like table adjustment. The Oregon parenting-expense adjustment does not factor in the parent’s prorated share of the basic obligation into the calculation, whereas the existing Minnesota adjustment, the cross-credit, and the Michigan formula do. None of these adjustments (i.e. current Minnesota, cross-credit, and the Michigan formula) can be expressed in table form like Oregon’s Table. **As a consequence, a major policy trade-off is the simplicity of the Oregon Table and whether the obligor’s share should affect the amount of the adjustment.**

The Excel Calculator is not set up to consider non-joint children, the self-support reserve, childcare expenses, the child’s health insurance or other special factors that are considered under the existing guidelines.

An excerpt of the calculator is shown on the next page.

Version 10/2/2015.C

**INSTRUCTIONS:** Put "**# of Children**" and **each parent's income** in the **GREEN** boxes. You may also enter another "**Percent of Child's Time**" with Parent A in cell M13.

Case **Put whatever you want here**# of Children **1**

**Parent A's Gross Income**  
(parent with less "custody") **\$ 3,000.00**

**Parent B's Gross Income**  
(parent with more "custody") **\$2,000.00**

Combined Gross Income of the Parents **\$5,000.00**Schedule Amount (Basic Obligation) **\$ 831**

Monthly Support Award												
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%	<b>47.0%</b>
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	182.5	171.6
Average overnights per month	0	3.0	4.6	6.1	7.6	9.1	10.6	12.2	13.7	14.0	15.2	14.3
Existing MN (No SSR applied)	\$499	\$449	\$449	\$449	\$449	\$449	\$449	\$449	\$449	\$125	\$125	\$125
Cross-Credit (starting at 20% timesharing)	\$499	\$499	\$499	\$499	\$436	\$374	\$312	\$249	\$187	\$175	\$125	\$162
OR Formula (Applied to MN schedule)	\$499	\$471	\$451	\$425	\$391	\$346	\$293	\$230	\$160	\$143	\$83	\$127
OR Alternative A	\$499	\$460	\$450	\$437	\$420	\$394	\$318	\$241	\$164	\$147	\$83	\$130
MI formula (Applied to MN schedule)	\$499	\$498	\$494	\$486	\$469	\$438	\$386	\$309	\$205	\$181	\$83	\$157
Parent A's Parenting Time Credit Percentage of Basic Obligation												
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	50%	47%
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	182.5	171.6
Existing MN *	0.00%	7.20%	7.20%	7.20%	7.20%	7.20%	7.20%	7.20%	7.20%	39.00%	45.00%	45.00%
Cross-Credit (starting at 20% timesharing)	0.00%	0.00%	0.00%	0.00%	7.50%	15.00%	22.50%	30.00%	37.50%	39.00%	45.00%	40.50%
OR Formula (Applied to MN schedule)	0.00%	3.30%	5.71%	8.87%	12.94%	18.41%	24.80%	32.32%	40.77%	42.74%	50.00%	44.73%
OR Alternative A	0.00%	4.65%	5.86%	7.44%	9.47%	12.56%	21.79%	31.02%	40.25%	42.31%	50.00%	44.36%
MI formula (Applied to MN schedule)	0.00%	0.14%	0.55%	1.54%	3.57%	7.30%	13.50%	22.86%	35.39%	38.20%	50.00%	41.09%
Parent B's Parenting Time Credit Percentage of Basic Obligation												
Percent of Child's Time	100%	90%	85%	80%	75%	70%	65%	60%	55%	54%	50%	53%
Overnights	365.0	328.5	310.3	292.0	273.8	255.5	237.3	219.0	200.8	197.1	182.5	193.5
Existing MN	100.00%	92.80%	92.80%	92.80%	92.80%	92.80%	92.80%	92.80%	92.80%	61.00%	55.00%	55.00%
Cross-Credit (starting at 20% timesharing)	100.00%	100.00%	100.00%	100.00%	92.50%	85.00%	77.50%	70.00%	62.50%	61.00%	55.00%	59.50%
OR Formula (Applied to MN schedule)	100.00%	96.70%	94.29%	91.13%	87.06%	81.59%	75.20%	67.68%	59.23%	57.26%	50.00%	50.00%
OR Alternative A	100.00%	95.35%	94.15%	92.57%	90.53%	87.44%	78.21%	68.98%	59.75%	57.69%	50.00%	55.64%
MI formula (Applied to MN schedule)	100.00%	99.86%	99.45%	98.46%	96.43%	92.70%	86.50%	77.14%	64.61%	61.80%	50.00%	58.91%

\*This is not the same as the 12% adjustment. The purpose of the calculated percentages is to be comparable to the OR table amounts.

## APPENDIX A: EXAMPLES OF CROSS-CREDIT FORMULA

### VERMONT

<http://dcf.vermont.gov/sites/dcf/files/pdf/ocs/GuidelinesShared.pdf>

### SHARED CUSTODY

#### Child Support Worksheet Instructions

When each parent exercises physical custody (keeping the children overnight) thirty percent (30%) or more of a calendar year, this is considered shared custody. The guideline calculation in these cases is adjusted to reflect the additional costs of maintaining two households. This is a credit which is determined by multiplying 150% of the child expenditures by the percentage of time that parent exercises custody. 15 V.S.A. § 657(a)

When one parent exercises physical custody for twenty-five percent (25%) or more, but less than thirty percent (30%) of the calendar year, there is an additional adjustment in order to minimize economic disputes over parent-child contact and visitation. 15 V.S.A. § 657(b) This adjustment is derived from the Partial Shared Costs Table at the end of the Shared Tax Conversion Table (the last pink page).

These instructions and worksheets incorporate all adjustments for shared custody cases. On the shared custody worksheet, parent A is the parent with the child(ren) the higher percentage of time. If each parent has the child(ren) 50% of the time, Parent A is the parent with the lower Monthly Gross Income.

### COLORADO

(a Colorado Revised Statutes § 14-10-115(8).) . . . a total child support obligation is determined by adding each parent's respective basic child support obligation, as determined through the guidelines and schedule of basic child support obligations . . . , work-related net child care costs, extraordinary medical expenses, and extraordinary adjustments to the schedule of basic child support obligations. The parent receiving a child support payment shall be presumed to spend his or her total child support obligation directly on the children. The parent paying child support to the other parent shall owe his or her total child support obligation as child support to the other parent minus any ordered payments included in the calculations made directly on behalf of the children for work-related net child care costs, extraordinary medical expenses, or extraordinary adjustments to the schedule of basic child support obligations.

(b) Because shared physical care presumes that certain basic expenses for the children will be duplicated, an adjustment for shared physical care is made by multiplying the basic child support obligation by one and fifty hundredths (1.50). In cases of shared physical care, each parent's adjusted basic child support obligation . . . shall first be divided between the parents in proportion to their respective adjusted gross incomes. Each parent's share of the adjusted basic child support obligation shall then be multiplied by the percentage of time the children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent. To these amounts shall be added each parent's proportionate share of work-related net child care costs, extraordinary medical expenses, and extraordinary adjustments to the schedule of basic child support obligations. The parent owing the greater amount of child support shall owe the difference between the two amounts as a child support order minus any ordered direct payments made on behalf of the children for work-related net child care costs, extraordinary medical expenses, or extraordinary adjustments to the schedule of basic child support obligations. In no case, however, shall the amount of child support ordered to be paid exceed the amount of child support that would otherwise be ordered to be paid if the parents did not share physical custody.



## APPENDIX B: EXCERPT FROM MICHIGAN

<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/focb/2013MCSF.pdf>

*Note that in MI, Parent A has more “custody” and Parent B has less “custody.” So, the parents should be flipped in the calculation for comparison to how Minnesota defines Parent A and Parent B.*

### 3.03 Adjusting Base Obligation with the Parental Time Offset

3.03(A) Presuming that as parents spend more time with their children they will directly contribute a greater share of the children’s expenses, a base support obligation needs to offset some of the costs and savings associated with time spent with each parent. (1) Base support mainly considers the cost of supporting a child who lives in one household. When a parent cares for a child overnight, that parent should cover many of the child’s unduplicated costs, while the other parent will not have to spend as much money for food, utility, and other costs for the child.

(2) Apply the following Parental Time Offset Equation to adjust base support to reflect some of the cost shifts and savings associated with the child spending time with both parents:

$$\frac{(A_o)^3 \cdot (B_s) - (B_o)^3 \cdot (A_s)}{(A_o)^3 + (B_o)^3}$$

A<sub>o</sub> = Approximate annual number of overnights the children will likely spend with parent A

B<sub>o</sub> = Approximate annual number of overnights the children will likely spend with parent B

A<sub>s</sub> = Parent A’s base support obligation

B<sub>s</sub> = Parent B’s base support obligation

**Note:** A negative result means that parent A pays and a positive result means parent B pays.

3.03(B) An offset for parental time generally applies to every support determination whether in an initial determination or subsequent modification, whether or not previously given.

3.03(C) Apply the parental time offset to adjust a base support obligation whenever the approximate annual number of overnights that each parent will likely provide care for the children-in-common can be determined. When possible, determine the approximate number based on past practice. (1) When different children spend different numbers of overnights with the parents, use the average of the children’s overnights.

(2) Absent credible evidence of changed practices, presume the same approximate number that was used in determining the most recent support order.

(3) In cases without a past determination or other credible evidence, presume the approximate number of overnights granted in the terms of the current custody or parenting time order.

(4) Credit a parent for overnights a child lawfully and actually spends with that parent including those exercised outside the terms of the currently effective order. This may happen by agreement, or when one parent voluntarily foregoes time granted in the order. Do not consider overnights exercised in violation of an order. (a) If a parent produces credible evidence that the approximate number exercised differs from the number granted by the custody or parenting time order, credit the number according to the evidence without requiring someone to formally petition to modify the custody or parenting time order.

(b) When the most recent support order deviated based on an agreement to use a number of overnights that differed from actual practice, absent some other change warranting modification, credible evidence of changed practices only includes an order changing the custody or parenting time schedule.

3.03(D) If a substantial difference occurs in the number of overnights used to set the order and those actually exercised (at least 21 overnights or that causes a change of circumstances exceeding the modification threshold (§4.04)), either parent or a support recipient may seek adjustment by filing a motion to modify the order.

3.03(E) So the court can know if circumstances have changed at the time of a subsequent determination, every child support order must indicate whether it includes a parental time offset and the number of overnights used in its calculation.

# Alternative Adjustments for Parenting-Time Expenses and Low-Income Adjustments



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Points of view expressed in this document are those of the author and do not necessarily represent the official position of the State or Work Group. The author is responsible for any errors and omissions.



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## EXECUTIVE SUMMARY

Minnesota is contemplating two alternative parenting-expense adjustments: the Oregon Alternative A adjustment, and the Michigan formula. Workgroup members are concerned about “flipping;” that is, at what number of overnights does the formula flip from Parent A (the parent with less custody) owing support to Parent B (the parent with more custody) owing support. Workgroup members are also concerned about how an alternative parenting-expense formula would interact with a low-income adjustment. Minnesota’s current low-income adjustment consists of a self-support allowance of 120 percent of the Federal Poverty Level for one person (\$1,177 per month) and a minimum order of \$50, \$75 or \$100 depending on the number of children. Minnesota applies both the low-income adjustment and its 12-percent adjustment to timesharing arrangements of 45 percent or less, but *does not apply* the low-income adjustment when Parent A has more than 45-percent timesharing.

### Flipping occurs in most states’ parenting-expense adjustments.

It occurs in the cross-credit formula, which is the most commonly used formula among states, when Parent A’s timeshare exceeds Parent’s A prorated share of income. In other words, it can only occur when Parent B has more income than Parent A. Under Oregon Adjustment A, the flip occurs when Parent A’s prorated share of income is less than the adjustment percentage. In Michigan, flipping occurs when the differences in the parents’ prorated share is greater than the cubed difference of their timeshares. This results in Michigan’s formula being slower to flip than the cross-credit formula or the Oregon Alternative A formula.

Most states limit flipping through setting a minimum timesharing threshold (e.g., 25-45 percent) before applying the adjustment. Another way that states limit it is to provide that the parenting-expense adjustment cannot be applied if it significantly reduces the custodial household’s income or by providing a similar deviation criterion. Based on analysis of case file data in other states and knowledge of other states’ policies, CPR believes the occurrence of flipping at low levels of timesharing (e.g., 25 percent or less) is likely to be nominal.

### States are mixed on whether they apply both the low-income adjustment and the parenting-expense formula.

Since most states don’t have as generous of self-support allowance as Minnesota does — only a few states update their self-support allowance annually and even fewer set their self-support allowance above 100 percent of the FPL— and most states don’t apply a parenting-time expense formula to low levels of timesharing (e.g., less than 20 percent), the provisions of other states are not that informative to Minnesota’s dilemma.

Nonetheless, this brief does document an anomaly with the minimum order amount. If the minimum order is applied to all parenting-time situations (e.g., almost equal custody and almost equal income), it will result in a minimum-order amount (e.g., \$50 per month for one child) rather than a zero or nominal order amount. This is a problem in Oregon as well since Oregon's minimum order is \$100 per month. It is less of a problem in Michigan because Michigan's minimum order is generally less (i.e., 10 percent of the parent's net income) and Michigan's version of a self-support allowance is lower than Minnesota's. Regardless, providing that the minimum order shall not be applied if each parent has substantial custody (say, each parent has the child for at least 35 percent of the child's time) can rectify this anomaly.

#### **The Excel calculator now includes the low-income adjustment.**

A new Excel calculator that compares the parenting-expense formulas has been developed. Minnesota's existing low-income adjustment is layered on top of these formulas to examine the impact. The new calculator also corrects for a round-off difference with the State's online calculator.

#### **Neither adjustment is clearly better than the other, but either would alleviate the current cliff effect.**

The Oregon Alternative A adjustment generally produces support awards slightly less than the Michigan adjustment and the Michigan adjustment more closely tracks the existing Minnesota adjustment.

CPR just learned that after nearly a decade of use, Michigan intends to make a modification to its parenting-expense formula. Instead of using the 3.0 power (i.e., cubing, which provides for a gradual change), Michigan is proposing the power to 2.54, which will produce a more precipitous change as Parent A's time with the child increases.

Oregon has been using its adjustment for about two years. The actual Oregon adjustment has a more precipitous decrease than both the Oregon Alternative Adjustment A (which is by design) and the existing Michigan adjustment. Prior to adopting its existing adjustment, Oregon used the cross-credit formula. Oregon believes its current adjustment reduces parental conflict over the number of overnights each parent has the child.

Each alternative adjustment has some strengths over the other (e.g., ease of use and transparency), but neither adjustment emerges as being better than the other. Nonetheless, either would alleviate the cliff effect in Minnesota's current parenting-expense formula. Minnesota's existing low-income adjustment can also be layered on top of either adjustment, but there should be some exceptions to the minimum order when there is substantial timesharing to address the minimum order anomaly.

## PURPOSE

The major purpose of this briefing is to explore the interaction of alternative parenting-expense formulas (i.e., Oregon Alternative A and the Michigan formula, which are explained in earlier briefs) and the existing Minnesota low-income adjustment. It also addresses the issue of “flipping;” that is, situations in which the guidelines calculation results in the parent with more “custody” (i.e., Parent B) owing the other parent (i.e., Parent A) support if Parent B has substantially more income than Parent A as Parent A’s time with the child increases.

This brief also explains some technical changes in the guidelines calculator (i.e., a correction for round-off differences between the previous Excel calculator and the Minnesota online calculator) and Michigan’s proposed changes to its parenting-expense formula. The brief concludes with a policy assessment of the alternative parenting-expense adjustments.

### FLIPPING OF PARENT OBLIGATED TO PAY SUPPORT

Exhibits A and B illustrate “flipping.” Exhibit A shows it occurs under the Oregon Alternative A formula if Parent A’s prorated share of combined parental income is less than the percentage adjustment.

Exhibit A: Illustration of Flipping of Which Parent Owes Support		Parent A	Parent B	Combined
Line 1. Gross Income	If Parent's A prorated share < percentage time-sharing adjustment →Parent B owes Parent A	\$2,000	\$6,000	\$8,000
Line 2. Percentage of Income		25%	75%	100
Line 3. Basic Obligation		\$260	\$880	\$1,040
Case A: Line 4. Overnights		134	231	365
Case A: Line 5: Percentage adjustment from Oregon A Table		24.87%		
Case A: Line 6: Parent A's timesharing adjustment (Line 3 combined X Line 5)		\$259		
Case A: Line 7: Preliminary Support Award (Line 3 – Line 6)		\$1		
Case A: Line 8: Support award (Line 7 or min. support award of \$50)		\$50		
Case B: Line 4. Overnights		135	231	365
Case B: Line 5: Percentage adjustment from Oregon A Table		25.38%		
Case B: Line 6: Parent A's timesharing adjustment (Line 3 combined X Line 5)		\$264		
Case B: Line 7: Preliminary Support Award (Line 3 – Line 6)		(\$4)		
Case B: Line 8: Support award (Line 7 or min. support award of \$50)			\$50	

Flipping also occurs under the existing Minnesota parenting-expense adjustment and the Michigan formula. Pinpointing when it occurs under these two formulas is not as straightforward as it is for the Oregon Alternative A. Under the existing Minnesota parenting-expense adjustment, it will only occur when Parent A has the child more than 45 percent of the time and Parent B’s share of combined parental income is more than 50 percent. Michigan’s formula flips when the difference in the parents’ prorated share is greater than the difference of their cubed time shares. Exhibit A also shows the amount of the flip is exacerbated by the minimum order (which is \$50 per month in this scenario).

## Exhibit B

Version 11/5/2015

INSTRUCTIONS: Complete the green boxes

Case **Exhibit B**

# of Children **1**

Parent A's Gross Income

\$ **2,000**

Parent B's Gross Income

\$ **6,000**

(parent with more "custody")

Existing Minn

Parent's A prorated share of income (25%) > OR Alternative A adjustment (26.92%) → Flip in which order obligated to pay support

Combined Gross Income of the Parents \$ **8,000**

Schedule Amount (Basic Obligation) \$ **1,040**

Existing Self-Support Adjustment (SSA) \$ **1,177** (120% Fed. Pov. level for 1 person)

### Monthly Support Award

Percent of Child's Time	31.2%	32.9%	34.5%	36.2%	37.8%	39.5%	41.1%	42.7%	44.4%	46.0%	47.7%	49.3%	50.0%
Overnights per year with Parent A	114.0	120.0	126.0	132.0	138.0	144.0	150.0	156.0	162.0	168.0	174.0	180.0	182.5
Average overnights per month	9.5	10.0	10.5	11.0	11.5	12.0	12.5	13.0	13.5	14.0	14.5	15.0	19.0
Parent's A Share	25%	25%	25%	25%	25%	25%	25%	25%	25%	25%	25%	25%	25%
OR Alternative A	14.61%	17.69%	20.76%	23.84%	26.92%	30.00%	33.07%	36.15%	39.23%	42.31%	45.38%	48.46%	50.00%
Existing MN (w/ MN low-income	\$229	\$229	\$229	\$229	\$229	\$229	\$229	\$229	\$229	(\$390)	(\$390)	(\$390)	(\$390)
OR Alt A (w/ MN low-income adjustment)	\$108	\$76	\$50	\$50	(\$50)	(\$52)	(\$84)	(\$116)	(\$148)	(\$180)	(\$212)	(\$244)	(\$823)
Michigan (w/ MN low-income adjustment)	\$171	\$151	\$127	\$100	\$69	\$50	(\$50)	(\$50)	(\$90)	(\$138)	(\$188)	(\$239)	(\$823)
MI formula (w/ no low inc adjustment)	\$171	\$151	\$127	\$100	\$69	\$35	(\$4)	(\$45)	(\$90)	(\$138)	(\$188)	(\$239)	(\$260)
MI formula (w/ MI low-income adjust.)	\$171	\$151	\$127	\$100	\$69	\$35	(\$4)	(\$45)	(\$90)	(\$138)	(\$188)	(\$239)	(\$260)
OR Alt A (w/ NO low-income adjustment)	\$108	\$76	\$44	\$12	(\$20)	(\$52)	(\$84)	(\$116)	(\$148)	(\$180)	(\$212)	(\$244)	\$50
OR Alt A (w/ varying SSR & 10% min.)	\$108	\$76	\$44	\$12	(\$20)	(\$52)	(\$84)	(\$116)	(\$148)	(\$180)	(\$212)	(\$244)	\$0

The parent obligated to pay support flips from Parent A with 132 overnights per year to Parent B at 138 overnights per year for all three versions of the Oregon Alternative A formula shown in this exhibit. (The different versions are explained in detail later.)

- It flips from Parent A owing \$50 to (\$50) under Oregon Alternative A (with the Minnesota low-income adjustment)
- It flips from Parent A owing \$12 to (\$20) under Oregon Alternative A (with no low income adjustment)
- It flips from Parent A owing \$23 to (\$20) under Oregon Alternative A (with a variable self-support adjustment)

Flipping also occurs under Minnesota's existing parenting-expense formula and the Michigan formula. It is simpler to explain under the Oregon formula. Flipping is more complicated due to the Minnesota 45-percent threshold and Michigan's cubing.

## Flipping in Other States with Parenting-Time Expense Adjustments

Most parenting-expense formulas in other state child support guidelines (e.g., Michigan and Oregon) will also flip. Moreover, most policymakers in these states believe a flip is appropriate when Parent B has substantially more income than Parent A.

### When the flip occurs and by how much can be mitigated by three ways.

- a) **Having a different formula for low-levels of timesharing** that doesn't allow for a flip (e.g., Minnesota's 12 percent adjustment and Missouri's 10 percent adjustment). However, some of the disadvantages of a percentage adjustment are that it assumes a one-size fits all adjustment for a wide range of parenting arrangements and it often produces cliff effects when it transitions to larger adjustments for significant custody situations.
- b) **Providing a high timesharing threshold** for applying the parenting-expense formula (e.g., 45 percent timesharing in Minnesota). Most states use the cross-credit formula (which is essentially the framework of the formula Minnesota uses above 45 percent) as the parenting-expense formula and provide that the formula cannot be applied until parenting time exceeds 25 to 40 percent of the child's time. Under the cross-credit formula, flipping occurs when Parent A's share of time exceeds Parent A's prorated share of income. This is more likely to occur at higher levels of shared-parenting time. To this end, higher parenting-time thresholds limit flipping at low levels of timesharing.
- c) **Providing a deviation criterion when the parenting-time adjustment significantly reduces the income in the primary residence of the child.** Several states (e.g., Indiana) provide a deviation criterion or that the parenting-time adjustment should not be applied if it significantly reduces the income of the custodial household.

Most states have higher timesharing threshold for applying the parenting-expense adjustment than Minnesota's 10-percent timesharing criterion. There are a few states that have specifically designed their formulas not to flip. New Jersey and Indiana both assume that one parent always has more child-rearing expenses than the other parent even in equal incomes and equal custody cases. These states assume only one parent incurs the cost of the child's clothes, iPod or cellphone (assuming the child has one) and similar personal items. Pennsylvania doesn't make this assumption about the expense of the child's personal items but its formula also doesn't allow for a flip. (As an aside, the committee currently reviewing the Pennsylvania child support guidelines is considering other parenting-expense adjustments to deal with the cliff in Pennsylvania current parenting-expense adjustment.)

## PARENTING-EXPENSE ADJUSTMENT & LOW-INCOME ADJUSTMENTS

### Updated Excel Calculator

The updated Excel calculator incorporates Minnesota's low-income adjustment into the comparisons of alternative parenting-expense formulas. It also partially corrects for the

difference between the original Excel calculator and the Minnesota online calculator. The discrepancy resulted from the Minnesota online calculator rounding the parent's prorated share to the nearest whole number (e.g., 66.67% is rounded to 67%). The November version of the Excel calculator also rounds to the nearest whole number. A discrepancy, however, still exists with numbers ending in 0.5. The Excel calculator will round 0.5 to 1 while the Minnesota online calculator will round down to 0.<sup>1</sup>

Exhibit C shows the parameters of the alternative parenting-expense adjustments formulas being compared in the November version of the Excel calculator.

Exhibit C: Self Support Allowances and Minimum Orders in November Version of Excel Calculator		
	Self Support Allowance	Minimum Order
Existing MN (w/ MN low-income adjustment)	\$1,117 (below 45% timesharing) None (above 45% timesharing)	\$50/\$75/\$100 (below 45% timesharing) None (above 45% timesharing)
OR Alt A (w/ MN low-income adjustment)	\$1,117 (all timesharing levels)	\$50/\$75/\$100 (all timesharing levels)
Michigan (w/ MN low-income adjustment)	\$1,117 (all timesharing levels)	\$50/\$75/\$100 (all timesharing levels)
MI formula (w/ NO low inc adjustment)	None	None
OR Alt A (MN SSA & min = time adjt amt)	\$1,117 (all timesharing levels)	\$50/\$75/\$100 (if the income available for support is less than the minimum) None (if the amount is less than the minimum due to the parenting-expense adjustment)
MI (MN SSA & min = time adjt amt)	\$1,117 (all timesharing levels)	Same as above
MI formula (w/ MI low-income adjust.)	\$1,000 gross*	Minimum order: 10% of income below \$1,000 gross income*
OR Alt A (w/ NO low-income adjustment)	None	None
OR Alt A (w/ varying SSR & 10% min.)	\$1,117 + % of FPL for the children multiplied by the % of time the children spend with that parent.	10% of gross income

\*Michigan's guidelines are actually based on net income rather than gross income. The actual self-support allowance in Michigan is \$931, which is the 2012 federal poverty level for one person, and applied to net income. For purposes of application to gross income, it is assumed that taxes are about \$69 per month, so the gross equivalent is \$1,000 per month. In addition, Michigan provides a transitional formula for incomes above \$931 net (\$1,000 gross). The formula is the lesser of the regular guidelines calculation and 10% of income + 50-70% (depending on # of children) multiplied by income above \$1,000/month.

Essentially, the Minnesota low-income adjustment, which consists of the self-support allowance (\$1,117 per month, which is 120 percent of the 2015 federal poverty level for one person) and the minimum order amount (i.e., \$50, \$75 or \$100 per month depending on the number of children), are layered on top of the Oregon Alternative A adjustment and Michigan adjustment. For purposes of comparisons, other versions include the following.

- *No low-income adjustment.* This is included so users can see the impact of layering Minnesota's current low-income adjustment on the alternative parenting-expense formulas.
- *No minimum order when the amount is driven down by the parenting-expense adjustment.* This is an option to address the anomaly of the minimum order, which is discussed next.

<sup>1</sup> CPR did not check whether there is a pattern of rounding 0.5 down with even numbers and up with odd numbers (e.g., 4.5 is rounded up to 5 while 3.5 is rounded down to 4). That even/odd pattern use to common upon programmers.



- *Michigan's actual low-income adjustment.* Michigan's actual low-income adjustment is more complicated than the Minnesota low-income adjustment. Further, the Michigan low-income adjustment is applied before the parenting-expense adjustment while the Minnesota low-income adjustment is essentially the last step of the guidelines calculation. Michigan's approach generally reduces the support award amount.
- *An alternative low-income adjustment.* One obvious criticism of the existing Minnesota self-support reserve is that it does not consider the needs of the children while in the care of that parent. To rectify this, a larger self-support allowance is used with the Oregon Alternative A formula (which is shown on the last row of the comparisons). Increasing the self-support allowance results in lowered support awards.

### Anomaly with the Minimum Order

The minimum order can exacerbate the dollar difference in the order amount when there is flipping of the parent who owes child support. This is a problem in Oregon because Oregon has a minimum order of \$100 per month. This means under the Oregon guidelines, Parent A will owe a minimum of \$100 per month and just adding one more overnight could flip the Oregon guidelines calculation to Parent B owing the minimum of \$100 per month. A similar problem exists if Minnesota applies its minimum order to all shared-parenting situations.

Exhibit D (which is the same scenario shown in Exhibit A) shows that layering the Minnesota low-income adjustment on top of the alternative parenting expense formulas results in the order amount never being less than the minimum amount (e.g., \$50 for one child). Case A considers 134 overnights (36.7% timesharing) and Case B considers 135 overnights (37.0% timesharing). Before the minimum order is applied, Parent A would owe \$1 per month when Parent A has 134 overnights and Parent B would owe \$4 if Parent B has 135 overnights.

Exhibit D: Illustration of the Impact of Minimum Orders	Parent A	Parent B	Combined
Line 1. Gross Income	\$2,000	\$6,000	\$8,000
Line 2. Percentage of Income	25%	75%	100
Line 3. Basic Obligation	\$260	\$880	\$1,040
Case A: Line 4. Overnights	134	231	365
Case A: Line 5: Percentage adjustment from Oregon A Table	24.87%		
Case A: Line 6: Parent A's timesharing adjustment (Line 3 combined X Line 5)	\$259		
Case A: Line 7: Preliminary Support Award (Line 3 – Line 6)	\$1		
Case A: Line 8: Support award (Line 7 or min. support award of \$50)	\$50		
Case B: Line 4. Overnights	135	231	365
Case B: Line 5: Percentage adjustment from Oregon A Table	25.38%		
Case B: Line 6: Parent A's timesharing adjustment (Line 3 combined X Line 5)	\$264		
Case B: Line 7: Preliminary Support Award (Line 3 – Line 6)	(\$4)		
Case B: Line 8: Support award (Line 7 or min. support award of \$50)		\$50	

Without the min. order of \$50, Parent A would owe \$1 in Case A

Without the min. order of \$50, Parent B would owe \$4 in Case B.



**The most direct way to alleviate this potential problem is to limit application of the minimum order.**

- For example, the minimum order can only apply if the parent qualifies because of income, not because of the parenting-expense adjustment.
- Still another example is that the minimum order cannot be applied if Parent A's parenting time exceeds 35 percent of the child's time or another threshold. (The threshold is a policy decision, but should consider when both parents have a significant share of parenting time.)

Based on CPR's analysis of case file data in other states, cases in which Parent B has substantially more income than Parent A and a parenting-time arrangement that is less than Parent B's prorated income share are generally infrequent. As a consequence, these situations may be appropriately addressed by guidelines deviations or court discretion.

**Do Other States Apply Both Adjustments?**

States are mixed whether their guidelines allow both the low-income adjustment and time-sharing adjustment to be applied. Generally, those states requiring a higher threshold for applying the parenting-expense threshold do not allow **both** the parenting-expense adjustment and low-income adjustment to be applied. For example, Colorado, which uses the cross-credit formula for timesharing arrangements of more than 25 percent, does not apply the minimum order if each parent keeps the children more than 92 overnights per year. Further, Colorado provides that in no case... "shall the amount of child support ordered to be paid exceed the amount of child support that would otherwise be ordered to be paid if the parents did not share physical custody."

As noted in the CPR September brief, there are only eight states, including Minnesota, that provide a parenting-expense formula for parenting arrangements of less than 20 percent.

**The provisions of these states are not that informative to Minnesota's current dilemma.** One reason is that Minnesota has a more generous low-income adjustment than many states.

- In *Arizona* and *California*, the low-income adjustment is applied at court discretion in all cases regardless whether the parenting-expense adjustment is applied. In Arizona, the court must first consider the "financial impact the reduction would have on the custodial parent's household" before making the adjustment.
- In *Indiana*, the parenting-expense adjustment is not automatic. "The court should determine if application of the credit will jeopardize a parent's ability to support the children." Further, Indiana's low-income adjustment is incorporated into the schedule, so only applies to a limited number of parents with very low incomes. For the parenting-expense to be applied, there must be at least 52 overnights, and then the adjustment is only 6.2 percent of the schedule amount.

- *Florida and Missouri* incorporate their low-income adjustments into their respective schedules, so Parent A's income would have to fall in that schedule area for the low-income adjustment to be applied. Since neither state has kept their respective low-income adjustments current and both requires a parenting-time order for the parenting-expense to apply, few cases would have both adjustments apply in these states.
- *Michigan's* formula provides that the low-income adjustment be applied prior to inserting the adjusted amount into the Michigan parenting-expense formula. As aside, this results in an amount this is lower than if the low-income adjustment is applied after the parenting-expense formula. Michigan has a lower minimum order (i.e., 10 percent of the obligated parent's net income) than Minnesota, but it has a lower threshold for applying it (i.e., net income of \$931 per month).
- *New Jersey* provides that its parenting-expense adjustment cannot be applied unless the custodial parent's household income exceeds 200 percent of the federal poverty level for that family size.
- *Oregon* applies its low-income adjustment as a last step in its guidelines calculation. As a consequence, Oregon's \$100 minimum order applies to cases in which the parenting-expense calculation would result in a significantly less order amount (say \$25 per month).

The next two pages show the impact when both parents have low income. Each page considers three low-income scenarios.

- The parents have equal incomes in the first scenario.
- Parent A has more income in the second scenario.
- Parent B has more income in the third scenario.

Case	Both parents work 32 hrs per week @ \$8/hour					# of Children	1					
	Parent A's Gross Income (parent with less "custody")					Parent B's Gross Income (parent with more "custody")						
	\$ 1,109					\$ 1,109						
	Monthly Support Award											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	48%	50%
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	175.2	182.5
Average overnights per month	0	3.0	4.6	6.1	7.6	9.1	10.6	12.2	13.7	14.0	14.6	15.2
Existing MN (w/ MN low-income adjt)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$0	\$0	\$0
OR Alt A (w/ MN low-income adjustment)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$0
Michigan (w/ MN low-income adjustment)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$0
MI formula (w/ no low inc adjustment)	\$269	\$268	\$266	\$261	\$250	\$230	\$196	\$146	\$79	\$63	\$32	\$0
OR Alt A (w/ NO low-income adjustment)	\$269	\$244	\$238	\$229	\$218	\$201	\$152	\$102	\$52	\$41	\$22	\$0
Case	Parent A works 40 hrs per week @ \$10/hr					# of Children	1					
	Parent A's Gross Income (parent with less "custody")					Parent B's Gross Income (parent with more "custody")						
	\$ 1,600					\$ 1,100						
	Monthly Support Award											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	48%	50%
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	175.2	182.5
Average overnights per month	0	3.0	4.6	6.1	7.6	9.1	10.6	12.2	13.7	14.0	14.6	15.2
Existing MN (w/ MN low-income adjt)	\$342	\$301	\$301	\$301	\$301	\$301	\$301	\$301	\$301	\$78	\$78	\$78
OR Alt A (w/ MN low-income adjustment)	\$342	\$315	\$308	\$299	\$287	\$269	\$216	\$162	\$109	\$97	\$76	\$52
Michigan (w/ MN low-income adjustment)	\$342	\$341	\$339	\$333	\$321	\$300	\$264	\$210	\$137	\$121	\$87	\$52
MI formula (w/ no low inc adjustment)	\$342	\$341	\$339	\$333	\$321	\$300	\$264	\$210	\$137	\$121	\$87	\$52
OR Alt A (w/ NO low-income adjustment)	\$342	\$315	\$308	\$299	\$287	\$269	\$216	\$162	\$109	\$97	\$76	\$52
Case	Parent B is the higher earner					# of Children	1					
	Parent A's Gross Income (parent with less "custody")					Parent B's Gross Income (parent with more "custody")						
	\$ 1,100					\$ 1,600						
	Monthly Support Award											
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	48%	50%
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	175.2	182.5
Average overnights per month	0	3.0	4.6	6.1	7.6	9.1	10.6	12.2	13.7	14.0	14.6	15.2
Existing MN (w/ MN low-income adjt)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	(\$78)	(\$78)	(\$78)
OR Alt A (w/ MN low-income adjustment)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	(\$50)	(\$50)	(\$52)
Michigan (w/ MN low-income adjustment)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	(\$50)	(\$52)
MI formula (w/ NO low inc adjustment)	\$238	\$237	\$235	\$229	\$217	\$195	\$159	\$105	\$33	\$16	(\$18)	(\$52)
OR Alt A (w/ NO low-income adjustment)	\$238	\$211	\$204	\$195	\$183	\$165	\$111	\$58	\$4	(\$8)	(\$28)	(\$52)

Case	Both parents work 40 hrs per week @ \$15/hour					# of Children	1									
	Parent A's Gross Income (parent with less "custody")					\$	2,400		Parent B's Gross Income (parent with more "custody")					\$	2,400	
	Monthly Support Award															
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	48%	50%				
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	175.2	182.5				
Average overnights per month	0	3.0	4.6	6.1	7.6	9.1	10.6	12.2	13.7	14.0	14.6	15.2				
Existing MN (w/ MN low-income adjt)	\$410	\$361	\$361	\$361	\$361	\$361	\$361	\$361	\$361	\$0	\$0	\$0				
OR Alt A (w/ MN low-income adjustment)	\$410	\$372	\$362	\$349	\$332	\$307	\$231	\$156	\$80	\$63	\$50	\$0				
Michigan (w/ MN low-income adjustment)	\$410	\$409	\$405	\$397	\$381	\$350	\$299	\$222	\$120	\$97	\$50	\$0				
MI formula (w/ no low inc adjustment)	\$410	\$409	\$405	\$397	\$381	\$350	\$299	\$222	\$120	\$97	\$49	\$0				
OR Alt A (w/ NO low-income adjustment)	\$410	\$372	\$362	\$349	\$332	\$307	\$231	\$156	\$80	\$63	\$34	\$0				
Case	Parent A works 40 hrs per week @ \$15/hour					# of Children	1									
	Parent A's Gross Income (parent with less "custody")					\$	2,400		Parent B's Gross Income (parent with more "custody")					\$	1,100	
	Monthly Support Award															
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	48%	50%				
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	175.2	182.5				
Average overnights per month	0	3.0	4.6	6.1	7.6	9.1	10.6	12.2	13.7	14.0	14.6	15.2				
Existing MN (w/ MN low-income adjt)	\$458	\$403	\$403	\$403	\$403	\$403	\$403	\$403	\$403	\$189	\$189	\$189				
OR Alt A (w/ MN low-income adjustment)	\$458	\$427	\$419	\$409	\$395	\$375	\$313	\$252	\$191	\$177	\$153	\$126				
Michigan (w/ MN low-income adjustment)	\$458	\$457	\$454	\$448	\$434	\$410	\$368	\$306	\$223	\$204	\$166	\$126				
MI formula (w/ no low inc adjustment)	\$458	\$457	\$454	\$448	\$434	\$410	\$368	\$306	\$223	\$204	\$166	\$126				
OR Alt A (w/ NO low-income adjustment)	\$458	\$427	\$419	\$409	\$395	\$375	\$313	\$252	\$191	\$177	\$153	\$126				
Case	Parent B works 40 hrs per week @ \$15/hour					# of Children	1									
	Parent A's Gross Income (parent with less "custody")					\$	1,100		Parent B's Gross Income (parent with more "custody")					\$	2,400	
	Monthly Support Award															
Percent of Child's Time	0%	10%	15%	20%	25%	30%	35%	40%	45%	46%	48%	50%				
Overnights per year with Parent A	0.0	36.5	54.8	73.0	91.3	109.5	127.8	146.0	164.3	167.9	175.2	182.5				
Average overnights per month	0	3.0	4.6	6.1	7.6	9.1	10.6	12.2	13.7	14.0	14.6	15.2				
Existing MN (w/ MN low-income adjt)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	(\$189)	(\$189)	(\$189)				
OR Alt A (w/ MN low-income adjustment)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	(\$50)	(\$61)	(\$75)	(\$99)	(\$126)				
Michigan (w/ MN low-income adjustment)	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	(\$50)	(\$50)	(\$86)	(\$126)				
MI formula (w/ no low inc adjustment)	\$206	\$205	\$202	\$196	\$182	\$157	\$116	\$54	(\$29)	(\$48)	(\$86)	(\$126)				
OR Alt A (w/ NO low-income adjustment)	\$206	\$175	\$167	\$156	\$143	\$122	\$61	(\$0)	(\$61)	(\$75)	(\$99)	(\$126)				

## CONCLUSIONS AND OTHER CONSIDERATIONS

Exhibit E compares the Oregon Alternative A adjustment and the Michigan adjustment using some desirable qualities of good policy and other attributes.

Exhibit E: Comparison of Alternative Parenting-Expense adjustments by Various Attributes			
	Existing MN	Oregon Alternative A	Michigan
Ease of use	Easy	Easy: Lookup table	Difficult: Requires calculator
Transparency of adjustment amount to user	Transparent	Transparent: Lookup table	Difficult: only because formula is difficult
Ease to explain		Difficult: It is a compromise between Oregon's sigmoid function and MN's existing adjustment	Easy to difficult: Has intuition of the cross-credit but taking it to the 3 <sup>rd</sup> power makes it gradual
Cliff effects	At 45%	None in parenting-expense formula	None in parenting-expense formula
Interaction with Low-Income Adjustment (self-support amount & min. order)	Not applicable to timesharing above 45%	Will need rule or deviation factor to address flipping at low-levels of timesharing and minimum-order anomaly	Will need rule or deviation factor to address flipping at low-levels of timesharing and minimum-order anomaly
Interaction with Adjustment for Non-Joint Children	Lowers available income	Lowers available income	Lowers available income
Interaction with Adjustment for Split Custody <sup>2</sup>		To be determined by policy	To be determined by policy
Experiences of the State		This is the third parenting-expense formula that Oregon has used in the last decade. This formula became effective about two years ago. Anecdotal evidence provided by Oregon finds that it reduces parental conflict over the number of overnights because the adjustment is very gradual.	Michigan has always had the same parenting-expense formula but switched from taking it to 2 <sup>nd</sup> power (squaring) to the 3 <sup>rd</sup> power (cubing) about a decade ago. MI switched because it resulted in a more gradual decrease. MI, which is reviewing its guidelines this year, however, is now proposing to take the formula to the 2.54 <sup>th</sup> power. This is in response to criticisms from a Michigan parents' advocacy group that the 3 <sup>rd</sup> power does not provide a sufficient reduction (i.e., it doesn't cover \$8 per day for the child's food.) <sup>3</sup>

<sup>2</sup> Under most state guidelines, the best way to address split custody mathematically is to calculate two orders and offset them. One calculation would assume the mother is Parent A and the other calculation would assume the father is Parent A. Support would be determined for each child for whom that parent has primary custody. If there are three children, however, and each parent has primary custody of one child and each parent has equal custody of the third child that may be best handled through a deviation factor. Given that nationally, less than 10 percent of child support cases involve three or more children, this is not likely to be a common situation.

<sup>3</sup> The USDA provides a range of food budgets for individuals and families by age and gender. For each, they offer four different food budgets based on income. The lowest is used for SNAP (formerly called Food Stamps) benefits. The highest is used for military per diem. Michigan consulted the "moderate food budget," which is about \$54 per week (about \$8 per day) for an eight-year old. The premise is that the timesharing adjustment should at least cover the child's



Neither adjustment clearly merges as the better policy for Minnesota. Oregon Alternative A generally produces lower amounts than the Michigan formula. On the one hand, that could be a merit of the Michigan formula: that is, it more closely tracks the existing Minnesota adjustment. On the other hand, since Michigan is contemplating a change its parenting-expense formula that will make it more generous, this could be a limitation. The counter-argument is that Minnesota could adopt the existing Michigan formula now and then review it as part of its next quadrennial review and tweak it (e.g., modify it so it produces a larger adjustment). This can be done simply by changing the power of the formula (i.e., 2, which is what Michigan used a decade ago; 2.54, which is what Michigan is now proposing; and 3, which is what Michigan uses now.) Similarly, Minnesota could adopt the Oregon Alternative A formula now and tweak it in four years.

Either formula will be an improvement from Minnesota's current formula by alleviating the cliff effect.

## APPENDIX A: OREGON ALTERNATIVE A

Note that the adjustment percentages would be 0 for timesharing arrangements below 10 percent if Minnesota provides that the adjustment can only be applied to parenting time in excess of 10 percent.

Exhibit 3: Comparison of Oregon Table to Alternative Table A											
Overnights	Oregon Credit %	Alternative A Credit %	Overnights	Oregon Credit %	Alternative A Credit %	Overnights	Oregon Credit %	Alternative A Credit %	Overnights	Oregon Credit %	Alternative A Credit %
0	0.00%	0.00%	36	3.19%	4.60%	72	8.67%	7.34%	108	17.77%	11.89%
1	0.07%	0.04%	37	3.30%	4.65%	73	8.87%	7.44%	109	18.09%	12.05%
2	0.14%	3.07%	38	3.42%	4.71%	74	9.07%	7.54%	110	18.41%	12.56%
3	0.21%	3.11%	39	3.54%	4.77%	75	9.27%	7.64%	111	18.73%	13.07%
4	0.28%	3.14%	40	3.66%	4.83%	76	9.48%	7.74%	112	19.06%	13.58%
5	0.35%	3.18%	41	3.78%	4.89%	77	9.68%	7.84%	113	19.39%	14.10%
6	0.42%	3.21%	42	3.91%	4.96%	78	9.90%	7.95%	114	19.72%	14.61%
7	0.49%	3.25%	43	4.04%	5.02%	79	10.11%	8.06%	115	20.06%	15.12%
8	0.57%	3.29%	44	4.16%	5.08%	80	10.33%	8.17%	116	20.40%	15.64%
9	0.65%	3.33%	45	4.30%	5.15%	81	10.55%	8.28%	117	20.75%	16.15%
10	0.72%	3.36%	46	4.43%	5.22%	82	10.77%	8.39%	118	21.10%	16.66%
11	0.80%	3.40%	47	4.56%	5.28%	83	11.00%	8.50%	119	21.45%	17.17%
12	0.88%	3.44%	48	4.70%	5.35%	84	11.23%	8.62%	120	21.81%	17.69%
13	0.96%	3.48%	49	4.84%	5.42%	85	11.47%	8.74%	121	22.17%	18.20%
14	1.04%	3.52%	50	4.98%	5.49%	86	11.70%	8.85%	122	22.54%	18.71%
15	1.13%	3.57%	51	5.12%	5.56%	87	11.94%	8.97%	123	22.90%	19.23%
16	1.21%	3.61%	52	5.27%	5.64%	88	12.19%	9.10%	124	23.27%	19.74%
17	1.29%	3.65%	53	5.41%	5.71%	89	12.43%	9.22%	125	23.65%	20.25%
18	1.38%	3.69%	54	5.56%	5.78%	90	12.68%	9.34%	126	24.03%	20.76%
19	1.47%	3.74%	55	5.71%	5.86%	91	12.94%	9.47%	127	24.41%	21.28%
20	1.56%	3.78%	56	5.87%	5.94%	92	13.19%	9.60%	128	24.80%	21.79%
21	1.65%	3.83%	57	6.02%	6.01%	93	13.45%	9.73%	129	25.19%	22.30%
22	1.74%	3.87%	58	6.18%	6.09%	94	13.72%	9.86%	130	25.58%	22.82%
23	1.84%	3.92%	59	6.34%	6.17%	95	13.98%	9.99%	131	25.98%	23.33%
24	1.93%	3.97%	60	6.51%	6.26%	96	14.25%	10.13%	132	26.38%	23.84%
25	2.03%	4.02%	61	6.67%	6.34%	97	14.53%	10.27%	133	26.78%	24.35%
26	2.12%	4.06%	62	6.84%	6.42%	98	14.80%	10.40%	134	27.19%	24.87%
27	2.22%	4.11%	63	7.01%	6.51%	99	15.08%	10.54%	135	27.60%	25.38%
28	2.32%	4.16%	64	7.19%	6.60%	100	15.37%	10.69%	136	28.01%	25.89%
29	2.43%	4.22%	65	7.36%	6.68%	101	15.66%	10.83%	137	28.43%	26.41%
30	2.53%	4.27%	66	7.54%	6.77%	102	15.95%	10.98%	138	28.85%	26.92%
31	2.64%	4.32%	67	7.72%	6.86%	103	16.24%	11.12%	139	29.27%	27.43%
32	2.74%	4.37%	68	7.91%	6.96%	104	16.54%	11.27%	140	29.70%	27.95%
33	2.85%	4.43%	69	8.09%	7.05%	105	16.84%	11.42%	141	30.13%	28.46%
34	2.96%	4.48%	70	8.28%	7.14%	106	17.15%	11.58%	142	30.56%	28.97%
35	3.08%	4.54%	71	8.47%	7.24%	107	17.46%	11.73%	143	31.00%	29.48%

144	31.44%	30.00%	181	49.24%	48.97%	218	67.23%	68.46%	255	81.59%	87.44%
145	31.88%	30.51%	182	49.75%	49.49%	219	67.68%	68.98%	256	81.91%	87.96%
146	32.32%	31.02%	183	50.25%	50.51%	220	68.12%	69.49%	257	82.23%	88.12%
147	32.77%	31.54%	184	50.76%	51.03%	221	68.56%	70.00%	258	82.54%	88.27%
148	33.22%	32.05%	185	51.26%	51.54%	222	69.00%	70.52%	259	82.85%	88.43%
149	33.68%	32.56%	186	51.76%	52.05%	223	69.44%	71.03%	260	83.16%	88.58%
150	34.13%	33.07%	187	52.27%	52.56%	224	69.87%	71.54%	261	83.46%	88.73%
151	34.59%	33.59%	188	52.77%	53.08%	225	70.30%	72.05%	262	83.76%	88.88%
152	35.05%	34.10%	189	53.27%	53.59%	226	70.73%	72.57%	263	84.05%	89.03%
153	35.52%	34.61%	190	53.77%	54.10%	227	71.15%	73.08%	264	84.34%	89.17%
154	35.99%	35.13%	191	54.27%	54.62%	228	71.57%	73.59%	265	84.63%	89.32%
155	36.45%	35.64%	192	54.77%	55.13%	229	71.99%	74.11%	266	84.92%	89.46%
156	36.93%	36.15%	193	55.27%	55.64%	230	72.40%	74.62%	267	85.20%	89.60%
157	37.40%	36.66%	194	55.77%	56.15%	231	72.81%	75.13%	268	85.47%	89.74%
158	37.88%	37.18%	195	56.27%	56.67%	232	73.22%	75.65%	269	85.75%	89.88%
159	38.35%	37.69%	196	56.77%	57.18%	233	73.62%	76.16%	270	86.02%	90.01%
160	38.83%	38.20%	197	57.26%	57.69%	234	74.02%	76.67%	271	86.28%	90.14%
161	39.32%	38.72%	198	57.75%	58.21%	235	74.42%	77.18%	272	86.55%	90.28%
162	39.80%	39.23%	199	58.25%	58.72%	236	74.81%	77.70%	273	86.81%	90.41%
163	40.29%	39.74%	200	58.74%	59.23%	237	75.20%	78.21%	274	87.06%	90.53%
164	40.77%	40.25%	201	59.23%	59.75%	238	75.59%	78.72%	275	87.32%	90.66%
165	41.26%	40.77%	202	59.71%	60.26%	239	75.97%	79.24%	276	87.57%	90.79%
166	41.75%	41.28%	203	60.20%	60.77%	240	76.35%	79.75%	277	87.81%	90.91%
167	42.25%	41.79%	204	60.68%	61.28%	241	76.73%	80.26%	278	88.06%	91.03%
168	42.74%	42.31%	205	61.17%	61.80%	242	77.10%	80.77%	279	88.30%	91.15%
169	43.23%	42.82%	206	61.65%	62.31%	243	77.46%	81.29%	280	88.53%	91.27%
170	43.73%	43.33%	207	62.12%	62.82%	244	77.83%	81.80%	281	88.77%	91.39%
171	44.23%	43.85%	208	62.60%	63.34%	245	78.19%	82.31%	282	89.00%	91.50%
172	44.73%	44.36%	209	63.07%	63.85%	246	78.55%	82.83%	283	89.23%	91.62%
173	45.23%	44.87%	210	63.55%	64.36%	247	78.90%	83.34%	284	89.45%	91.73%
174	45.73%	45.38%	211	64.01%	64.87%	248	79.25%	83.85%	285	89.67%	91.84%
175	46.23%	45.90%	212	64.48%	65.39%	249	79.60%	84.36%	286	89.89%	91.95%
176	46.73%	46.41%	213	64.95%	65.90%	250	79.94%	84.88%	287	90.10%	92.05%
177	47.23%	46.92%	214	65.41%	66.41%	251	80.28%	85.39%	288	90.32%	92.16%
178	47.73%	47.44%	215	65.87%	66.93%	252	80.61%	85.90%	289	90.52%	92.26%
179	48.24%	47.95%	216	66.32%	67.44%	253	80.94%	86.42%	290	90.73%	92.37%
180	48.74%	48.46%	217	66.78%	67.95%	254	81.27%	86.93%	291	90.93%	92.47%

292	91.13%	92.57%	329	96.81%	95.41%
293	91.33%	92.67%	330	96.92%	95.46%
294	91.53%	92.77%	331	97.04%	95.52%
295	91.72%	92.86%	332	97.15%	95.58%
296	91.91%	92.96%	333	97.26%	95.63%
297	92.09%	93.05%	334	97.36%	95.68%
298	92.28%	93.14%	335	97.47%	95.74%
299	92.46%	93.23%	336	97.57%	95.79%
300	92.64%	93.32%	337	97.68%	95.84%
301	92.81%	93.41%	338	97.78%	95.89%
302	92.99%	93.50%	339	97.88%	95.94%
303	93.16%	93.58%	340	97.97%	95.99%
304	93.33%	93.67%	341	98.07%	96.04%
305	93.49%	93.75%	342	98.16%	96.08%
306	93.66%	93.83%	343	98.26%	96.13%
307	93.82%	93.91%	344	98.35%	96.18%
308	93.98%	93.99%	345	98.44%	96.22%
309	94.13%	94.07%	346	98.53%	96.27%
310	94.29%	94.15%	347	98.62%	96.31%
311	94.44%	94.22%	348	98.71%	96.36%
312	94.59%	94.30%	349	98.79%	96.40%
313	94.73%	94.37%	350	98.87%	96.44%
314	94.88%	94.44%	351	98.96%	96.48%
315	95.02%	94.51%	352	99.04%	96.52%
316	95.16%	94.58%	353	99.12%	96.56%
317	95.30%	94.65%	354	99.20%	96.60%
318	95.44%	94.72%	355	99.28%	96.64%
319	95.57%	94.79%	356	99.35%	96.68%
320	95.70%	94.85%	357	99.43%	96.72%
321	95.84%	94.92%	358	99.51%	96.76%
322	95.96%	94.98%	359	99.58%	96.79%
323	96.09%	95.05%	360	99.65%	96.83%
324	96.22%	95.11%	361	99.72%	96.86%
325	96.34%	95.17%	362	99.79%	96.90%
326	96.46%	95.23%	363	99.86%	96.93%
327	96.58%	95.29%	364	99.93%	96.97%
328	96.70%	95.35%	365	100.00%	100.00%

**F. Other Research**

# Research Department

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# Minnesota House of Representatives

November 9, 2015

TO: Representative Peggy Scott  
FROM: Lynn Aves and Mary Mullen  
RE: Child support information

As you requested on November 1, 2015, attached is information we have compiled to answer the following questions:

1. How do other states calculate child support for low-income obligors?
2. How do other states calculate child support when there is no existing child support order?
3. Is reliable data available on the number of people who may be impacted by a change in the parenting expense adjustment?

We met with two analysts in our office who have backgrounds in economics, Pat Dalton and Sean Williams, about the issues related to calculations of child support. Because the interpretation and implementation of various formulas is within the skill sets of both Pat and Sean, we suggest you contact either or both of them for information on proposed child support and parenting expense adjustment formulas.

Please let us know if you can be of further assistance.

LA/MM/jg



### **Self-Support Reserves & Low Income Obligor**

States use a variety of different methods for calculating minimum support obligations and downward deviations for low-income obligors. Many states allow for or require a downward deviation, usually to a set state minimum child support amount, when an obligor has income below a certain number. Comparing these systems is an “apples to oranges” comparison in many cases. Below I have listed a few reasons why it is difficult to compare these self-support reserves and low-income obligations:

1. States each have a different way of determining what a parent’s “income” will be for the purposes of calculation;
2. States input income to parents who are underemployed or unemployed in different ways;
3. States sometimes apply the self-support reserve to only the obligor or to both parents, some states only look at the obligor’s income, and some states look at both parents income to determine support; and
4. Many states leave downward deviations in support orders to the discretion of the court.

Below I have listed a few trends to highlight how states handle the issue of minimum orders and self-support reserves. After that I have included a few states as examples. A comparison of low and high-income provisions can be found on the NCSL website:

<http://www.ncsl.org/research/human-services/states-treatment-of-low-high-income-child-support.aspx>

- Some states look at the combined income of the parents, and when it is below a certain number, then the downward deviation or state minimum for child support can be used.
  - Florida, Maryland, Indiana, Kansas, and Louisiana all look at the combined income of the parents. Indiana has one of the lowest with a combined income of less than \$100 per week.
- Many states allow for judicial discretion to determine if a deviation or the minimum award should be allowed.
  - Some states provide that deviation is a percentage of the obligor’s income (Michigan), some states provide that the support obligation cannot be more than a certain percentage of the parent’s income (New Mexico), and some states allow for judicial discretion in the downward deviation from the support order.
  - Many states set a minimum award to be used in low-income cases. These vary with the lowest number being \$7 per month (Kansas) to as high as \$100 per month for one child (Nevada, South Carolina, Tennessee), or in Connecticut \$200 per month, but most states fall in-between that range at around \$25 or \$50 per child per month.
- Many states have a number that is set, usually tied to the federal poverty guidelines, but also just a set number, and when an obligor’s income falls below that number, the court either imposes the state’s minimum support obligation or does a downward deviation at their discretion.

- The number used by states varies widely, Georgia allows the court to consider a downward deviation when an obligor makes less than \$1,850 per month, while North Dakota allows a minimum support obligation on a case-by-case basis and sets \$100 per month as the amount to consider the deviation.
- Many states use a number between \$500 and \$900 as the trigger for a downward deviation or minimum support order including: Arizona, D.C., Iowa, Maryland, Michigan, Mississippi, New Jersey, New Mexico, Ohio, Pennsylvania, Rhode Island, South Carolina, Utah, Washington state, West Virginia, and Wyoming. (Not a complete list.)
- A number of states are tied to the federal poverty guidelines, or use a number over \$900 per month to apply a minimum award or downward deviation, including: Alaska, California, Colorado, Georgia, Kansas, Maine, Minnesota, New York, North Carolina, and Oklahoma. (Not a complete list.)

## **State Examples**

Below are excerpts from various state's child support guidelines or statutes that provide some basic information on what the self-support reserve is, and in some cases, what their minimum child support order is in low-income cases. Many of them have a citation to their state code or to the child support guidelines for that state.

### **California**

The court can make a low-income adjustment by ordering a lower amount of child support if a parent's net disposable income is less than \$1000, unless it would be unfair or inappropriate to do so under the circumstances. California Family Code Sections 4050-4076.

### **Colorado**

When either the obligor's monthly adjusted gross income, or the parents' combined monthly adjusted gross income, is less than \$1,100, the guideline provides for a minimum order of \$50 per month for one child, \$70 per month for two children, \$90 per month for three children, \$110 per month for four children \$130 per month for five children, and \$150 per month for six or more children. The minimum order amount shall not apply when each parent keeps the children more than 92 overnights each year. In no case however, shall the amount of child support ordered to be paid exceed the amount of child support that would otherwise be ordered to be paid if the parents did not share physical custody.

In circumstances in which the parents' combined monthly adjusted gross income is \$1,100 or more, but in which the parent with the least number of overnights per year with the child has a monthly adjusted gross income of less than \$1,900, the parent with the least overnights per year is eligible for a low-income adjustment as follows. First, the monthly gross income of each parent will be determined. Based upon the parents' combined monthly gross incomes, the monthly basic child support obligation will be determined and each parent's presumptive

proportionate share of that obligation. Then, the income of the parent with the fewest number of overnights per year will be adjusted by subtracting \$1,100 from that parents' monthly adjusted gross income. The result of the subtraction will be added to the basic minimum child support amount listed above (e.g., \$50 per month for one child, etc.) to determine the minimum child support obligation. However, if the result of the subtraction is zero or a negative number, then zero will be added to the basic minimum child support amount. The product of this low-income adjustment will be compared to the parents' presumptive proportionate share of the monthly basic support obligation, and the lesser of the two amounts shall be the basic monthly support obligation to be paid by the low-income parent, as adjusted by the low-income parent's proportionate share of the work-related and education-related child care costs, health insurance, extraordinary medical expenses, and other extraordinary adjustments. The low-income adjustment shall not apply when each parent keeps the children more than 92 overnights each year.

[https://www.courts.state.co.us/Forms/PDF/JDF%201822%20-%20Child%20Support%20Guideline%20-%20R1%2014%20\(FINAL\).pdf](https://www.courts.state.co.us/Forms/PDF/JDF%201822%20-%20Child%20Support%20Guideline%20-%20R1%2014%20(FINAL).pdf)

## **Connecticut**

There is no award when an obligor has less than \$50 per week income, and there is a reduced award when a parent has a "low-income designation" and makes less than \$290 per week.

## **Michigan**

Michigan law has a low-income threshold, currently set at \$931 (2012 United States HHS Poverty Guideline). When one parent's net income does not exceed the low-income threshold, they do not include that parent's income in the monthly net family income used to calculate the other parent's general care support obligation.

The court can then use a low-income equation to calculate support. When a parent's monthly net income does not exceed the low-income threshold, the parent's base support obligation is 10 percent of that parent's income.

$$F \times 10\% = L$$

F = Parent's monthly net income, when below the low-income threshold (§ 2.09(A))

10% = Percentage for income below the threshold

L = Base support (round to the nearest whole dollar)

There is also an alternative formula that can be used and the court can use the obligation from the formula that is lower.

<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/focb/2013MCSF.pdf>

## **New Jersey**

*Self-support reserve.* The self-support reserve is a factor in calculating a child support award only when one or both of the parents have income at or near the poverty level. The self-support reserve is 105 percent of the U.S. poverty guideline for one person. It attempts to ensure that the obligor has sufficient income to maintain a basic subsistence level and the incentive to work so that child support can be paid. A child support award is adjusted to reflect the self-support reserve only if payment of the child support award would reduce the obligor's net income below the reserve and the custodial parent's (or the parent of the primary residence's) net income minus the custodial parent's share of the child support award is greater than 105 percent of the poverty guideline. The latter condition is necessary to ensure that custodial parents can meet their basic needs so that they can care for the children. As of January 22, 2015, the self-support reserve is \$238 per week (this amount is 105 percent of the poverty guideline for one person). Note that the deviation is not allowed when the obligee is also below the poverty guideline. A minimum order is \$5 per week.

If the court finds that the guidelines are inappropriate in a specific case, it may either disregard the guidelines or adjust the guidelines-based award to accommodate the needs of the children or the parents' circumstances.

<https://www.judiciary.state.nj.us/csguide/app9a.pdf>

## **New York**

The 2015 poverty income guideline amount for a single person as reported by the United States Department of Health and Human Services is \$11,770 and the 2015 self-support reserve is \$15,890.

Below \$14,200 annual income a parent pays \$25 a month per child, over \$14,200 a parent pays \$50 per month plus \$25 per additional child until the regular calculation begin. This number jumps again at \$15,700 and continues to move up from there.

## **Oregon**

Subtracts a self-support reserve of \$1,135 from the parent's adjusted gross income. This amount is based on the federal poverty guidelines and is adjusted to account for estimated taxes. Oregon Child Support Guidelines 137-050-0745.

## **Pennsylvania**

*Low-income adjustments.* Pennsylvania is one of 46 states that provide a low-income adjustment in their guidelines. The purpose of the low-income adjustment is to preserve at least a subsistence level of income for obligors with poverty-level incomes after payment of the guidelines-determined amount. Most of these states incorporate the adjustment into their basic schedules/formulae. The amount of the low-income adjustment varies significantly among states.

States such as Pennsylvania that routinely update their low-income adjustment for periodic changes in the federal poverty level have lower schedules/formulae at very low incomes than state guidelines with no low-income adjustment and guidelines schedule/formulae of states that have not recently updated their low-income adjustment.

<https://www.humanservices.state.pa.us/CSWS/CSWS/Forms/PAGuidelines.pdf>

*Self-Support Reserve* (“SSR”). The amended schedule also incorporates an increase in the “Self-Support Reserve” or “SSR” from \$748 per month to \$867 per month, the 2008 federal poverty level for one person. Formerly designated as the “Computed Allowance Minimum” or “CAM,” the Self-Support Reserve, as it is termed in most other states’ guidelines, is intended to assure that low-income obligors retain sufficient income to meet their own basic needs, as well as to maintain the incentive to continue employment. The SSR is built into the schedule in Rule 1910.16-3 and adjusts the basic support obligation to prevent the obligor’s net income from falling below \$867 per month. Because the schedule in Rule 1910.16-3 applies to child support only, Rule 1910.16-2(e)(1)(B) provides for a similar adjustment in spousal support and alimony pendent lite cases to assure that the obligor retains a minimum of \$867 per month.

<http://www.pacode.com/secure/data/231/chapter1910/s1910.16-1.html>

## **South Carolina**

A self-support reserve allows a low-income parent with the legal duty to pay support to retain a minimal amount of income before being assessed a full percentage of child support. This insures that the parent with the legal duty to pay support has sufficient income available to maintain a minimum standard of living which does not negatively affect his or her earning capacity, incentive to continue working, and ability to provide for him or herself. These guidelines incorporate a self-support reserve of \$748.00 per month. In order to safeguard the self-support reserve in cases where the income of the parent with the obligation to pay support and corresponding number of children fall within the shaded area of the Schedule of Basic Child Support Obligations, the support obligation must be calculated using the obligor’s income only. To include the income of the parent to whom support is owed in the calculation of such cases, or include any adjustments like medical insurance or day care expense, would reduce the net income of the parent with the legal duty to pay support to an amount below the self-support reserve. When a parent makes over \$750 per month the child support guidelines start at \$100 per month for one child.

<http://www.state.sc.us/dss/csed/forms/2014guidelines.pdf>



## Determining child support when there is no parenting time order

Several states and counties have adopted laws and procedures for determining child support when there is no existing child support order.

*Standard parenting time presumption.* This method is used in the state of Texas and in some Michigan counties. A predictable baseline for parenting time that is established by a standard parenting plan spells out how the child's time will be divided between each parent during regular, holiday, and vacation time periods. This method is used automatically if the parents have not developed an alternative plan.

*Self-help resources.* Some jurisdictions have developed resources that parents may access on their own to develop a parenting time plan. Oregon has developed online fill-in-the-blank parenting plans that can be filed with the court along with the required legal documents. There are various templates for numerous plan options. Texas offers a statewide telephone hotline on visitation that is staffed by attorneys who offer callers general information.

*Mediation and facilitation.* A few counties (DuPage County, Illinois; Oakland County, Michigan; Cuyahoga County, Ohio; and various counties in Colorado) offer neutral, third-party assistance to never-married parents in the state child support program to create parenting plans. This service can be based at the court, the child support agency, or at a community organization.

[https://www.acf.hhs.gov/sites/default/files/programs/css/center\\_for\\_policy\\_research\\_policy\\_brief.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/center_for_policy_research_policy_brief.pdf)

## Dissolution and support data

Below is data provided by the Minnesota Judicial Branch on the number of cases filed involving dissolutions with children, dissolutions without children, and child support only cases.

Case Filings						
	2010	2011	2012	2013	2014	Change over 5 years
Dissolution without children	8,261	8,075	8,209	8,002	7,768	-6%
Dissolution with children	9,228	8,844	8,716	8,255	7,778	-16%
Support	15,642	15,386	15,401	14,370	13,209	-16%

In terms of pending cases, here are the numbers as of September 30, 2015:

Dissolution without Children	1,618
Dissolution with Children	2,891
Support	2,936

## Overview of State Guidelines and How Reviewed/Updated

### Background

Two important factors should be considered when looking at other states' methods for reviewing and updating child support guidelines:

- (1) what branch of government is responsible for the creation and modification of child support guidelines; and
- (2) what group, if any, is responsible for periodic recommendation to review the guidelines.

The following chart shows that there is a wide range of combinations currently used throughout the United States. Responsibility for the guidelines can be housed in any branch of government —executive (administrative regulations), legislative (statutes), or judicial (court rules). States use a variety of permanent commissions, ad hoc committees, pre-existing legislative groups, and administrative agencies to make recommendations to the bodies actually responsible for modifying the guidelines.

Currently, Minnesota is an outlier in that there is no set commission or ad hoc committee to review the guidelines. Statute directs the executive branch agency to perform the quadrennial review every four years, but does not provide a set path for any changes to get back to the legislature. And since our guidelines are housed in statute, only the legislature is currently capable of changing the guidelines.

Please review the chart paying close attention to which branch of government holds the guidelines (court rule, administrative regulation, or statute) and the different types of membership noted for the various commissions.

### Chart

<u>State</u>	<u>Guidelines Model</u>	<u>Commission, Ad Hoc Group, Advisory Committee, or Council</u>	<u>Statutory Cite</u>	<u>Implementation of Guidelines</u>
<b>Alabama</b>	Income Share Model.	<p>Advisory Committee</p> <ul style="list-style-type: none"><li>• Appointed by the Supreme Court</li><li>• Every four years review the guidelines and schedule of basic support obligations</li><li>• Any recommendations concerning the guidelines or schedule of basic support obligations shall be put in writing and sent to the Supreme Court for review</li></ul>	Alabama Rules of Court, Rule 32(G)	Court Rule

<b>Alaska</b>	Percentage of income.	<p>Commission on Child Support Enforcement</p> <ul style="list-style-type: none"> <li>Governor appointed the commission in 1984 to study the state's child support program. The commission created a report to the Governor recommending adoption of a variation of WI's percentage income formula.</li> <li>The guidelines are set forth in Alaska's Civil Rule 90.3</li> <li>It appears this was a one-time commission that does not continue to meet</li> </ul>	None	Court Rule
<b>Arizona</b>	Shared income.	<p>Until this year, Committee**</p> <ul style="list-style-type: none"> <li>21 members representing the legislature, legal community, parents, judiciary and state child support agency</li> <li>A forum for all system stakeholders to develop and coordinate policies and strategies to improve the child support system including recommended legislative and/or administrative changes</li> </ul>	<p>A.R.S. § 25-323.01</p> <p>**Effective July 24, 2014, the statutory authority enabling these legislative committees was repealed</p>	Court Rule
<b>Arkansas</b>	Percentage of Income Model.	<p>Committee</p> <ul style="list-style-type: none"> <li>Family support chart shall be revised every 4 years by a committee appointed by the Chief Justice to ensure support amounts are appropriate</li> <li>The Supreme Court shall approve the family support chart and criteria upon revision by the committee.</li> </ul>	A.C.A. § 9-12-312(a)(4)-(5)	Court Rule
<b>California</b>	Shared Income Model. The formula uses the percentage of both parents' net disposable incomes, adjusted according to the percentage of time each parent has primary physical	<p>Judicial Council</p> <ul style="list-style-type: none"> <li>Child support commissioner within the administrative office of the judicial branch uses a consulting firm and a group of family-law lawyers to do the case review.</li> <li>The Judicial Council reviews the findings and makes recommendations to the legislature.</li> <li>"Most members are appointed by the Chief Justice, who serves as Chair of the Council, or by the State Bar Board of Trustees. Legislative representatives and advisory members also serve. Most members serve three year terms and each year about a</li> </ul>	Family Code Section 4054; Section 4067	Statute

	responsibility for child(ren).	<p>third of the membership rotates off and a new group is sworn in.”</p> <p>Legislative Review</p> <ul style="list-style-type: none"> <li>“It is the intent of the Legislature that the statewide uniform guideline shall be reviewed by the Legislature at least every four years and shall be revised by the Legislature as appropriate to ensure that its application results in determination of appropriate child support amounts. The review shall include consideration of changes required by applicable federal laws and regulations or recommended from time to time by the Judicial Counsel pursuant to Section 4054.”</li> </ul>		
<b>Colorado</b>	Shared Income Model.	<p>Commission</p> <ul style="list-style-type: none"> <li>Conducting a review of the child support guidelines at least every four years. The Commission must consider economic data on the cost of raising children and other related issues.</li> <li>issues a report to the governor and general assembly of the results of the review and any recommended changes</li> </ul>	<a href="#">14-10-115(16), C.R.S.</a>	Statute
<b>Connecticut</b>	Income shares.	<p>Commission</p> <ul style="list-style-type: none"> <li>Issue child support and arrearage guidelines to ensure the appropriateness of criteria for the establishment of child support awards and to review and issue updated guidelines every four years.</li> <li>The Commission is made up of 11 members: chief court admin; commissioner social services; AG; chairperson and ranking members of join standing committee; representative of bar association; 3 members appointed by Governor (including an agency that delivers legal services to the poor; one who represents financial concerns of child support obligors; and one who represents the permanent commission on the status of women)</li> <li>Commissioner of social services shall convene the commission whenever a review is required</li> </ul>	Connecticut Statutes section 46b-215a	Administrative Regulation



<b>Delaware</b>	Melson Formula	<p>Family Court Reviews, updates and adjusts</p> <ul style="list-style-type: none"> <li>Numerical values used in the formula will be adjusted every 2 years.</li> </ul>	Family Court Rules of Civil Procedure Rule 500(b)	Court Rule
<b>District of Columbia</b>	Shared income, (gross income)	<p>Commission</p> <ul style="list-style-type: none"> <li>study and make recommendations on the child support guidelines to the Mayor</li> <li>review pertinent economic data; hold public meeting to receive comments</li> <li>Members are a chairperson and 8 members who are DC residents. Chief Judge may appoint 2 members' Mayor shall appoint the chairperson and 2 members (one shall be from the DC Bar and expert in family law and child support; Mayor shall appoint one member from CSED; the council shall designate one councilmember and 2 additional members</li> </ul>	<a href="#">DC Code Section 16-916.02</a>	Statute
<b>Florida</b>	Income shares	<p>Committee on Children, Families, and Elder Affairs</p> <ul style="list-style-type: none"> <li>Legislative Committee reviews the guidelines every 4 years</li> <li>Identify options/recommendations to the legislature</li> </ul>	None	Statute
<b>Georgia</b>	Guidelines effective January 1, 2007 follow a shared income model under Georgia code section O.C.G.A. 19-6-15. Orders prior to that date were based on a percent of the non-custodial parent's gross income.	<p>Commission</p> <ul style="list-style-type: none"> <li>Study and collect information and data relating to awards of child support</li> <li>Create and revise the child support obligation table</li> <li>Conduct comprehensive review of guidelines, economic conditions, and all matters relevant to maintaining effective and efficient guidelines</li> <li>Determine whether adjustments are needed to the obligation table</li> <li>Nothing in the commission's report shall be considered to authorize or require a change without action by the general assembly</li> <li>15 Members—3 members who are judges; one member Justice of Supreme Court or Court of Appeals; 2 members of House and 2 members of Senate; 7 other members</li> </ul>	<a href="#">Georgia Statute Sections 19-6-50 to 53</a>	Statute

<b>Hawaii</b>	Melson Formula.	<p>Child Support Guidelines Task Force</p> <ul style="list-style-type: none"> <li>• Family Court in consultation with the agency shall update the guidelines at least once every 4 years</li> <li>• Members of the task force included judges, attorneys, child support agency</li> </ul>	HRS § 576D-7	Court Rule
<b>Idaho</b>	Shared Income Model	<p>Child Support Guidelines Advisory Committee</p> <ul style="list-style-type: none"> <li>• Judicial committee</li> </ul>		Court Rule
<b>Illinois</b>	Percentage income model	<p>Child Support Advisory Committee</p> <ul style="list-style-type: none"> <li>• Members of the general assembly, judiciary, private bar, and others with expertise specific to child support establishment and enforcement</li> <li>• Periodic review of the guidelines</li> <li>• Members appointed to one year terms</li> <li>• Meet at least quarterly and at other times</li> </ul>	305 ILCS 5/12-4.20c	Statute
<b>Indiana</b>	Income Shares.	<p>Advisory Committee</p> <ul style="list-style-type: none"> <li>• Members of the General Assembly, judiciary, private bar and others with expertise specific to child support establishment and enforcement</li> <li>• Makes recommendations to the legislature</li> </ul>		Court Rule
<b>Iowa</b>	Pure income shares Iowa Court Rules: Chapter 9	<p>Advisory Committee</p> <ul style="list-style-type: none"> <li>• Members: judge, representatives of CP groups, NCP groups, the general assembly, office of ombudsman, Iowa state bar association, Iowa County Attorneys association, other constituencies</li> <li>• Assist in review of the guidelines and recommendations for revision</li> <li>• Examination of the child support system to identify program improvements or enhancements which would increase effectiveness of securing support and parental involvement</li> </ul>	I.C.A. § 217.3A(3)	Court Rule

		<ul style="list-style-type: none"> <li>Recommendation of legislation which would clarify and improve state law regarding support for children</li> </ul>		
<b>Kansas</b>	Shared income model.	<p>Advisory Committee</p> <ul style="list-style-type: none"> <li>The initial appointment occurred in 1989 to review the implementation of the guidelines, solicit public input and make recommendations to address new federal mandates.</li> <li>The committee has been convened periodically to conduct a comprehensive review of the guidelines and update the economic data.</li> </ul>	Rules of the Supreme Court of Kansas Child Support Guideline VI	Court Rule
<b>Kentucky</b>	Income Shares.	<p>Commission</p> <ul style="list-style-type: none"> <li>Table shall be reviewed at least every 4 years</li> <li>Members: secretary of the Cabinet of Health and Family Services; 2 members from the bar association -1 urban member, 1-less populated area; 2 circuit judges; 1 district court judge; 2 county attorneys-1 urban, 1-less populated; AG; 1 CP, 1 NCP, 1 parent with split custody; 1 child advocate.</li> <li>Members are appointed by the governor from a list of 3 names for each category submitted by the Cabinet for Health and Family Services</li> <li>Make recommendations to the general assembly to ensure the table results in appropriate child support amounts</li> </ul>	<a href="#">KRS § 403.213(4)</a>	Statute
<b>Louisiana</b>	Shared income model.	<p>Committee</p> <ul style="list-style-type: none"> <li>Guidelines shall be reviewed by the legislature not less than every 4 years</li> <li>Office of children and family services, child support section and the district attorneys association in consultation with the review committee shall obtain all information requires to comply with the federal review requirements.</li> <li>Present to the legislature</li> <li>Members: reporter of the Louisiana State Law Institute Marriage and Advisory Committee; chairman of House Committee on Civil Law and Procedure; chairman of Senate Committee on Judiciary; president judges association; executive</li> </ul>	LSA-R.S. 9:315.16	Statute

		director of district attorneys association; present juvenile and family court judges association; charimain bar association family law section; chairman Louisiana American Academy Matrimonial Lawyers; Dept. of children and family services; chairman Children's Cabinet; president Hearing officers association		
<b>Maine</b>	Income Shares Model.	The department in consultation with the Supreme Judicial Court and interested parties shall adopt rules in accordance with Title 5, chapter 375 establishing a child support table.	19-AMRSA § 2011	Administrative Regulation
<b>Maryland</b>	Shared Income Model.	The child support enforcement administration shall review the guidelines and report its findings and recommendations to the general assembly at least every 4 years.	MD Code Family Law § 12-202	Statute
<b>Massachusetts</b>	Shared Income Model.	Task Force <ul style="list-style-type: none"> <li>• Members appointed by chief justice (in 2012 included a combination of judges, lawyers, and court staff)</li> <li>• Complete guidelines review</li> <li>• Guidelines are promulgated as rules by chief justice of the trial courts</li> </ul>		Court Rule
<b>Michigan</b>	Modified income shares.	Friend of Court Bureau <ul style="list-style-type: none"> <li>• Reviews and changes periodically</li> <li>• There is a Friend of Court Advisory Committee to assist its performance of duties. This is not specific just to child support.</li> </ul>	MCLA 552.519	Court Rule
<b>Minnesota</b>	Income Shares Model as of 1/1/07, which uses the parents' combined gross income to calculate basic support, medical support and	No Group <ul style="list-style-type: none"> <li>• CSED in charge of the review</li> </ul>	Minnesota Statutes section 518A.77	Statute

	childcare support.			
<b>Mississippi</b>	Percentage of adjusted gross income. Percentage determined by number of children.	DHS shall review the appropriateness of these guidelines every 4 years and report its findings to the Legislature. The Legislature shall amend these guidelines when it finds that amendment is necessary to ensure equitable support is being awarded.	Miss. Code Ann § 43-19-101(5)	Statute
<b>Missouri</b>	Income Shares. The income shares method of determining a child support obligation takes into consideration both parents' gross incomes and obligations.	Nothing in statute	Supreme Court rule Civ. Proc. Form 14	Court Rule
<b>Montana</b>	Modified Melson.	The department shall review guidelines at least every 4 years and propose any appropriate modification to the legislature.	MCA 40-5-209	Administrative Regulation
<b>Nebraska</b>	Shared Income Model.	<p>Advisory Commission</p> <ul style="list-style-type: none"> <li>Members include judges; Bar Association member; county attorney; professional in field of economics; CP; NCP; chairperson of the judiciary committee of the legislature; chairperson of health and human services committee of the legislature; state treasurer; state court administrator; IV-D director</li> </ul>	Neb. Rev. Stat. § 43-3342.05	Court Rule



		<ul style="list-style-type: none"> <li>• Supreme Court shall notify Executive Board of the Legislative Council of its intent to review guidelines and the commission shall call a meeting;</li> <li>• Review guidelines adopted by Supreme Court and recommend any changes. When practicable commission shall base its recommendations on economic data and statistics collected in the State of Nebraska.</li> <li>• Commission may conduct public hearings</li> <li>• Present reports and recommendations to the Supreme Court and Executive Board.</li> <li>• The Supreme Court shall review the reports and may amend the guidelines based on recommendations.</li> </ul>		
<b>Nevada</b>	Percentage of Income model.	Nothing in statute		Statute
<b>New Hampshire</b>	New Hampshire's guidelines are statutorily determined using a percentage of income model.	No Group—Legislative Report <ul style="list-style-type: none"> <li>• Review conducted by Department of Health and Human Services not less than once every 4 years</li> <li>• Upon completion of review, the department shall report its findings and recommendations to the president of the senate, the speaker of the House of Representatives, and the governor.</li> <li>• May be conducted in conjunction with a legislative review</li> </ul>	N.H. Rev. Stat. §458-C:6	Statute
<b>New Jersey</b>	Shared income model	Family Practice Committee make findings and recommendations regarding guidelines		Court Rule
<b>New Mexico</b>	Shared Income	Every 4 years the child support guidelines shall be reviewed by an appropriate executive or legislative commission or executive department.	NMSA 1978 § 40-4-11.3	Statute

<b>New York</b>	A hybrid model between a Shared Income Model and a Percentage of Income Model. The formula includes a "basic percentage of income component" based on income and number of children to support; a "supplementary shared income component" with respect to child care, educational expenses, and unreimbursed health care expenses; and a provision for health insurance if determined available based on cost and access. New York State Family Court Act, Section 413	<p>Commissioner must review the child support standards act at least once every 4 years to ensure that its application results in appropriate amounts.</p> <p>Commissioner of Social Services must publish annually a child support standards chart, which includes revised poverty income guidelines, revised self-support reserve, the dollar amounts yield through application of the child support percentages in the family court act.</p>	McKinney's Social Services Law § 111-b and i	Statute
<b>North Carolina</b>	Income shares model	Periodically, but at least once every four years, the Conference of Chief District Judges shall review the guidelines to determine whether their application results in appropriate child support award amounts. The Conference may modify the guidelines accordingly. The Conference shall give the Department of Health and Human Services, the Administrative	Section 50-13.4	Court Rule

		Office of the Courts, and the general public an opportunity to provide the Conference with information relevant to the development and review of the guidelines. Any modifications of the guidelines or criteria shall be reported to the General Assembly by the Administrative Office of the Courts before they become effective by delivering copies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The guidelines, when adopted or modified, shall be provided to the Department of Health and Human Services and the Administrative Office of the Courts, which shall disseminate them to the public through local IV-D offices, clerks of court, and the media		
<b>North Dakota</b>	Variable percentage of obligor's net income.	Rulemaking Authority to ensure that the application of guidelines results in determination of appropriate child support award. Before commencing any rulemaking proceeding under this section, the department shall convene a drafting advisory committee that includes two members of the legislative assembly.	NDCC, 14-09-09.7	Administrative Regulation
<b>Ohio</b>	Income Shares Model.	<p>Advisory Council</p> <ul style="list-style-type: none"> <li>• Dept. of Job and Family Services reviews basic child support schedule and prepares a report of its review, submits a copy of the report to both houses of the general assembly</li> <li>• The Dept. establishes an advisory council to assist the department in the completion of its reviews and reports</li> <li>• Council members: obligors, obliges, judges, attorneys, representatives from child support agencies, other persons interested in welfare of children, 3 members of senate, 3 members of house</li> <li>• Dept. shall consider input from council; the council ceases to exist at the time that it submits its report</li> </ul>	R.C. § 3119.024	Statute
<b>Oklahoma</b>	Shared Income Model.	Guidelines shall be reviewed every 4 years by the judiciary committees of the senate and house of representatives.	43 Okl.St. Ann. § 119.1	Statute

<b>Oregon</b>	Shared Income Model.	<p>Advisory Committee</p> <ul style="list-style-type: none"> <li>• Members are stakeholders and child support staff appointed by the director of child support</li> <li>• Director of child support responds to recommendations and Department of Justice promulgates rules complete with public hearings</li> </ul>		Administrative Regulation
<b>Pennsylvania</b>	<p>Income Shared Model - a child of separated, divorced or never-married parents should receive the same proportion of parental income that he/she would have received if parents lived together.</p> <p>Reference - Pa. R.C.P. 1910.16-1 through Pa. R.C.P. 1910.16-7 and 23 Pa.C.S. §4322.</p>	<p>Procedural Rule Committee</p> <ul style="list-style-type: none"> <li>• Part of the Pennsylvania Supreme Court</li> <li>• Reviews guidelines</li> <li>• Recommends guidelines changes as rule changes, ultimately approved/rejected or modified by the Supreme Court</li> </ul>		Court Rule
<b>Rhode Island</b>	Shared Income Model	Updated by administrative order from the Rhode Island Family Court		Court Rule
<b>South Carolina</b>	Income Shares model (last updated in	Department shall review regulations at least once every four years	Code 1976 § 63-17-470	Administrative Regulation

	2006)			
<b>South Dakota</b>	Income Shares.	<p>Commission</p> <ul style="list-style-type: none"> <li>• Review provisions of the child support chapter</li> <li>• Report findings to the Governor and Legislature and propose amendment</li> <li>• Governor issues an executive order every 4 years to establish the commission; members include NCP; CP; Judiciary; Department of Social Services; member of State Bar; members from each chamber of the Legislature</li> </ul>	<a href="#">25-7-6.12</a>	Statute
<b>Tennessee</b>	Income Shares Model	Rulemaking authority for the administration of the child support program. Income shares advisory committee.	T.C.A. § 71-1-132	Administrative Regulation
<b>Texas</b>	<p>Fixed percentage of obligor's net resources with adjustment for multiple family obligations.</p> <p>Variances from guidelines within courts discretion.</p> <p>Texas Family Code chapter 154, subchapter C.</p>	<p>Prior to each regular legislative session, the standing committees of each house of the legislature having jurisdiction over family law shall review and if necessary recommend revisions to the guidelines. Committee shall report results of the review and include recommended revisions in committee's report to the legislature.</p> <p>Every 4 years the Title IV-D agency shall review guidelines and report the results and any recommendations for changes to the standing committee of each house of the legislature.</p>	V.T.C.A., Family Code § 111.001	Statute
<b>Utah</b>	Income Shares.	<p>Advisory Committee</p> <ul style="list-style-type: none"> <li>• Review guidelines</li> <li>• Report to the Legislative Judiciary Interim Committee</li> <li>• Report shall include recommendations of the majority of the committee</li> </ul>	U.C.A. 1953 § 78B-12-402	Statute



		<ul style="list-style-type: none"> <li>Staff for the committee shall be provided from the existing budget of DHS</li> </ul>		
<b>Vermont</b>	Shared income model.	Secretary of human services has authority to amend the guideline from time to time as necessary but not less than once every 4 years.	15 V.S.A. § 654	Administrative Regulation
<b>Virginia</b>	Income shares based on the combined gross income of both parents	<p>Child Support Guidelines Review Panel</p> <ul style="list-style-type: none"> <li>Created for the purpose of periodically reviewing guidelines</li> <li>Consists of 15 members-4 legislative and 11 non-legislative appointed by the Governor upon recommendation by the Secretary of Health and Human Resources.</li> <li>Report findings to the general assembly</li> <li>Funding for the costs and compensation shall be provided by the Department.</li> <li>The Department provides support staff</li> </ul>	VA Code Ann. § 20-108.2(H)	Statute
<b>Washington</b>	Income shares.	<p>Statutory Work Group</p> <ul style="list-style-type: none"> <li>Beginning in 2011 and every 4 years thereafter, the division of child support shall convene a work group to review the guidelines and the report prepared under 26.19.026 and 26.18.210 to determine if the guidelines results in appropriate support orders.</li> <li>Members consist of legislators, director of DSHS-child support division; representatives of the legal community; an economist; cp's; ncp's</li> <li>Recommendations are made to the legislature on items where consensus could be reached</li> </ul>	RCWA 26.19.025	Statute
<b>West Virginia</b>	Income Shares	<p>Commission</p> <ul style="list-style-type: none"> <li>Review and analyze current guidelines; relevant research and data regarding the cost of child rearing; research and data on the application of and deviations from the guidelines; current law, administrative rules and practices regarding child support; and any other data the commission deems relevant to the review of guidelines</li> </ul>	<a href="#">W. Va. Code § 48-17-101 to 109</a>	Statute

		<ul style="list-style-type: none"> <li>• 9 members; commission is created in the Department of Health and Human Resources and may use the administrative support and services of that department</li> <li>• 7 members appointed by Governor, no more than 5 may belong to the same political party; 1 member is a lawyer; 1 member is a public administrator; 1 member is an employer; 1 member is a practicing family court judge; 3 members are representatives of the public at large with at least one being an obligor and one being an obligee; Commissioner of Bureau of Children and Families; Commissioner of Bureau of Child Support enforcement</li> </ul>		
<b>Wisconsin</b>	Percentage of Income Standard			Administrative Regulation
<b>Wyoming</b>	Percentage of income of both parties.	No group <ul style="list-style-type: none"> <li>• Child support division in charge of review and must bring changes to the legislature</li> </ul>		Statute

## **G. Minority Report**

December 31, 2015

TO: Jeffrey Jorgenson, Director  
Child Support Division  
Minnesota Department of Human Services

FROM: Marie Garza

SUBJECT: Minority Report, Child Support Work Group

As a Work Group member who represents custodial parents, I am unable to endorse and accept the majority report. While I am not totally opposed to the Michigan model, time is needed to fully investigate it, especially when the Michigan model is still a work-in-progress in the state of Michigan. I feel that we are rushing into a situation to pacify outside entities, not necessarily for the best interest of women and children who live in the state of Minnesota.

There are very different economic realities for single women custodial parents based on earning potentials of women vs. men. The United States has a rigid class system, with many in “middle class” income brackets not making a living wage, and the majority of those not making a living wage are women.

Thus, the bottom line economic impact of adopting a new parental expense adjustment system on single, custodial mothers is crucial. Indications are that the Michigan model will result in significant reductions in child support for some custodial parents—custodial parents whose incomes are below that needed for basic expenses of raising a child.

Is it in the best interests of the child to further impoverish custodial parents?

Below are my detailed comments on the Working Draft Report, dated Dec. 11, 2015, of the Child Support Work Group:

1. The report is unclear about its overriding purpose. Is the purpose to eliminate the cliff? Is the purpose to recognize increased costs to the non-custodial parent as his parenting time increases by reducing the child support amount? Is the purpose to avoid impoverishment of child support obligors? Do the recommendations consider the economic impact on single custodial mothers? Has there been a determination of the percentage of parenting time at which there are decreases to expenses of the custodial parent?
2. There is no data provided in the report that supports the recommendations.
3. Here we are talking about child support and yet we do not have accurate, complete, and up-to-date data on the cost of raising a child/children in the state of Minnesota.
4. The work group did not reflect Minnesota’s demographic makeup in many ways: race, ethnicity, income level, gender.

5. Is it in the best interests of the child to reduce child support payments to a single custodial parent who is not making enough to support her/himself and a child or children?
6. It is concerning that possible legislative language (p. 16) may be included in the report, but I and other Work Group members haven't had a chance and won't have a chance to review this.
7. The report should have a detailed analysis of the bottom-line, economic impact of switching to the Michigan system. At what income levels and what percentage parenting time will there be significant reductions in child support?
8. The report's overview of all alternative models (p.9-10) lists "reflects both parents' expenses fairly" as a "strength" for all four alternatives. All four alternatives reflect the increased expenses incurred by non-custodial parents as their parenting time increases, but, because there is no accurate data on actual parenting expenses when there are two separate households, it can't be said that they "reflect both parents' expenses fairly."
9. How major are the implementation recommendations on p. 13?
10. There are no data regarding the argument that litigation at the 45.1% the main reason for this change. In the end this is not enough to push a change so drastic, especially without data. Further, we don't know if the recommended changes will actually result in reduced litigation.
11. There is no self-support reserve fund for custodial parents.
12. On p.5, *Context and History*, it seems to be a one-sided interpretation. "Results when payments (for the parent with less parenting time) increase substantially if the parenting time they spend with their child dips below 45 percent". This language would be a fairer option to use: "The cliff results when child support payments decrease substantially when scheduled time with the child is above 45%".
13. Is there actual data supporting this statement: "The Michigan formula offers a theoretical framework that accounts for parenting expenses in two ways the daily costs of raising a child that increase day by day and the duplicated costs of raising a child in two households when a child is no longer a visitor in the second parent's home."?
14. On (p.7), *Definition of problem: Parenting time adjustment cliff*. This would suggest that Minnesota is unique. All guidelines have points where parenting expense adjustment changes and always at that point a small increase in parenting time will make a difference. This further makes the argument that no matter what is done this will not stop the "fighting" in family court.
15. Throughout our Work Group meetings I have spoken about the importance of diversity and the lack of, and yet on (p.13-14), *Recommendations: Permanent Child Support Task Force*, why isn't that diversity reflected more centrally in the recommendations for this permanent task force?
16. I echo the comment on the Draft Report by the Minnesota County Attorney's Association asking for language identifying that the work of the Child Support Work Group is independent of the work of the Custody Dialogue Group. There was not a representative of custodial parents on the Custody Dialogue Group (although there was a representative of non-custodial parents). I was not a member of the Custody Dialogue Group. This comment supports my recommendation that more time be



- allowed for recommendations on changes to the parenting expense adjustment model. The Work Group had only six meetings—six meetings to analyze and determine an immensely significant change to Minnesota’s child support system.
17. I recommend that community members of the future Permanent Child Support Task Force be better compensated for their time and expense. Community members (especially single mothers) do not attend Task Force meetings as part of their paid work responsibilities, and may have to take unpaid time off work in order to serve on the Task Force. This economic reality is often a deterrent to having the voices of lower income parents be part of the process.